

**Philadelphia Bar Association  
Board of Governors Meeting  
May 28, 2020**

The meeting was called to order by Chair Kamau at 4:03pm.

The minutes from the April 23, 2020 Board meeting were considered. A motion to approve the minutes was made and seconded and passed unanimously.

Karen Buck, Executive Director, SeniorLAW Center, Jacob Speidel, Director of Tenant Rights, SeniorLAW Center, Judy Berkman, Senior Counsel, Regional Housing Legal Services, Sherry Thomas, Director, Housing Initiative, Legal Clinic for the Disabled, George Gould, Community Legal Services and Joseph A. Sullivan, Co-Chair, Civil Gideon and Access to Justice Task Force presented a Resolution Addressing Urgent Housing Issues During and After the COVID-19 Pandemic. This was presented out of order, as Treasurer Zucker was not yet on the call. Karen Buck thanked the Board and the Chancellors for hearing this issue. It has been an astonishing time, especially for those who are low income, vulnerable, senior and disenfranchised from access to justice. There are a number of presenters due to the urgent importance of the work, the crisis and the devastating impact on families, children, seniors and other vulnerable individuals. Each presenter will handle a piece of the resolution and she thanked the co-presenters for their work in offering the resolution. They have done their diligence in presenting the resolution to committees and sections, which will be described.

It is a source of pride how the legal community has come together, and this resolution goes to the heart of the Association's dedication to access to justice, to serving poor and disenfranchised individuals and ensuring due process, fairness and justice in courts. It goes to the COVID 19 crisis that affects all of us, especially the most vulnerable communities. Older people are at the epicenter of the crisis and are the most likely to suffer from the disease. Housing and homelessness prevention must be a priority, especially in a health crisis. Housing and safe shelter affects every aspect of life for all of us. The Association has taken a leadership role in addressing the eviction crisis in the City before the pandemic and she particularly thanked Past Chancellor Fedullo for her work and commitment on this. There are particular concerns as the courts are preparing to reopen and keeping the courts and litigants safe once the courts reopen. She indicated that we are expecting a deluge of eviction cases when the courts reopen in landlord tenant courts and we must do what we can. Philadelphia is the poorest large city in America and already had an eviction crisis and the work of legal services has a proven effect on the outcome of these cases. There is a very different outcome when you have an attorney. She thanked the Association for the Stoudt report and its emphasis on demonstrating the cost-effectiveness for protecting the right to counsel.

The resolution has been updated to ensure that it incorporates the most updated orders from all branches and levels of government as they occur on a daily basis. Even as the stay at home orders are lifted, there are many residents who will continue to be directed to shelter in place, because of their vulnerability to the virus. There must be significant accommodations made to ensure the health and safety of the most vulnerable in the community. It is a medical and public health issue and must be treated as such to ensure the health and safety of all who enter the courts. It is important that notice and due process be augmented and that there should be virtual accommodations and access made to protect those communities. There are two issues

that the presenters are particularly concerned about. The Chancellors have promoted the Eviction Prevention Protection project, led by several of the key public interest organizations in the City, which has been implemented successfully and changed the balance of power significantly. We cannot continue key aspects of this project, due to directives from the courts. It should be allowed by the courts to continue.

Joe Sullivan spoke of the history of the Association's collaboration with the public interest community and their clients in protecting the rights of tenants and assuring right to counsel. He also thanked Chancellor Snyder and Past Chancellor Fedullo for their dedication to this issue. The Bar Association has been a leader in helping achieve access to justice and ensuring collaboration with the City, City Council, the First Judicial District and other entities to assist with achieving fairness for underprivileged groups and collaboration to address crises that present lack of due process to underprivileged groups. He indicated the group of collaborators presenting this resolution are focusing on the impact of the pandemic on low income residents in the form of evictions if there are not adequate policies and procedures to ensure that those interested parties can have their voices heard.

In 2007 and 2008, Judges Rizzo and Darnell Jones lead the efforts to address the mortgage foreclosure crisis and asked the Bar Association to determine how to engage Philadelphia lawyers in the Mortgage Foreclosure Diversion program. The Bar Association was a key factor that would allow Judges Rizzo and Jones to get a regulation passed that would ensure the parties most at risk would have a voice in what was occurring. They created an intermediate step where all those threatened with foreclosure had an opportunity to participate in an intense mediation program to avert the displacement. The collaboration was led by the Real Property and Public Interest Sections of the Association and involved the First Judicial District and City Council and managed to avoid 15-17,000 foreclosures over the course of 2-3 years. This was a big victory and involved lawyers in big firms as well. There was huge participation by those lawyers who were trained to help mediate the issue. The City contributed by helping to fund financial counselors to meet individually with the individuals threatened with foreclosure to develop a financial plan to help ensure ability to pay and negotiate terms for repayment of the mortgage. There were creative solutions developed to create this successful program and the Bar Association lead the collaborative efforts, which included compromise and reassessment of initial positions.

