

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.

March 21, 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
Susan C. Vasquez
Virlynn Tinnell
Donald F. Steward

AOC Staff Present:

David Stone
Linda Grau
Terence J. Whatley
Nina Preston
Kimberly Siddall
Helen Maxwell
Pamela Peet
Anand Veluri
Susan Hamilton

Members Present Telephonically:

None

Members of the Public:

Lisa Perez-Léon
Joe Glennon
Sylvia Moreno

Members Absent:

None

Call to Order

The meeting was called to order by Judge Roland J. Steinle at 10:03 a.m.

Administrative Issues

Demonstration, Review and Discussion of the Proposed Electronic 2005 Renewal Application Process

(This agenda item was raised out of order per the direction of Judge Roland Steinle.)

Staff demonstrated the features of the proposed online application process, and Nancy Swetnam further discussed the benefits of reduced applicant and staff time and automatic database update.

A **motion** was made by Dr. Roger Hartley and seconded by Mary Carlton to accept the electronic renewal application process for implementation. Motion passed. **LDP-05-060**

Review and Approval of Meeting Minutes

Regular and Executive Session Minutes from February 28, 2005

Staff recommended that the Board defer consideration of the minutes from the February 28 meeting to the April 18, 2005 meeting.

A **motion** was made by Mary Carlton and seconded by Margaret Kleinman to defer consideration of the regular session and executive session minutes of February 28, 2005 to the next scheduled meeting. Motion passed. **LDP-05-061**

Administrative Issues (continued)

Subcommittee Report Regarding Board Roles and Responsibilities

The Board discussed the proposed provisions regarding gifts and awards to Board members and the potential for conflicts of interest. Language was modified to correct various technical errors and to clarify the definitions of certain terminology. Language was also added to define the term of services for an elected Vice-President and to clarify the provisions for successive terms of service on the Board. The Board discussed at length the restrictions on communications among Board members, between Board members, legal counsel, and Program Staff. Language was added to provide further detail on the allowable uses of proxies.

Staff was directed to develop another draft with the corrections discussed by the Board and then to present the new draft to the Board at the April 18, 2005 meeting.

****The Board took a 15-minute recess.****

Status Report Regarding 2005 Examination

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

Nancy Swetnam presented the proposed draft with technical amendments, identifying the changes that were made from the Board discussion which took place at the February 28, 2005 meeting.

Language was modified to change the date by which currently certified Legal Document Preparers and new applicants would be required to take the exam. The Board discussed whether a deadline should be established for staff to have the study guide available, but no change to the existing language was made to this respect. Staff also noted that additional public comments were received since the February 28, 2005 meeting.

A **motion** was made by Nancy Swetnam and seconded by Judge Roland J. Steinle to recommend to the Arizona Judicial Council and the Arizona Supreme Court the proposed revisions to the Arizona Code of Judicial Administration, § 7-208, as amended. Motion passed. **LDP-05-062**

Certification and Eligibility

Subcommittee Report Regarding the Continuing Education Policy

The Board discussed the continuing education delinquency fee, in what circumstances it is applied, and whether the Board has the authority to require the fee without a change to the Arizona Code of Judicial Administration, § 7-208. Nancy Swetnam recommended that the Board not increase fees at this time.

A **motion** was made by Nancy Swetnam and seconded by Virlynn Tinnell to adopt the changes to the Continuing Education Policy. Motion passed. **LDP-05-062**

Report and Recommendations Regarding Continuing Education Course Credit Requests

Staff presented the continuing education course credit requests.

Previously, the Board requested staff provide a detailed recommendation regarding continuing education opportunities for the Judicial Staff Conference presented by the Arizona Supreme Court Judicial Staff Education Committee on April 19th through 21st in Tucson. Staff presented a list of the sessions being offered at the Judicial Staff Conference in Tucson:

“Supreme Court Updates” – 3 hours

“Essential Functions for Limited Jurisdiction Courts” – 3 hours

“Sexual Harassment and the Workplace” – 3 hours (business management credit)

“Grammar and Punctuation 202” – 5 hours

“Can I Say That? – Communicating Effectively with Litigants without Giving Advice” – 3 hours

“The Amazing Race – Local Court Issues in Arizona” – 3 hours

“Key Elements of Customer Service in the Courts” – 3 hours

“Spanish Legal Terminology for Courts” – 3 hours

“Ethics in the Judiciary” – 3 hours, including 3 hours of ethics

“Customer Service for Special Needs Litigants” – 3 hours

“Electronic Ethics in the Court” – 3 hours

“Are We Making Competent Decisions?” - 3 hours, including 3 hours of ethics

“Your Attitude for Success” – 3 hours (business management credit)

Staff noted the pending request for “Mediation Continuing Education Training – Writing Documents,” the course was taken before Initial Certification of the individual seeking continuing education credit.

