

**Minutes of the Meeting  
of the Board of Law Examiners  
November 17, 2023**

**1. Call to order, determine quorum, and consider requests for excused absences – Chair**

At 9:03 a.m., Chair Augustin Rivera, Jr., convened the meeting of the Board of Law Examiners.

Rivera, Teresa Ereon Giltner, Harold “Al” Odom, Barbara Ellis, Anna M. McKim, Cynthia Eva Hujar Orr, and C. Alfred Mackenzie were present. Rivera excused the absences of Dwaine M. Massey and Carlos R. Soltero.

Also in attendance were:

- Nahdiah Hoang, Executive Director
- Ciara Parks, General Counsel
- Allison Drish, Director of Investigations
- Michael Sullivan, Director of Admissions
- Kendelyn Schiller, Assistant Director of Investigations
- April Shaheen, Assistant Director of Investigations
- Ky Strunc, Assistant Director of Admissions
- Laurie Gonzales, Executive Assistant
- Rod Shaheen, Accountant
- Chris Copeland, Legal Assistant

Rivera opened the meeting with a brief memorial to John Simpson, former member and Chair of the Board of Law Examiners. Reading from Simpson’s obituary, Rivera said:

John Elzie Simpson, III, (Juice), 74, of Lubbock passed away on August 3, 2023, just one day after celebrating his 50<sup>th</sup> anniversary with his wife, Carolyn Byrd Simpson.

He was born in Tifton, Georgia on February 9, 1949. He was the first son born to John Elzie Simpson, Jr., and Jim Mae Swann Simpson. He was raised in Tifton and Athens, Georgia, as well as Charlotte, North Carolina, where his father was a salesman for Lance Incorporated, a snack food company. The summer before his senior year of high school, John’s family moved to Houston, Texas and he graduated from Bellaire High School in Houston, Texas. From there he attended Texas Tech University where he earned his degree in business administration and was a member of the Kappa Alpha Order. John then proceeded on to Texas

Tech University School of Law where he received his law degree. John is the first in his family to receive a college and graduate degree.

Upon receiving his law degree, John joined Johnny Splawn to practice law at Splawn Law Office. In 1979 John became a partner and the firm was renamed Splawn and Simpson Law Offices. John spent 49 years at Splawn and Simpson adding his dear friend, Tom Pitts, as partner in 2004 and changing the firm's name to Splawn Simpson Pitts. The only thing that was greater than his reputation in the legal community was his love and loyalty for his staff at Splawn Simpson Pitts. John received many awards and honors for his legal work and trial advocacy. He was appointed to the American College of Trial Lawyers and the American Board of Trial Advocates. He received the Distinguished Service Award from the Texas Tech School of Law and the James E. Denton Distinguished Lawyer Award from the Lubbock Area Bar Association. John loved the law and practiced it zealously until his death.

During law school, John met the love of his life, Carolyn Byrd, whom he married in Lockney, Texas, on August 2, 1973. He was a devoted Kappa Gamma husband. John and Carolyn had two daughters, Corey, and Kendall, whom they raised in Lubbock with the help of John's parents, Megaw and Big Daddy, and Carolyn's parents, Gran and Pop (Fred and Virginia Byrd). John went to countless dance recitals, tennis matches, golf tournaments, school concerts and plays. As the girls got older, he was always ready to help Corey and Kendall with any "projects" they had in their dorms, houses, apartments whether they were in Norman, Oklahoma or Charlottesville, Virginia or anywhere in between.

John was an avid golfer all of his life and counted his golfing buddies among his closest friends. John was a fierce fan of all Texas Tech sports, especially Texas Tech football. He and Carolyn were season-ticket holders for over 30 years. He made "family trips" to out-of-town games against Georgia, Tennessee, Ohio State, Texas, and the 2007 Gator Bowl against his daughter's alma mater, the University of Virginia, because as he said, "How often are Texas Tech and Virginia going to play each other?" John also made family trips to the Sugar Bowl and Orange Bowl to cheer for his "adopted" team, the University of Oklahoma, while Kendall was a student there.