Mr. Sullivan continued and explained that the history also includes the Landlord Tenant Appellate Mediation Program (LTAMP), around the same time. He credited Judge Sandra Moss for creating an intermediate step of participation in a mediation before an appeal to Court of Common Pleas could go forward. This was created by a committee of the court led by Judge Lisa Rau with the authority of the President and Supervising Judges. The collaborators were able to eliminate a backlog of 8,000 cases on appeal. This was another successful example.

The last example was in Civil Gideon where there was extraordinary collaboration between the Bar Association, City Council, City agencies and the First Judicial District under the leadership of Chancellor Snyder and Immediate Past Chancellor Fedullo. The outcomes were skewed in favor of the landlords, because of a lack of equal playing field, because the tenants typically did not have representation. An ordinance was enacted last year which requires counsel be appointed for low income individuals to help level the playing field.

In each of these cases, the skill sets of all parties improved when they realized how collaboration can help lead to a successful result. The case before us presents the same situation. Proper protocols need to be implemented to ensure the health and safety of all interested parties and the necessary procedures are not yet in place, so there needs to be greater participation. There is no reason this can't happen, because there are sufficient resources to allow it to occur and it requires the strength of the Bar Association.

Mr. Speidel directed the Board to the language of the resolution itself to demonstrate why it is so important to address these issues. There are several waves of cases that need to be addressed. The first wave consists of those who had writs in place before the courts closed, and there are documents prepared that just need to be filed. There are about 500 cases in this category. The concern is that if the tenants don't get new notice that the evictions will proceed and have sufficient warning that the writs are going to be entered they won't have adequate notice to properly vacate the premises. It is important to provide time to allow people to safely move, so there must be notice given that the courts will be open and evictions will commence. Things will run much more smoothly if tenants are given sufficient time and resources to move. There is a lack of resources and real estate available, and time is needed for the backlog to clear so that people can look for new residence. This will take a few months for moves to be orderly.

The second wave of cases is similar, in that there has been a judgment, but no alias writ has been entered.

The third wave of cases include those that were filed, but hearings have not yet been scheduled. There are approximately 1700 cases that need a hearing and there needs to be notice that hearings will be scheduled. There are huge concerns about how those cases will be processed in a safe manner to protect due process and health and safety efforts for all those involved in the court system. One proposal was to schedule six cases in 45-minute blocks, but this does not permit sufficient time for some cases. The process needs to contemplate adequate time for trials and there shouldn't be arbitrary time limits. There may be issues with lack of access to resources. For instance, tenants may need evidence or witnesses from Licenses and Inspections and they have been closed. The resolution ensures that due process is given in terms of access to available witnesses and evidence.

The fourth wave are those where the process has not yet begun. There are typically 1500 cases per month, and the courts have been closed for 3.5 months. That is normal situation and doesn't account for the millions of people who are having difficulty paying rent because they lost their jobs. So, there will be a true deluge of new cases once the courts re-open in addition to the 1700 pending cases and the 500 cases where writs have already been entered.

Some of the recommendations in the resolution to make the court safer include consulting with health professionals to develop safety plans. Some suggestions of those types of health and safety measures that might be required are taking temperatures and distribution of masks. The current plan requires those litigants who come to court without a mask to be turned away, a default judgment entered and eviction in place. This is inconsistent with due process. There must also be consideration for child care, hand sanitation, social distancing and transportation limitations. It is also critical that litigants receive proper and sufficient notice of court hearings and what accommodations they can request and procedures to do so.

The Resolution also addresses the CARES Act, which provides additional protection to certain categories of tenants within those groups based upon the qualification of the landlord. However, the actual qualification of landlords is hard to determine. There must be a process to determine to which landlords the CARES Act applies. The landlords control the information as to whether they qualify, so there must be an affidavit by the landlord as to whether they qualify.

The resolution asks the courts to take measures guided by health and safety professionals and to make procedural and policy changes to assist litigants affected by COVID-19 and to work with stakeholders to establish a diversion program similar to the mortgage foreclosure program from more than a decade ago. This situation is similar to the situation with mortgage foreclosures that existed at that time. An eviction diversion program will prevent the court from being overwhelmed with hearings and trials and will prevent massive numbers of people from being displaced from their homes. There is a rental assistance program that is being developed, but the benefits have not yet been received, so the eviction diversion program is important.