The Board discussed the applicability of several of the courses, and each continuing education credit request was considered by the Board separately as follows:

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to approve the request for four hours of continuing education credit for “Related DR Topics: Children’s Issues – Custody Choices, Parenting Time and Support; Spousal Maintenance – Qualifications and Calculation; What is ADR? – ADR Options and Mediation Agreements.” Motion passed. **LDP-05-063**

A **motion** was made by Dr. Roger E. Hartley and seconded by Virlynn Tinnell to deny the request for three hours of continuing education credit for “A Review of Judicial Developments Affecting Our State.” Motion passed. **LDP-05-064**

A **motion** was made by J. Ward Sturm and seconded by Judge Roland J. Steinle to approve the request for two hours of continuing education credit for “Planning for the Single Individual – American Bankers Association Telephone Briefing.” Motion passed. **LDP-05-065**

A **motion** was made by Nancy Swetnam and seconded by J. Ward Sturm to deny the request for one hour of continuing education credit for “Overview of the Court-Appointed Special Advocate Program.” Motion passed. **LDP-05-066**

A **motion** was made by Donald F. Steward and seconded by Nancy Swetnam to deny the request for three hours of continuing education credit for “Competence of Children as Defendants.” Motion passed. **LDP-05-067**

A **motion** was made by Virlynn Tinnell and seconded by J. Ward Sturm to deny the request for 1.5 hours of continuing education credit for “Interviewing Skills and Deception Detection.” Motion passed. **LDP-05-068**

A **motion** was made by J. Ward Sturm and seconded by Nancy Swetnam to deny the request for three hours of continuing education credit for “Team Building on the Ropes Course.” Motion passed. **LDP-05-069**

A **motion** was made by Nancy Swetnam and seconded by J. Ward Sturm to approve the request for one and one-half hours of continuing education credit, including one and one-half hours of ethics credit, for “Questions of Ethics.” Motion passed. **LDP-05-070**

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to deny the request for one and one-half hours of continuing education credit for “Diversity in the Workplace.” Motion passed. **LDP-05-071**

A **motion** was made by Virlynn Tinnell and seconded by J. Ward Sturm to approve the request for three hours of continuing education credit for “Bankruptcy 101.” Motion passed. **LDP-05-072**

A **motion** was made by J. Ward Sturm and seconded by Carol Wells to approve the request for three hours of continuing education credit, including three hours of ethics credit, for “Code of Ethics – Duties to the Public.” Motion passed. **LDP-05-073**

A **motion** was made by Nancy Swetnam and seconded by Margaret Kleinman to approve the request for continuing education credit hours, for the various sessions to be presented at the Judicial Staff Conference by the Arizona Supreme Court Judicial Staff Education Committee April 19 to April 21, 2005, in Tucson, Arizona, with the requirement that continuing education credits for “Sexual Harassment and the Workplace” and “Your Attitude for Success” are awarded as business management credits. Motion passed. **LDP-05-074**

A **motion** was made by Judge Roland J. Steinle and seconded by Margaret Kleinman to deny the request for three hours of continuing education credit for “Mediation Continuing Education Training.” Motion passed. **LDP-05-075**

Review and Discussion of Request for Pre-Approval for Continuing Education Programming Offered by Arizona CLDP Legal Seminars Group, LLC

The Board discussed the appropriateness of approving a curriculum that has not yet been reviewed by the Board. Margaret Kleinman expressed concern about the name of the organization, saying it suggested or implied approval of the Board when such approval may or may not exist. Staff informed the Board that the organization now includes a disclaimer in their advertising about the name of the organization.

In addition, staff presented the request for pre-approval for continuing education programming offered by Arizona CLDP Legal Seminars Group, LLC and recommended that the Board deny pre-approval.

