

MINUTES

Eighth Circuit Bar Association

Meeting of Officers and Directors

March 14, 2006

(by conference call)

Present: Craig Eichstadt (president); Margaret Callahan (secretary); Barry Pickens (treasurer); Lajuana Counts (at-large); Tom Boyd (at-large); Julie Cullen (at-large); Larry Friedman (E.D. Mo.); Diane Bratvold (D. Minn.); Jeremiah Morgan (E.D. Mo.); Bob Rossiter (D. Neb.); Doug Bahr (D. N. Dak.); Mark Marshall (D. S. Dak.) Krista Kester (past president).

Absent: Tom Weaver (president-elect); Jeffrey Ellis (E.D. Ark.); Tom Kieklak (W.D. Ark.); Diane Kutzko (N.D. Iowa); Angela Campbell (S.D. Iowa).

Association President Craig Eichstadt called the meeting to order shortly after 9:30 a.m.

The Board unanimously approved the minutes of the February meeting, as previously circulated.

Director Tom Boyd made a presentation on behalf of the Court of Appeals branch of the Eighth Circuit Historical Society. Tom gave some background about the Historical Society in general and about its purposes and activities, and he indicated that the primary project of the Court of Appeals branch is to oversee the writing and publication of a full-length history of the Eighth Circuit Court of Appeals. Author for the book is Professor Jeffrey Morris of Touro Law School, a legal historian whose fifteen previously published books include a history of the Second Circuit. Tom said that the Eighth Circuit history – which has the support of the Court,

and particularly Senior Judges Heaney and Bowman – should be published before the end of 2006.

Tom explained that the author's fee and certain other publishing costs to date have been covered by contributions from the Eighth Circuit attorney admissions fund, district courts within the Circuit, and bar organizations and private law firms. He said most contributions have been in the range of \$1,000 to \$2,500. Contributors will be acknowledged in the book.

The book will be published and distributed by the University of Minnesota Press and also will be promoted through the Eighth Circuit. Revenues from sales will go to the Press, but those revenues are expected to be minimal. Tom described the relationship between the Historical Society and the Press as a "partnership" and said that the book would be priced at a level that would maximize sales.

Craig and past Association president Krista Kester both spoke in favor of making a contribution to the Historical Society for the book, noting that the book represented the kind of project the Association wants to support.

Treasurer Barry Pickens noted that the Association currently has \$23,555.64 identified as "long range" funds and held in a certificate of deposit, plus \$16,883.59 in its working checking account. He indicated the only current anticipated expenses were for tax return preparation and for co-sponsoring a Court-attorney reception in Little Rock on April 10, 2006.

The Board unanimously approved a motion to contribute \$2,000 to the Historical Society for publication of the Eighth Circuit history. Association directors Tom Boyd and Mark Marshall both abstained from the vote based on their involvement in the Historical Society.

Mark Marshall for the membership committee reported no change from the last meeting – 313 current members, with only 29 attorneys not renewing their memberships for the member year that started July 1, 2005.

Craig commented on the need to appoint new chairpersons and/or new members to some of the committees and further noted that the Association's committee structure might need modification because some of the committees – such as the liaison committee – have not been effective. He proposed that the Association officers develop a proposal to be presented to the Board but also invited other Board members to comment and make suggestions. It was noted that Alok Ahuja of Kansas City had been asked to serve as vice chair of the programs committee, with a Board member, as required by the Association bylaws, as committee chair. It was determined that the Board member who had been identified by the nominating committee as the potential programs committee chair never had been asked to serve. Craig indicated he would be working on making official committee appointments.

Craig next raised the issue of the Association web site. Director Angela Campbell, who had previously been asked to consider a possible re-structuring of the web site, reported that she had asked an acquaintance with appropriate expertise to take an informal look at the site and that the site, at least technically, was well-designed. Several suggestions were made about possible changes in site content, for example, to include a feature where persons could submit questions about appellate practice. Director Jeremiah Morgan suggested the separate posting of highlights from Association newsletters, while Director Doug Bahr suggested a feature for tips on oral argument. One issue would be the cost to make any significant changes to the web site, which is hosted, without charge to the Association, by the Law School at the University of Arkansas at

Little Rock. Craig indicated he would contact the University to get some feedback on the cost issue.