Sherry Thomas indicated she was encouraged by the Bar Association's history of coming to the aid of those in need. If no actions are taken, we are on the brink of a humanitarian disaster and a tsunami of evictions. She and Mr. Seidel focus their practice on landlord tenant work, and they see the injustices that occur when people lack time and representation. In this crisis, there are a number of people who were safe to attend court before the virus, but can no longer attend because they have co-morbid conditions. Until court is safe for everyone, we need to develop enhanced protections. The resolution is asking for the court to provide time.

Judy Berkman reported the breaking news that the PA House and Senate approved an amendment to the appropriations law for \$175million for housing relief programs that would be for rental and mortgage relief. This will go to the governor tomorrow. The rent relief program provides that the funding goes directly to landlords, so there is support for the provision on both sides.

The current Resolution before the Board came out of the Delivery of Legal Services Committee and was supported by the Public Interest Section unanimously. It needed to be amended and revised because of the changing situation. The Real Property Section approved overwhelmingly as well (12(Y)-0(N)-8(A)). The municipal courts committee approved the resolution 31-12 with two abstentions. There may also be a second bill that will provide additional funding for other programs.

Karen Buck concluded by indicating that there is no intention to dismiss or disregard any member of the court system. There have been attempts to address these concerns directly to the court without success. The current proposed order from the court is untenable and may be unconstitutional based upon these concerns which relate to due process. She stressed the humanitarian crisis that might be created if the issues are not addressed. She thanked the Board for its consideration.

Chancellor Snyder clarified Karen Buck's comments slightly, in that he has engaged in discussions with Judge Moss and Judge Dugan. There were elements of the discussion where there was disagreement, but there was some consensus and the court did modify its statement pursuant to some of the concerns that Chancellor Snyder raised. The court will also take into consideration the newest directives from the Supreme Court and the governor, which will delay

evictions until July 10 and until July 26 for those subject to the CARES Act. The Chancellor wanted to ensure that it is noted that the courts have heard concerns and have made some concessions based on concerns raised.

George Gould agreed that the Municipal Court has made significant progress, but there are still important issues that remain outstanding. There remains confusion about Notice requirements and entry of alias writs. The court also has refused to allow a lawyer for a day program, which is a significant concern. He also highlighted the concerns about the CARES Act Affidavit that were raised previously.

Larry Beaser raised a few friendly amendments. They are:

1. In the fifth Whereas Clause on page one, the provisions concerning real estate should be eliminated, because it is no longer the case that real estate is not considered an essential business.

2. In the next clause, mention of the stay at home order should be removed, because, this doesn't add anything, because the stay at home order will no longer be in effect within a few days from now, but if it is left in, it must be changed to June 5.

3. In the third Whereas Clause on page one reference to the stay at home order should also be changed for the same reasons.

4. In the first Whereas Clause on page two there is a typographical error and Second Wave should be two words.

5. On page 3, the second Whereas Clause should delete reference to the stay at home order, because it will no longer be in effect within a few days from now.

6. On page four, it attaches a sample CARES Act Affidavit and Resolutions do not have documents attached to them pursuant to Philadelphia Bar procedures.

7. On page 5, there is a typo in the first And Be It Further Resolved Clause has a typo with the word Philadelphia.

8. On page 5, the last Clause of the resolution references local and state governments, and this should be removed in favor of the other specific entities referenced.

George Gould thought the CARES Act sample affidavit should be appended to the Resolution. Lou Rulli agreed with this point, and believes it is justified in this instance, because of the importance of the affidavit. Larry Beaser withdrew friendly amendment number 6.

Judy Berkman suggested alternative language to suggestion no. 1. Specifically, she recommended it be revised, rather than eliminated, so that it reads, "Whereas the spread of the COVID-19 disease has severely impacted the housing market in Philadelphia, which is the largest city in the United States with the highest number of residents in deep poverty," which Larry Beaser approved.

A motion to approve the Resolution as amended was made, seconded and passed overwhelmingly. Wendi Barish abstained.

Treasurer Zucker presented the Treasurer's Report out of turn. The numbers through the end of April are not surprising, in light of the pandemic shutdown, but they are no less disappointing.

On the revenue side, last month the Association failed to meet its monthly budget by about \$138,000 and brought in about \$176,000 less than last April. That means for the first four months of the year, the revenue numbers fell below our target by about \$380,000, and were about \$387,000 less than in the first four months of last year.

