

Supreme Court Board of Legal Document Preparers

Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Conference Room 230
10:00 a.m. – 2:00 p.m.

February 28, 2005

Approved Regular Session Meeting Minutes

Members Present:

Judge Roland J. Steinle
Carol L. Wells
Nancy Swetnam
Margaret Kleinman
Mary Carlton
Vellia M. Piña
Dr. Roger Hartley
J. Ward Sturm
Donald F. Steward

AOC Staff Present:

David Stone
Linda Grau

Members Present Telephonically:

Susan C. Vasquez
Virlynn Tinnell

Members of the Public:

Claudia Plotnick,
Lisa Perez-León
Diana Arballo

Members Absent:

Call to Order

The meeting was called to order by Judge Roland J. Steinle at 10:07 a.m.

Review and Approval of Meeting Minutes

Regular and Executive Session Minutes from January 31, 2005

Discussion was held regarding the recording of votes and grammatical and technical corrections in the minutes.

A **motion** was made by Nancy Swetnam and seconded by Margaret Kleinman to adopt the regular session minutes of January 31, 2005, as amended. Motion passed. **LDP-05-039**

Administrative Issues

Subcommittee Report Regarding Board Roles and Responsibilities

The Board discussed the issue of Board members making referrals for members of the public to other Legal Document Preparers. Comparisons to other professions were made regarding this practice. The Board discussed having the policy include language to allow board members to make referrals, with the responsibility to consider and to avoid potential conflicts of interest or appearances of favoritism.

The Board discussed simultaneous membership on the Board and service as an officer of a professional association of legal document preparers. Comparisons were made with the practices of other professions. The Board discussed differentiating factors, including the extent of disciplinary authority and the size of the profession's population. The Board directed staff to include language prohibiting this practice.

The Board discussed the conflicts of interest and appropriate action to take when a member of the Board, or the Board, is named in a lawsuit involving an applicant or a certificate holder. Language of the existing proposal was found to be consistent with the method in how other professional regulatory entities handle this situation. Support for the proposed language is found in case law.

The Board further decided to include language regarding ex parte communications and requiring Board members to recuse in matters involving certificate holders when ex parte communications have taken place.

A question was raised to determine whether a Vice-Chair may sign for the chair when the chair is not available. The Board determined that the existing language sufficiently implied this authority.

A brief discussion then took place regarding the assignment of Board members to subcommittees.

Staff was instructed to include the above changes and then distribute a revised proposed draft for Board consideration at the March 21st meeting.

Review and Discussion Regarding Possible Future Amendments (Non-Examination-Related) to Arizona Code of Judicial Administration § 7-208

Staff reported that by the next meeting there would be a draft with revisions for review.

Review and Discussion of the pending State Bar of Arizona Petition to Amend Arizona Supreme Court Rule 31

Staff reported that the public comment on the Bar's petition ends on April 4, 2005. A draft comment has been prepared, but was not ready for circulation. The final draft will be sent out before the next meeting for further review at the next meeting.

Update and Discussion Regarding the Status of The Pending Petition for Cease and Desist Order Related to Non-Certificate Holder Lisa Elwess (a.k.a. Lisa Crocker)

Staff reported that an evidentiary hearing regarding the Board's Superior Court Petition for Cease and Desist Order had been scheduled for March 24, 2005 before Judge Gottsfeld. The Board is represented by the State Bar in this matter, as the State Bar taking simultaneous action. Staff advised that this action item would be placed on the April agenda, at which time staff will provide update.

Status Report Regarding 2005 Examination

Review and Discussion of Proposed Code Revisions (Related to the 2005 Examination) to Arizona Code of Judicial Administration § 7-208

Staff discussed a number of public comments were received and further reported that none of the comments provided suggestions for new language. Staff presented to the Committee on the Superior Court on February 25, 2005 and asked for support for amendment proposal. The Committee approved the amendment with the requested adjustments.