John also had an on-going curiosity for history, religion, and music. He took a three-year course at Congregation Shaareth Israel to learn more about Judaism and frequently taught both adult and youth Sunday School at First United Methodist Church. He loved musicals, especially Phantom of the Opera and Les Miserables. Ever learning, in midlife, John picked up a guitar and began years of weekly lessons. John loved the companionship of his dogs, Honey, his childhood cocker spaniel, Dakota, his beloved Alaskan Malamute, and of late, sweet Lucy, his rescue mix. Being John, he also enjoyed taking care of a community of rescued box turtles in his backyard.

Some of John's greatest joys were serving his community in various roles. As an avid golfer, John led Hillcrest Country Club Board of Directors from 1987-88. He was very proud to have served as chair of the Staff Parrish committee the year First United Methodist Church hired Cliff Wright as its Senior Pastor. In 2003, the Supreme Court of Texas appointed John to serve as member of the Texas Board of Law Examiners, the board responsible for qualifying applicants for admission to the State Bar of Texas. John led the Board of Law Examiners as its chair from 2008-2013.

John firmly believed that there were not many problems that could not be solved by eating a bowl of spaghetti Bolognese (preferably from the Lubbock restaurant, Chez Suzette), taking a hot shower, and going to bed early.

**2. Consider approval of minutes and certified agendas of board meetings, panel hearings, waiver panels, and committees – Chair**

BLE staff provided draft minutes to the Board before the meeting, including:

- June 16, 2023, Meeting of the Board of Law Examiners
- February 10, 2023, Accommodations Review Committee
- May 19, 2023, Hearings Panel (Parks)
- May 19, 2023, Hearings Panel (Hsu)

Upon motion submitted by Odom and seconded by McKim, the Board unanimously approved all minutes as submitted.

**3. Consider communications from the public, if any – Chair**

No members of the public were present.

**4. Report of Accountant – Shaheen**

4.1. Review Investment Reports

Shaheen presented the investment report for FY23 (September 1, 2022 – August 31, 2023).

4.2. Review Annual Financial Report

Shaheen presented the annual financial report for FY23 (September 1, 2022 – August 31, 2023).

4.3. Review Report of Auditors

The annual audit is close to completion, but not yet finalized.

**5. Report of Finance Committee – Giltner**

5.1. Consider Approval of Policy for Investment of Board Funds

This agenda item was tabled until the January 2024 meeting.

5.2. Consider Approval of the Certificate of Deposit Authority Resolution

This agenda item was tabled until the January 2024 meeting.

5.3. Consider Approval of Bank-Specific Authorizations

This agenda item was tabled until the January 2024 meeting.

**6. Report of Executive Director – Hoang**

6.1. General Agency Operations

Outreach

- Staff completed in-person presentations to 1Ls at all 10 law schools. This project was coordinated and led by Drish, with presentations made by Drish, Parks, Schiller, and Hoang. April Shaheen attended one presentation and may present in the future. Ellis attended the presentation at the University of Texas School of Law in Austin.
- In the weeks leading up to the October 1 timely deadline for submitting Declarations of Intention to Study Law, analysts provided “Zoom office hours” to declarants.

- Sullivan delivered the first-ever live Zoom presentation to foreign-trained applicants to help them navigate the special requirements of Rule 13. His presentation was very well received, and a recording is available on the BLE website.
- Hoang delivered a live Zoom presentation on how to apply for the bar exam. A recording is available on the BLE website.
- Drish and Hoang were honored to attend the Texas Law Registrars' Symposium.
- CBAA Committees
  - Strunc is chair of the CBAA Technology Committee
  - Parks is chair of the CBAA Diversity, Equity, and Inclusion Committee
  - Schiller is chair of the CBAA Crossing the Bar Committee
- NCBE Committees
  - Drish is on the NCBE Character and Fitness Committee
  - Hoang is on the NCBE Communications, Education, & Outreach Committee and the NCBE Jurisdiction Advisory Committee.
  - Mackenzie is on NCBE UBE Committee
  - Soltero is on the NCBE Technology Committee
  - Rivera is Secretary of NCBE Board of Trustees and serves on several NCBE committees.
- Hoang served as a panelist for an ABA web-based CLE on FLCs. About 140 people attended.
- Hoang was honored to participate in Texas Access to Justice's Working Group on Access to Legal Services as a member of the Paraprofessional Licensing Subcommittee.
- Hoang Parks, and Drish continue to attend quarterly UPLC meetings.
- Hoang presented a chart showing the filing statistics for FY 2023.
- Dondraius Mayhew has joined the staff as Board Counsel.
- Staff rolled out new forms and procedures for requesting testing accommodations with the February 2024 bar exam application.
- Parks has a new approach to scheduling hearings, designed to give participants more information and certainty.
- New Members Induction Ceremony