The good news is that expenses likewise were down, because of the shutdown of the office and absence of any big events and the hard work of the Association's staff. The Association's expenses were less than had been projected by about \$39,000 for the month—and were about \$15,000 less than the Association spent last April. For the first four months of the year, the Association spent \$156,000 less than was budgeted, and about \$137,000 less than what was spent last year in this period. This doesn't wipe out the losses for the month of April, but for the four month period, the Association is still in the black.

Other good news is that the Association was still able to collect \$55,000 in dues with a closed office and without sending any dues billing since early March. The Association's staff are slowly starting to begin sending out dues' notices. Additionally, the deadline to pay dues was extended to June 30<sup>th</sup>. There are still some large firm checks outstanding but based on the current situation it is unclear how many of those will come through. The Association also collected about \$20,000 with virtual CLE webcasts, at a reduced fee. CLE is \$55,000 below revenue budget which is partially offset by expenses being less than projected by \$24,000.

If these figures are netted out, in the month of April, the Association raised \$111,000 and spent \$265,000, putting it in a deficit spending mode of \$154,000. For the four-month period as a whole, the picture was much better, because the Association raised \$1.6 million and spent about \$1 million of that, which still leaves the Association in the black by about \$632,000.

A motion to approve the Treasurer's report was made, seconded and unanimously approved.

Executive Director Hurdle provided his report. Treasurer Zucker's financial report is not great, but the member engagement report is extremely positive. The Association held 12 non-CLE events over 3 days and there were over 500 attendees. This is extraordinary. There were also 167 attendees of CLE programs over the same time-period. The open rate and click-through rate of emails are way up, in the mid-20s to 30% range. Registrations for the past two months compared to January and February are up 44%. These are levels of engagement that we haven't seen. The financials don't reflect this engagement unfortunately.

He also mentioned that the Board should vote for the Philadelphia Bar Association in an ALM survey as the best CLE provider. He believes that the Association has the best programs of any CLE provider. He also encouraged the Board to update their social media profiles asking others to vote for Philadelphia Bar as best CLE provider. The questions at issue are numbers 47 and 48. An ask from a member is more effective than an ask from the Association.

There is a new social media campaign that launched yesterday pushing bar association membership using members' words. Past Board Chair Amber Racine, Board Diversity Liaison Reggie Shuford, and Board Member Christine Kalalang provided testimonials and were thanked. A sample of the advertisement using YLD Chair Hillary Ladov's testimonial was shown to the Board. The Association is using members' own words to promote Association membership.

Executive Director Hurdle indicated he could not be more proud of the staff and they have the highest level of engagement. The Board's involvement is needed to increase renewals and there will be specific responsibilities assigned for reaching out. Board members' testimonials are more effective than staff as a general proposition in expressing the value-added benefits of Association membership.

Despite the City moving to yellow phase, the Bar Association will continue to operate remotely. The only thing that may need to be done in person is the Bridge the Gap program, which the CLE Board has not yet permitted to be completed remotely. There is hope that this requirement will be changed.

We have reached an agreement with Chester County and they are now marketing the Association's programs to the Chester County Bar Association for both live programs and a portion of recording in their library and other counties may be doing the same. This is based upon our excellent programming and is leading to the ability for greater collaboration among bar associations across the Commonwealth. He thanked Board members who have been involved in helping to plan the programs, which have been excellent.

Chair Kamau indicated that in making the renewal asks, phone calls are more effective. He requested those phone numbers be provided.

Chancellor Snyder made his announcements. He thanked the staff for operating remarkably under the most stressful conditions. They have been exceptionally responsive and effective. He also thanked committee and section chairs for their activity and involvement. He also requested the Board's assistance in engaging members for renewals and to attract new members. The Association has been an incredibly valuable resource, especially in this pandemic.

He reported that he has conducted close conversations with all of the divisions of the First Judicial District, including participation in the decisions and providing information for dissemination to the members of orders as quickly as possible. The information is distributed on the website and listservs. This is an incredible value-added benefit for members. A new order from the Supreme Court indicated that the Supreme Court's emergency declaration expired, but the individual court systems still have the ability to create their own emergency orders. The Association will endeavor to update members on each of the surrounding counties, including Philadelphia. The Re-Entry task force will provide resources and best practices as offices re-open and will be continually updated and will provide guidance to firms of all sizes.