Staff discussed moving the deadline for existing certificate holders to sit for the examination from June 30, 2005 to September 1, 2005. The content specifications and study guide will not be ready in time to facilitate an April test.

Staff further discussed test taker feedback and test security. Nancy Swetnam introduced the concept of using a testing service to administer the test, and further described the benefits of such arrangements as facilitation of test administration throughout the State, immediate scoring, immediate feedback and analysis by content area as well as to specific questions, and integrity of test security. The Board further discussed the specificity of feedback anticipated to be provided to individuals who failed the test.

Staff advised public comments alleging unnecessary costs in developing the tests and those predicting a low pass rate are speculative and not found in fact.

Staff commented that the exam would be reviewed by Board members who are not certificate holders.

A **motion** was made by Margaret Kleinman and seconded by Dr. Roger Hartley to amend the draft of the proposed revisions to ACJA § 7-208. The motion also recommended the supreme court adopt the ACJA § 7-208. Motion passed. **LDP-05-040**

Certification and Eligibility

Review and Discussion Regarding Board of Legal Document Preparers Continuing Education Policy

A recommendation was made to form a subcommittee to examine the existing continuing education policy and develop recommendations regarding any needed amendments. Carol Wells and Mary Carlton will serve on the subcommittee with support from program staff.

Report and Recommendations Regarding Continuing Education Course Credit Requests

The Board reviewed the requests for continuing education

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinell to defer consideration of the credit request for the May 27, 2004 “Mediation CE Training” to the next meeting. Motion passed. **LDP-05-041**

The Board determined 3 hours of business management continuing education credit is appropriate for the “M-205 Risk Management” and that the documentation submitted did not support an award of five hours.

The Board requested that staff return to the March meeting with session-specific recommendations for the April 2005 Judicial Education Conference in Tucson.

A **motion** was made by Judge Roland J. Steinle and seconded by J. Ward Sturm to defer consideration of continuing education credit for the April 2005 Judicial Education Conference. Motion passed. **LDP-05-042**

The Board determined the “Managing Emotions Under Pressure” class fell into category of business management elective. The Board further determined that although the class does discuss conflict resolution, and emotion control for the legal document preparer, the extent of the instruction qualifies for three hours of credit.

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to approve “Managing Emotions Under Pressure” for three hours only for business management credit. Motion passed. **LDP-05-043**

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to approve “M-205 Risk Management” for 3 hours only for Business Management credit. Motion passed. **LDP-05-044**

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to approve the following six courses. Motion passed. **LDP-05-045**

1. “The Arizona Paralegal’s Role in Corporate Maintenance” presented by the Institute for Paralegal Education in November 2003. – 3 hours.

2. “IRA Recovery System” being presented by The Tax Academy in February 2005 – 3 hours.
3. “Real Estate as an Investment for Individual Retirement Accounts” presented by Resolution Solutions, LLC – 3 hours.
4. “Estate Planning and Probate for Paralegal/Legal Assistants in Arizona” presented by the Institute for Paralegal Studies on April 19, 2005 – 5 hours, including half an hour of ethics.
5. “Unraveling the Mystery of Asset Protection Vehicles” presented by the National Business Institute on March 1, 2005 – 5 hours, including half an hour of ethics.
6. “Welcome to Family Court” presented by the Northwest Regional Superior Court (Maricopa County) on February 8, 2005 – 3 hours.

Review of Pending Complaints

Review and Discussion Regarding Certificate Holder Lory Toon’s Request for Consent Agreement in Legal Document Preparer Programs Complaint Number 04-L016

Staff reported that Ms. Toon’s attorney submitted a written request to the Board regarding the pending formal charges.