- Rivera, Giltner, Mackenzie, Ellis, and Orr attended the October 30, 2023, ceremony, and Mackenzie presented the list of eligible candidates to the Supreme Court of Texas.
  - Staff worked with the State Bar of Texas and the Court to invite additional categories of candidates to attend the ceremony, specifically those eligible for admission by transfer of a UBE score, without examination, and by passing certain Texas Bar exams before February 2023.
  - The NCBE Annual Bar Admissions Conference is scheduled for May 2-5, 2024, in Chicago.
- 6.2. Hoang recognized Julie Garcia for 5 years of service and Kendelyn Schiller for 10 years of service.
- 6.3. Report on Bar Forum
  - Professor Timothy Davis with Wake Forest Law led a discussion at the October 30, 2024 Bar Forum at the Doubletree in Austin on preparing law students for the NextGen Bar Exam.
  - The Forum was attended by law school deans and administrators.
  - Rivera, Giltner, Mackenzie, Ellis, and Orr also attended.
- 6.4. Complaint Resolution Report

Hoang presented the Complaint Resolution Report for period June 1, 2023 – October 31, 2023.
- 6.5. Administratively Determined Waivers Report

Hoang presented the administratively-determined waivers report for June 1, 2023 – October 31, 2023.

The Board asked staff to explore additional areas for delegating specific waiver authority to staff.
- 6.6. Articles of Interest

Hoang presented several articles of interest to the Board, each of which is contained in the public materials for this meeting.
- 6.7. Legislation of Interest
  - Senate Bill 422 amends the Occupations Code to expand military spouse licensing reciprocity to servicemembers. The

Board asked staff to draft corresponding amendments to the Rules Governing Admission to the Bar of Texas for possible consideration at the January 2024 meeting.

- Hoang noted that SBOT referendum Rule 5.05, titled UPL and Remote Practice, would explicitly allow non-Texas attorneys to provide legal “services solely to the lawyer’s employer or its organizational affiliates, provided that this jurisdiction does not require pro hac vice admission.” Hoang noted that “pro hac vice admission” is not defined, but the proposed rule seems to anticipate that in-house counsel should not be required to register, obtain a limited license, or otherwise be licensed to practice law in Texas.

#### 6.8. Calendar Updates

Hoang solicited input from the Board regarding adding hearings and waivers in August.

#### 6.9. January 2024 Board Workshop Planning

Hoang announced that the January 2024 workshop would be held in Houston on January 12-13, and that the ARC, hearings panels, and waiver panel would also take place in Houston January 11, 2024.

### 7. Report of Director of Investigations – Drish

#### 7.1. Recommendations of Probationary Licenses to Convert to Regular Licenses and for Minor Modifications to Probationary Licenses

Drish presented the report to the Board.

#### 7.2. Annual Report of Character and Fitness Determinations

Drish presented the report to the Board.

### 8. Report of Director of Admissions – Sullivan

#### 8.1. Report on July 2023 Texas Bar Exam Results

Sullivan presented the July 2023 Texas Bar Exam statistics to the Board, noting the overall pass rate is up from previous years.

#### 8.2. February 2024 Texas Bar Exam update

Sullivan noted that February 2024 examination planning and administration is on schedule. The February 2023 main room

examination will be administered at Austin Convention Center and accommodated examinees will test at TCEA Conference Center in Austin.

