

## MINUTES

Eighth Circuit Bar Association

Meeting of Officers and Directors

April 11, 2006

(by conference call)

**Present:** Tom Weaver (president-elect); Margaret Callahan (secretary); Lajuana Counts (at-large); Tom Kieklak (W.D. Ark.); Diane Kutzko (N.D. Iowa); Angela Campbell (S.D. Iowa); Diane Bratvold (Minn.); Larry Friedman (E.D. Mo.); Jeremiah Morgan (W.D. Mo.); Bob Rossiter (Neb.); Doug Bahr (N. Dak.).

**Absent:** Craig Eichstadt (president); Barry Pickens (treasurer); Tom Boyd (at-large); Julie Cullen (at-large); Jeffrey Ellis (E.D. Ark.); Mark Marshall (S. Dak.) Krista Kester (past president).

Association President-Elect Tom Weaver, in the absence of president Craig Eichstadt, called the meeting to order shortly after 9:30 a.m.

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

Tom directed the Board's attention to a proposed bylaws amendment, drafted and circulated previously by Craig, regarding the service of consecutive terms of office by the Association secretary and treasurer. Section 6.2 of the Bylaws, fourth sentence, currently reads, "The officers may not serve consecutive terms in the same officer position." As noted by Craig at the March Board meeting, however, the current Association secretary and treasurer are serving

for their second consecutive terms in their respective offices. To make the bylaws consistent with present practice, Craig proposed to replace the quoted sentence with the following language: “The officers in the positions of President and President-Elect may not serve consecutive terms in the same officer position.”

Director Jeremiah Morgan suggested that some limit – perhaps two years – be included for those positions as to which service of consecutive terms would be allowed. Secretary Margaret Callahan agreed that it would not be good for a person to serve too long in an office and that a lack of persons willing to fill an office would be a sign that the Association is not strong. Tom stressed the importance of the Association seeking the advantage of new leadership and ideas. Jeremiah suggested it would help in recruiting officers if candidates knew their service would be of a fixed duration. Margaret noted that the rule of automatic succession limits the issue of consecutive terms for the positions of president and president-elect and suggested that any language limiting other officers to two consecutive terms should be drafted in a manner that avoids creating any ambiguity as to the president and president-elect. Tom will revise Craig’s draft bylaws amendment to address the problem of potential “open-ended” terms.

Tom next raised for updating and discussion the issue of the Association web site. He noted that Craig was to inquire with the current host, the University of Arkansas-Little Rock School of Law, regarding costs for changing or restructuring the site. Director Angela Campbell noted that she has a close friend in the industry, and she believes that it would only cost about \$100 a year for someone to host the Association site and make routine updates. She indicated that additional charges could be expected for changes to the web site requiring additional programming. Angela mentioned as possible modifications to the web site (1) the placement of Association minutes in a subfolder, rather than having all the minutes listed directly on the

Association home page, and (2) the addition of a feature where attorneys could submit by e-mail general appellate practice questions such as what to expect at oral argument. Other directors raised the issue of establishing a feature where attorneys could post their comments and stories from their experiences with the Eighth Circuit, but there was concern with the types of comments that might be made and/or the public nature of the forum as inhibiting comment. Board members should send their suggestions for web site improvements to Angela, who will compile a list of possible changes.

Margaret as chair of the communications committee reported that the Eighth Circuit Historical Society has inquired about placing a regular or semi-regular column in the Association newsletter to better publicize Historical Society activities, since the Society publishes its own newsletter only about every two years. Margaret said that she had responded in a way that she hoped would promote a close relationship with the Historical Society while still preserving the focus of the newsletter on the Court of Appeals itself (in contrast to district courts within the Circuit) and avoiding the issue of opening access to the newsletter to a variety of groups that might wish to promote their own activities. Board members supported the present practice of limiting the focus of the newsletter to the Court of Appeals itself and agreed that the newsletter should avoid any arrangement that would commit the newsletter to publishing the submission of another group without regard to the content of the article ultimately submitted.

None of the Board members present had attended the previous day's reception in Little Rock, co-sponsored by the Association in conjunction with the University of Arkansas-Little Rock Appellate Practice Seminar. Tom mentioned the scheduled April 17 memorial ceremony in St. Louis for the late Judge Theodore McMillian and noted that Association President Craig

Eichstadt and Director Lajuana Counts were planning to attend, with Lajuana providing a report for the next issue of the Association newsletter.

Director Jeremiah Morgan presented a revised draft amendment to the Association bylaws regarding use by outside groups of the Association membership list. The revised draft, circulated before the meeting, would add to the bylaws the following:

3.6. Use of Membership Information. The Board of Directors, in its discretion, has the right and power to use Membership Information, as defined below, 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) The Board of Directors may use Membership Information for distribution of information and/or materials if the distribution is consistent with the purposes of the Eighth Circuit Bar Association and a majority vote of the Board of Directors or the unanimous vote of the Executive Committee of the Board of Directors has approved the distribution;

(c) The Board of Directors may permit the use of Membership Information by another organization for distribution of information and/or materials if the use is consistent with the purposes of the Eighth Circuit Bar Association and a majority vote of the Board of Directors or the unanimous vote of the Executive Committee of the Board of Directors has approved the use; and

(d) Requests for use of Membership Information for distribution of information and/or materials 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 this proposed bylaw, as revised in response to comments at the last Board meeting, allows a unanimous vote of the executive committee as an option to full Board approval of a request for use of membership information and allows for membership information to be turned over to the outside group for the approved use, as opposed to the Association itself sending out the materials for the outside group. Jeremiah commented that he did not include in the proposed bylaw a reference to “one-time use” of the list by the outside group so that the

Board or executive committee would have discretion to allow a broader use if appropriate in a particular case. Tom suggested that Jeremiah's proposed revised bylaw be held for a vote at the next Board meeting.

Tom raised the issue of an e-mail from Minnesota attorney (and former Association president) Eric Magnuson to Craig, which Craig forwarded to Board members. Eric in this e-mail noted the establishment of an Eighth Circuit "pro bono" bankruptcy web site, inquired about announcing the site in the Association newsletter and adding a link to the site in the "toolbox" on the Association web site, and suggested that the Association might want to consider establishing a committee for bankruptcy practitioners and issues. Margaret noted that she had received a copy of the e-mail direct from Eric and had responded that the newsletter would consider the item for the next issue. She noted further that when she subsequently looked at the web site, the site seemed to be more focused on the bankruptcy courts themselves, thus raising the same issue as discussed previously regarding the scope of the newsletter. Jeremiah pointed out that appellate practice does not begin at the appellate courts, and Directors Diane Kutzko and Larry Friedman spoke in support of this proposition. Jeremiah suggested that the Association use a case-by-case approach in addressing issues and news that does not strictly involve the Court of Appeals itself. Margaret noted that the newsletter had in the past included information about, for example, civil and criminal rules amendments that would affect appellate practice. She said that including in the newsletter a brief announcement about the bankruptcy site should not create serious issues. It was noted that the "toolbox" on the Association web site, to the best recollection of those at the Board meeting, is not strictly limited to appellate links.

Jeremiah commented briefly on the possibility, raised generally in the past, of the Association establishing a mentoring program and suggested that a fuller discussion of the idea

be put on the agenda for the next Board meeting. He raised the issue of how the Association could make younger and non-member attorneys aware of such a service if the Association were to offer it. Board members are also to think about other possible Association activities for discussion at the next meeting.

The next Association Board meeting will be held May 9, 2006, at 9:30 a.m. by telephone.

The meeting adjourned about 10:20 a.m.