A **motion** was made by Virlynn Tinnell and seconded by Nancy Swetnam to deny the request for pre-approval for continuing education programming offered by Arizona CLDP Legal Seminars Group, LLC. Motion passed. **LDP-05-076**

Review of Hearing Officer Lee Holtry's Recommendation regarding the Denial of Individual Certification for Cicero Cast'On

Staff presented the findings of the Hearing Officer and recommended the Board affirm the Hearing Officer's recommendation to deny Individual Certification.

A **motion** was made by Judge Roland Steinle and seconded by J. Ward Sturm to affirm Hearing Officer Lee Holtry's recommendation to deny Individual Certification for Cicero Cast'On. Donald F. Steward recused. Motion passed. **LDP-05-077**

Review of Hearing Officer Patricia Schaler's Recommendation Regarding the Denial of Renewal of Individual Certification for Diana Arballo

Staff presented the findings of the Hearing Officer and recommended the Board affirm the Hearing Officer's recommendation to deny renewal of Individual Certification.

A **motion** was made by Judge Roland Steinle and seconded by Virlynn Tinnell to affirm Hearing Officer Patricia Schaler's recommendation to deny renewal of Individual Certification for Diana Arballo. Motion passed. **LDP-05-078**

A **motion** was made by Nancy Swetnam and seconded by Margaret Kleinman to establish, as a Board policy, that attendance at Board meetings does not qualify for any continuing education credit. Motion passed. **LDP-05-079**

Administrative Issues (continued)

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

Staff presented a draft of the Board's proposed comment on the Rule 28 petition and noted the public comments must be submitted to the supreme court by April 4, 2005 to be considered. Several technical corrections were made, and substantive language changes were made to clarify the Board's role relative to Rule 31.

A **motion** was made by Judge Roland J. Steinle and seconded by Mary Carlton to approve the proposed public comment, as amended. Nancy Swetnam proposed an amendment to the motion to grant Judge Roland J. Steinle the authority to sign the public comment on behalf of the entire Board on this matter. The amendment to the motion was accepted. Motion passed. **LDP-05-080**

Review of Pending Complaints

Review of AZCLDP complaint numbers 04-L077, 04-L078, 05-L008 and 05-L014

Executive Session

A **motion** was made by Judge Roland Steinle and seconded by Mary Carlton to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **LDP-05-081**

Executive Session Ended

A **motion** was made by Judge Roland J. Steinle and seconded by Dr. Roger E. Hartley to enter a finding that probable cause exists in complaint 04-L077. Judge Roland J. Steinle withdrew his motion.

A **motion** was made by Mary Carlton and seconded by Margaret Kleinman to adopt the finding that probable cause exists in complaint 04-L077. Donald F. Steward, Nancy Swetnam, Judge Roland J. Steinle and Vellia M. Piña recused. Motion passed. **LDP-05-082**

A **motion** was made by Judge Roland J. Steinle and seconded by Mary Carlton to refer complaint 04-L078 to the Secretary of State and to law enforcement for investigation and to defer taking additional action regarding these allegations until such time as the Secretary of State or law enforcement resolve the matter. Donald F. Steward, Nancy Swetnam, and Vellia M. Piña recused. Motion passed. **LDP-05-083**

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to adopt the finding of probable cause in complaint 05-L008. Donald F. Steward, Nancy Swetnam, and Vellia M. Piña recused. Motion passed. **LDP-05-084**

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to adopt the finding that probable cause exists in complaint 05-L014. Donald F. Steward, Nancy Swetnam, and Vellia M. Piña recused. Motion passed. **LDP-05-085**

A **motion** was made by Judge Roland J. Steinle and seconded by Mary Carlton to consolidate complaints 04-L077, 05-L008 and 05-L014 and to direct staff to draft the Notice of Formal Charges for these three complaints. Donald F. Steward, Nancy Swetnam, and Vellia M. Piña recused. Motion passed. **LDP-05-086**

A **motion** was made by Dr. Roger E. Hartley and seconded by Mary Carlton to initiate emergency suspension proceedings pursuant to Arizona Code of Judicial Administration § 7-208 (H)(5)(c) regarding pending complaints 04-L077, 05-L008, and 05-L014. Donald F. Steward, Nancy Swetnam, and Vellia M. Piña recused. A hand count was conducted. Motion passed. **LDP-05-087**

Staff was instructed to schedule a special meeting for consideration of emergency suspension proceedings regarding pending complaints 04-L077, 05-L008 and 05-L014.

