

MINUTES
HAWAII STATE BAR ASSOCIATION
BOARD MEETING

1100 Alakea Street, Suite 1000
Honolulu, HI 96813

Thursday, April 27, 2017

A. **CALL TO ORDER**

President Nadine Ando called the meeting to order at 12:10 p.m. with a quorum present. The following persons were present for all or part of the meeting:

Officers Present

Nadine Ando
Derek Kobayashi
Russ Awakuni
Karin Holma

HSBA Staff

Patricia Mau-Shimizu
Iris Ito
Christina Bae
Levi Hookano

Directors Present

Cecelia Chang
Rebecca Copeland
Vladimir Devens (by phone)
Rhonda Griswold
Geraldine Hasegawa
Kristin Izumi-Nitao
Carol Kitaoka
Mei-Fei Kuo
Kai Lawrence
Lisa Munger
Mark K. Murakami
Zale Okazaki
Alika Piper
Trejur Bordenave

Others Present

Lisa Bail
Hon. Richard Clifton
Carol Muranaka
Jodi Yi

Board Members Absent

Howard Luke
Steven Chow
Shannon Sheldon

G. **NEW BUSINESS** - This item was taken out of order due to the presence of guests.

3. **Split of the Ninth Circuit Court of Appeals** - U.S. Court of Appeals Judge Richard R. Clifton explained that 4 proposals to split the Ninth Circuit are being circulated.

Ninth Circuit	New Twelfth Circuit	Comments
CA	AK, AZ, HI ⁺ , ID, MT, NV, OR, WA	Current Ninth Circuit judges would be assigned to CA
CA, HI ⁺	AK, AZ, ID, MT, NV, OR, WA	
CA, HI ⁺ , OR	AK, AZ, ID, MT, NV, WA	
CA, HI ⁺ , OR, WA	AK, AZ, ID, MT, NV	

⁺*includes Guam and the Northern Mariana Islands.*

Judge Clifton reported that it was his perception that the proponents of the restructuring of the Ninth Circuit were more concerned with disagreement with court decisions than with administrative considerations. While it was acknowledged that there is a backlog in the disposition of cases in the Ninth Circuit, it was noted that the Ninth Circuit has consistently requested funding for additional judicial positions based upon the ratio of judges and caseload. Nine (9) additional judges are needed to accommodate the current caseload, which has increased due to the increase in the issuance of deportation orders and the filing of petitions for review.

Other observations opposing Ninth Circuit restructuring include:

- The need to preserve judicial independence;
- Cost considerations (e.g. a new group of administrative support staff; establishment of new headquarters);
- Loss of economy and efficiencies of scale especially in the area of case management and the use of technology; and
- The rate of Ninth Circuit reversals is not inconsistent with other circuits.

After some questions and answers, the Board moved on to other business on the agenda.

*4. **Proposed Amendments to Guidelines of Professional Courtesy and Civility** - Director Rebecca Copeland, who also serves as a member of the Judiciary's Commission on Professionalism, relayed to the Board that the Commission had follow-up questions on Board action last year with respect to proposed amendments to the Guidelines of Professional Courtesy and Civility. This item will be placed on the agenda for the May Board meeting.

- C. **APPROVAL OF MINUTES** - HSBA Secretary Russ Awakuni gave his verbal approval of the minutes of the March 30, 2017 Board meeting. A motion was made, seconded, and carried without opposition to approve these minutes.
- D. **EXECUTIVE DIRECTOR'S REPORT** - Executive Director Patricia Mau-Shimizu reported that Annual Dinner letters to solicit table/ticket sales and silent auction donations were mailed out this week. The Dinner is set for Saturday, August 19th.
- E. **YLD PRESIDENT'S REPORT** - YLD President Trejur Bordenave reported that volunteers are needed for Law Week activities next week.
- F. **UNFINISHED BUSINESS**

Letter to Congress re: Funding of Legal Services Corporation

Action taken: After discussion, a motion was made, seconded, and carried without opposition to respond to Mr. Hochberg's comments on the Board's action to send a letter to its Congressional delegation to oppose any funding reduction to LSC.

The response to Mr. Hochberg would include a brief explanation of the Board's *Keller* analysis and the belief that the position would generally be supported by HSBA members because it relates directly to improving the quality of legal services available the people of Hawaii.

Director Derek Kobayashi, along with Treasurer Karin Holma and Director Rhonda Griswold, took the opportunity to report on their work on researching the *Keller* policies of other jurisdictions and comparing it to HSBA's policy. They found that other jurisdictions include in their policies the prohibition of using member dues for issues that are not germane to the purposes of the unified bar (the first prong in HSBA's *Keller* policy). However, it was found HSBA was different from other jurisdictions in that it also requires the HSBA's position/activity to be generally supported by its members (the second prong in HSBA's *Keller* policy). It was noted that some states also have procedures offering a rebate of dues to an objecting member.

G. **NEW BUSINESS**

1. **Management of Section Funds** - Director and Finance Committee member Alika Piper gave an overview of the issue and explained that the joint Executive and Finance Committee discussed it and surmised that the policy to pay 1% annual interest to the Sections had been established at a time when economic conditions were favorable. However, given the current conditions, it would not be financially prudent for the HSBA to follow through with this policy.

Action taken: After discussion, a motion was made, seconded, and carried without opposition to adopt the recommendation of the joint Executive and Finance Committee, in consideration of the HSBA Board's fiduciary duty to its membership and to reflect current economic conditions, to delete from Board

policy section 5.4 B.1 which states “The HSBA will pay 1% annual interest to all sections whose annual accounting are handled by the HSBA.” This action is retroactive to the period that annual interest was not paid.

2. **Judicial Retention** - President Ando explained that the JSC would like more avenues in their information gathering stage on sitting judges and has asked HSBA for greater involvement in the judicial retention process. The Board discussed its current procedures on judicial retention.

President Ando asked for volunteers to serve on a subcommittee to present options for the Board’s consideration on what HSBA could do to offer more information to the JSC with respect to judicial retention. Directors Gerry Hasegawa and Cecelia Chang volunteered to serve. They will ask Director Steve Chow, who has much institutional knowledge in this area, to serve also.

3. **Split of the Ninth Circuit Court of Appeals** (continued)

Action taken: After discussion, a motion was made, seconded, and carried without opposition to determine that the issue is germane to the purposes of the unified bar and that the Board should take a position on it.

The Board then discussed whether the issue would generally be supported by the HSBA members (second prong of *Keller* analysis in the Board policy manual) and whether the members should be polled.

Action taken: After further discussion, a motion was made, seconded, and carried without opposition to poll HSBA members on whether they supported or opposed a split of the Ninth Circuit. The poll would explain that the ABA Standing Committee on the American Judicial System had asked the HSBA to co-sponsor a resolution opposing the restructuring of the Ninth Circuit Court of Appeals.

H. ADJOURNMENT

The meeting adjourned at 1:49 p.m.

Submitted by:



Patricia Mau-Shimizu
HSBA Executive Director

Approved by:



Russ S. Awakuni
HSBA Secretary