A **motion** was made by Dr. Roger Hartley and seconded by Virlynn Tinnell to deny the request for Consent Agreement in Legal Document Preparer Program Complaint Number 04-L016. Donald Steward recused. Motion passed. **LDP-05-046**

Review and Discussion Regarding Board Initiation of Legal Document Preparer Program Complaint Pursuant to Arizona Code of Judicial Administration § 7-208 (H)(2)(b)

A **motion** was made by Judge Roland Steinle and seconded by Margaret Kleinman to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **LDP-05-047**

Executive Session Ended

A **motion** was made by Judge Roland J. Steinle and seconded by Dr. Roger Hartley for the Board to initiate complaints reviewed during Executive Session pursuant to Arizona Code of Judicial Administration § 7-208(H)(2)(b). Nancy Swetnam, Don Steward, and J. Ward Sturm recused. A hand count was conducted. Motion passed. **LDP-05-048**

Review of Certification Applications

Staff reported that the following applicants for Initial Individual and Business Entity Certification had demonstrated they meet the minimum eligibility requirements, their applications were complete, and no information was presented during the background review. Staff recommended certification be granted to the following:

Debra Casey
Edward F. Dailey, CPA, P.C. (Edward Dailey)
Kathleen Kindred
Sylvia Moreno
Marwan Sadeddin
Nanette Villafana
Deborah Driesler
Roadrunner Ridge Enterprises, LLC (Cynthia Wilson)

A **motion** was made by Judge Roland J. Steinle and seconded by Mary Carlton to grant certification to the individuals listed above. Motion passed. **LDP-05-049**

The following business entities had requested Business Entity Exemption for the 2004-2005 certification period:

Roadrunner Ridge Enterprises, LLC (Cynthia Wilson)
Edward F. Dailey, CPA, P.C. (Edward Dailey)

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to grant business entity exemptions to the business entities listed above. Motion passed. **LDP-05-050**

Staff reported that Robert Finn's application had been processed for consideration. Staff recommended deferral of certification determination to the March 21 meeting to allow for submittal of documents regarding certification determination.

A **motion** was made by Judge Roland J. Steinle and seconded by J. Ward Sturm to defer certification determination to the individual listed above. Motion passed. **LDP-05-051**

Staff reported that Eric Scott Schoellers' application had been processed for consideration. Eric Scott Schoeller submitted pleadings for Board consideration. Staff recommended the Board review these materials and make a certification determination. There was brief discussion of past and pending civil litigation involving Eric Scott Schoeller.

A **motion** was made by Virlynn Tinnell and seconded by Judge Roland J. Steinle to defer certification determination to the individual listed above and request submittal of information to the terms of the settlement and an update on the pending case. Motion passed. **LDP-05-052**

Staff reported that Debra Pope's application had been processed for consideration. Staff recommended the Board defer individual certification determination to the March meeting to allow staff to review the recently submitted business entity application.

A **motion** was made by Nancy Swetnam and seconded by Dr. Roger Hartley to defer certification determination regarding the individual application of Debra Pope. Motion passed. **LDP-05-053**

Staff reported that Miles Fisher's application had been processed for consideration. Staff recommended deferral of certification determination pending submittal of documents regarding certification determination.

A **motion** was made by Nancy Swetnam and seconded by Judge Roland J. Steinle to defer certification determination regarding Miles Fisher. Motion passed. **LDP-05-054**

Staff reported that applicant Michael Disney's application had been processed for consideration. The Board discussed whether there was a relationship among the criminal convictions. There was also brief discussion of the past civil actions. Staff recommended denial of certification pursuant to Arizona Code of Judicial Administration § 7-208 (E)(5)(b)(1)(d).

A **motion** was made by Nancy Swetnam and seconded by Judge Roland J. Steinle to defer consideration determination and to direct staff to contact Arizona agencies to determine whether Mr. Disney holds the licenses he identified in his application and if these licenses are in good standing. Motion passed. **LDP-05-055**

A **motion** was made by Judge Roland J. Steinle and seconded by Margaret Kleinman to adopt the executive session minutes of January 31, 2005, with the technical corrections recommended. Motion passed. **LDP-05-056**

Call to the Public

There was no response.

Adjourn

A **motion** was made by Judge Roland J. Steinle and seconded by Mary Carlton to adjourn. Motion passed. **LDP-05-057** Meeting adjourned at 12:15 PM.