Review and Discussion Regarding the Publication of Board of Legal Document Preparers Disciplinary Actions and Superior Court Cease and Desist Orders Regarding Non-Certificate Holders

Staff presented examples of existing publication methods used by the State Bar and of the Attorney Discipline Unit of the Certification and Licensing Division regarding individuals against whom disciplinary action has resulted in a final order. Staff further advised that Board disciplinary actions are currently posted on the judicial website through meeting minutes where disciplinary actions have been taken.

A **motion** was made by Judge Steinle and seconded by J. Ward Sturm to direct staff to publish the final orders of the Board. The Motion was amended by Judge Roland J. Steinle and seconded by Nancy Swetnam to direct staff to publish Hearing Officer reports and the Board's final orders regarding disciplinary actions. Motion passed. **LDP-05-088**

A **motion** was made by Judge Steinle and seconded by Nancy Swetnam to publish Hearing Officer reports and recommendations and related final orders from the Board with reference to denial of applications. Motion passed. **LDP-05-089**

A **motion** was made by Judge Steinle and seconded by Nancy Swetnam to publish Cease and Desist Orders entered by the Superior Court. Motion passed. **LDP-05-090**

Review and Discussion of Arizona Code of Judicial Administration § 7-208 (H)(15)

The Board had previously requested this agenda item to open Board discussion on disciplinary actions available to the Board pursuant to Arizona Code of Judicial Administration, § 7-208 (H)(15). The Board discussed its options in considering a Hearing Officer's recommendation. The question raised was whether the Board had the authority only to approve or disapprove such a recommendation or whether the Board had the authority to enter an independent finding that may not be consistent with that of the Hearing Officer.

Staff advised that the Board has the authority to return the case to the Hearing Officer and direct that other issues not previously addressed be reviewed. Staff will propose clarification of this issue in future proposals to revise Arizona Code of Judicial Administration § 7-208.

Review of Certification Applications

Review of Applicants for Initial Certification

The following applications for Individual Certification had been submitted with a request for review for the 2004-2005 certification period. Staff had found their applications to be complete and the applicants have met all Individual Initial Certification requirements and further recommended the Board grant the individuals listed below Initial Certification.

Robert Finn
Kimberly Kees
Michelle Roth
Maria Navarro

Staff noted that consideration for Robert Finn's application was deferred from the February 28, 2005 meeting and staff was directed to request further documentation for the Board's consideration. Staff reported that such documentation was submitted and not found to adversely affect his application for Initial Certification.

A **motion** was made by Virlynn Tinnell and seconded by Judge Roland J. Steinle to grant Initial Individual Certification to Robert Finn, Kimberly Kees, Michelle Roth and Maria Navarro. Motion passed. **LDP-05-091**

The following applications for Individual and Business Entity Certification had been submitted also with a request for review for the 2004-2005 certification period.

Eric Scott Schoeller
Miles Fisher
Michael Disney
Debra Pope
Construction Notice Services, Inc. (Debra Pope)
Elaine Anghel
Richard Rochford

Staff recommended the Board defer consideration of these applications to the April 18, 2005 meeting.

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to defer consideration of these applications to the April 18, 2005 meeting. Motion passed. **LDP-05-092**

Review and Discussion Regarding Business Entity Exemption for The Morrison Group, LLC

Staff reported the Board had previously approved Business Entity Exemption for The Morrison Group, LLC. Since that time, an employee of this business had become certified, thus disqualifying The Morrison Group, LLC from the Business Entity Exemption provision. Staff recommended the Board withdraw its earlier finding of Business Entity Exemption and direct staff to notify The Morrison Group accordingly.

The Board briefly discussed the matter and inquired as to whether The Morrison Group, LLC followed the proper procedures in notifying Program Staff of the change in status. Staff informed the Board that the procedures were correctly followed.

A **motion** was made by Judge Steinle and seconded by Virlynn Tinnell to withdraw the Board's earlier approval of exemption and to direct staff to notify Patricia Morrison and The Morrison Group, LLC of the change in status. Motion passed. **LDP-05-093**

Call to the Public

There was no response.

Adjourn

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to adjourn. Motion passed. **LDP-05-094**. Meeting adjourned at 1:25 p.m.