The engagement is "through the roof," because the Board and leaders of the Association have been excellent and have been making efforts to increase interest. The town halls by each of the sections have been tremendous and have provided feedback to the court, which has led to incorporation of issues and suggestions raised in the town halls into court orders. The Chancellor's messages have received an incredible reception as well. The Membership Engagement Director of the ABA indicated that she had read some of the Chancellor's messages and found them to be extremely engaging. He will continue to send these messages and respond to those who write to him, because he has not had the opportunity to speak in person to members.

He also encouraged Board Members to vote for the Association as the best CLE provider. This is not just a source of pride, but it also creates an opportunity for other Associations to market our CLEs to their members.

The next Quarterly meeting will be in mid-July. Chancellor Snyder announced that he still hopes Professor Evelyn Brooks Higginbotham, the widow of Justice Higginbotham will be able to give the Higginbotham lecture. She holds an endowed Chair at Harvard University and she speaks frequently on women's history and the Suffrage movement, particularly the impact of the movement on women of color. She is a noted scholar in her own right and once she finishes her engagement at Harvard they will select a new date for the Quarterly meeting. Judge Higginbotham will be posthumously awarded the Bar Medal for his body of work. The event will be virtual and unique and 50 and 60-year members will be honored with a speech by Judge Marlene Lachman. There will be some live content and some pre-recorded content. It will be exciting and will be different. It will be free for members, which is another incredible value-add. The Sotomayor Diversity Award will also be awarded and he encouraged Board members to think of potential awardees.

Bench Bar will also have a different format this year. It will be one day and will be virtual, because the conference cannot safely be presented in person in the numbers usually attending. There will be some fun and relaxation in addition to the most exceptional CLEs. It will be held Friday, October 23.

Councilwoman Helen Gym has called Chancellor Snyder to thank the Association for the continued efforts the Association has made on behalf of the indigent. Some of these efforts were published in an editorial in the Inquirer and other media outlets. She asked him for the Association to support some future measures that City Council will be taking and he is gratified by the support and appreciation of the Councilwoman. He is also gratified by the sentiments of the First Judicial District for our collaborative efforts.

The Association has also been involved in efforts to improve pardon reform and the benefits socially and economically for pardon reform.

There will also be training programs provided for remote platforms that are primarily being used for depositions and mediations.

The Chancellor also thanked section and committee chairs who put together town halls and a Chancellor Forum. There will be Bar Stars named when we have a live event and these section and committee chairs will be publicly recognized. He is so honored to be the leader of the Association this year. It is a very different year than he anticipated, but he has tremendous satisfaction and gratitude. He thanked everyone for the honor of leading the Association and thanked the Board for their efforts.

Chair Kamau made his announcements. He indicated that he is also grateful to be able to provide service during this unprecedented time. He thanked the Board members for their participation and engagement. He also thanked everyone who put forward the resolution the Board passed today. This is one of those exceedingly important resolutions at this time. He also echoed comments about CLE Director Tara Phoenix' efforts at phenomenal CLE programming

and asked members to attend the CLE tomorrow on tax issues in bankruptcy cases. He also asked everyone to submit nominations for the Bar Foundation and Pro Bono Awards.

The meeting was then adjourned to Executive Session at 5:44pm.

Respectfully submitted,  
Jennifer S. Coatsworth  
Secretary

**Board of Governors Attendance  
May 28, 2020**

**Voting members present**

Hon. A. Michael Snyder (Ret.)  
Lauren McKenna  
Wesley Payne  
Jennifer Coatsworth  
Kathleen Kirkpatrick  
Marc Zucker  
Matthew Olesh  
Nicholas Kamau  
Riley Ross  
Benjamin Barnett  
Meghan Claiborne  
Francesca Iacovangelo  
Alisha Rodriguez  
Michael van der Veen  
Dominique Ward  
James Berardinelli  
Diane Penneys Edelman  
Lawrence Felzer  
Dino Privitera  
P. Douglas Sisk

Neelima Vanguri  
Wendi Barish  
Kris Calalang  
Erin Lamb  
Craig Levin  
Nipun Patel  
Andre Webb  
Hillary Ladov  
Randi Rubin  
Maureen Farrell  
Arly Smith-Pearson  
Reuben Asia  
James Tolerico  
Cheryl Upham  
Mark Mazzanti  
Rochelle Fedullo  
Amber Racine

**Absent:**

Michael Zanan  
Tom Innes

Reginald Shuford

**Non-voting members present:**

Lawrence Beaser  
Leslie John  
Abraham Reich

Harvey Hurdle

**Absent:**

Butler Buchanan

**Invited guests present:**

Louis Rulli

Natalie Klyashtorny

Nikki Johnson-Huston

Hon. Sandra M. Moss (Ret.)

Mark Alan Aronchick