Craig raised the issue of the Judge McMillian memorial service scheduled for Monday April 17, 2006, in St. Louis. Craig indicated he planned to attend to represent the Association, and Directors Larry Friedman and Lajuana Counts indicated they also planned to attend. Krista noted that she and then-Association President James Layton attended the Judge Richard Arnold memorial ceremony and that Layton had been asked to say a few words as part of the program. Margaret Callahan on behalf of the newsletter committee asked if one of the Board members planning to attend the Judge McMillian ceremony would provide a report for the newsletter, and Lajuana volunteered. Margaret noted that Lajuana also provided the obituary of Judge McMillian that appeared in the previous issue of the Association newsletter.

Craig reminded Board members of the April 10, 2006, Eighth Circuit Appellate Practice Institute continuing legal education program to be held in Little Rock. He observed that while the Association was not a co-sponsor of the program itself, the Association was a co-sponsor of a reception to be held after the program for program attendees and Eighth Circuit judges and staff. Craig determined that not enough Association Board members would be present in Little Rock to make possible a face-to-face Board meeting.

Director Jeremiah Morgan presented a draft amendment for the Association bylaws regarding use by outside groups of the Association membership list. The draft amendment, circulated before the meeting, read as follows:

3.6. Use of Membership Information. The Board of Directors, in its discretion, has the right and power to use membership information to serve the purposes of the Eighth Circuit Bar Association while protecting against the unnecessary and excessive disclosure of membership information as follows:

(a) Membership information shall include information disclosed on the member's application or thereafter to the Eighth Circuit Bar Association,

including address(es), telephone number(s), facsimile number(s) and e-mail address(es);

(b) Only the Board of Directors may use membership e-mail addresses for distribution of information and materials and only if the distribution is consistent with the purposes of the Eighth Circuit Bar Association and a majority of the Board of Directors has approved the distribution; and

(c) Requests for distribution by the Board of Directors using membership e-mail addresses shall be in writing to a Member of the Board of Directors (whether by letter or e-mail), and shall briefly describe the purpose for distribution.

Jeremiah noted that the requirement for Board approval of use of the membership list would serve as a check but would also place a burden on the Board.

Craig raised the issue of having the executive committee, rather than the full Board, make the decision but indicated that he personally preferred to leave the approval decision to the full Board. Krista raised an issue insofar as the draft amendment required the Board itself to circulate the materials of the outside group, noting that this would be cumbersome for the Board and could give rise to the appearance of Association endorsement of the other group or event. She indicated the Association on occasion in the past had turned over the list to an outside group. Secretary Margaret Callahan noted that at the last Board meeting concern had been expressed about member privacy expectations and the turning over of the list and that Mark Marshall had circulated to members, on behalf of the program sponsor, registration materials for the April 2006 Little Rock appellate CLE. Mark said he only did the circulation in that instance because of the tie-in with the Association co-sponsoring the related reception. Krista stated that she thought Association approval was the only check needed on the use of the list and that the Board should at least have the option to turn over the list rather than circulating the material itself. She also endorsed giving the executive committee the decision-making authority, with the committee having the option of consulting the Board if desired. Craig suggested at least keeping open the option for the executive committee or Association officers to make the decision because the

Board does not always meet regularly. A revised draft amendment to the bylaws will be considered at a future meeting.

Krista renewed the request of Minnesota CLE for use of the membership list to promote the Eighth Circuit Appellate Practice Manual. Krista noted that the Association had allowed use of the list for this purpose in the past. Upon motion and second, the Board voted to approve the use of the membership list by Minnesota CLE as stated.

Craig noted that under Section 6.2 of the current bylaws, officers cannot serve two consecutive terms in the same office but that current secretary Margaret Callahan and current treasurer Barry Pickens, for various reasons, were asked to and agreed to serve second, consecutive one-year terms in those offices. Craig proposed amending the bylaws provision in question to make the limit on consecutive terms apply only to the offices of president and president-elect. He noted that the provision in the alternative could be deleted entirely. Craig said he would draft an amended provision for consideration at the next Board meeting.

The next Association Board meeting will be held Tuesday April 11, 2006, at 9:30 a.m. by telephone. It was noted that Craig and others might be traveling home from the Little Rock program at that time, but Craig endorsed keeping the regular meeting time of the second Tuesday of the month.

The meeting adjourned about 10:20 a.m.