**9. Report of General Counsel – Parks**

9.1. Report on 2023 CBAA Fall Meeting

Schiller noted that due to an overlap with BLE's Standard Setting Study, only three staff members were able to attend the CBAA Fall Meeting: Schiller, Parks, and Mayhew. Schiller provided a recap of the topics discussed at the meeting.

9.2. Annual Report on Testing Accommodations

Parks presented the Annual Report on Testing Accommodations.

9.3. Litigation Report

The Litigation Report was deferred until the Board went into closed session later in its meeting.

*At 10:38 AM, Rivera paused the meeting for a break.*

*At 10:51 AM, Rivera reconvened the meeting in open session.*

**10. Report on Standard Setting Study – Sullivan**

Rivera thanked the Board members who attended the Standard Setting Study. Sullivan summarized how the study was conducted, and reported that the consultant said the Texas study was one of the best he had conducted.

**11. Consider Standard Setting Study Preliminary Results – Chair**

Discussion of the results was deferred until the Board went into closed session later in its meeting.

*At 10:57 AM, pursuant to Tex. Gov't Code §551.07 and Tex. Gov't Code §551.088, Rivera closed the meeting.*

*At 12:06 PM, Rivera reconvened the meeting in open session.*

*The Board did not take any action based on discussion undertaken during the closed session.*

**12. Consider Staff's Request for Guidance Regarding Incidents of Alleged Examinee Misconduct – Hoang; Chair**



Hoang stated that BLE staff increasingly relies on Exam360 software to detect and evaluate exam misconduct. She proposed a presentation during the January 2024 Workshop to provide a brief overview of the software and how it is used by staff to investigate misconduct. The Board was receptive, so it will be presented at a future meeting.

**13. Consider Proposals for Licensed Paraprofessionals from Texas Access to Justice Commission's Working Group on Access to Legal Services and Possible Input from BLE – Hoang; Chair**

Hoang explained that the state is considering licensing paraprofessionals to engage in a limited scope of law practice more actively in some areas of the law. The current discussion anticipates that the Judicial Branch Certification Commission will investigate, examine, license, and discipline these licensed paraprofessionals. The Board authorized Hoang to offer BLE's assistance with the licensing process.

**14. Consider Staff's Request for Guidance on Interpretation of Rule 13 §§ 3 and 6 of the Supreme Court of Texas Rules Governing Admission to the Bar of Texas – Hoang; Chair**

Hoang presented information regarding the law study requirement for admission in Texas, which generally is that an applicant holds a JD from an ABA-approved law school. She then outlined the exemptions allowed under Rule 13 and explained that staff recommended interpreting Rule 13 §8 as applying to state-accredited U.S. schools addressed in Rule 13 §3, and to analogize "holding a J.D." from an accredited law school to "graduating" from an approved law school. The Board agreed, and asked staff to propose rule changes that would clarify that applicants seeking to satisfy the law study requirement under an exception in Rule 13 §3 should be treated the same as applicants seeking to satisfy the law study requirement under Rule 3.

Discussion of Rule 13 §6 was deferred to a future meeting.

**15. Subcommittee Reports – Chair**

No Subcommittees had any items for discussion.

**16. Consider Timeline for Evaluating NextGen – Chair**

Rivera stated that the expectation by the Supreme Court is that the Board have make a recommendation to the Court about whether to adopt the NextGen Bar Exam by June 2024. To help inform this recommendation,

Rivera has assembled a NextGen Bar Exam Work Group. Members of Group include Rivera, McKim, Odom, Giltner, and Deans Roberts, Nowlin, and Barry.

**17. Report on NCBE – Chair**

Rivera noted that Iowa has publicized it will adopt the NextGen Bar Exam in 2027.

**18. Consider Issues Arising from Reports of Executive Director, Director of Investigations, Director of Admissions, General Counsel, Committees, and Subcommittees – Chair**

No issues were raised for discussion.

**19. Adjourn – Chair**

At 1:06 PM, with no further business to conduct, Rivera adjourned the meeting.

Respectfully submitted,



Nahdiah Hoang, Executive Director

Approved



Augustin Rivera, Jr., Chair