



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

PROCESS SERVER REVIEW BOARD

APPOINTED BY

THE SUPREME COURT OF TEXAS

MINUTES OF MEETING

September 6, 2013

9:00 AM

3rd Court of Appeals Courtroom
Price Daniel Building, Room 101
209 West 14th Street
Austin, Texas 78701

COMMENCEMENT OF MEETING

On September 6, 2013, Chairman Mark Blenden called the meeting of the Texas Process Server Review Board (Board) to order at approximately 9:10 a.m. in the 3rd Court of Appeals Courtroom at 209 West 14th Street in Austin, Texas.

ATTENDANCE OF MEMBERS

The following members of the Board were present:

Mr. Mark Blenden, Blenden Law Firm, Bedford
Mr. Patrick J. Dyer, Law Office of Patrick J. Dyer, Missouri City
The Honorable Rhonda Hughey, Kaufman County District Clerk, Kaufman
The Honorable Tony Lindsay, (Ret.) Judge, Houston
Mr. Eric Johnson, EZ Messenger, Houston
Mr. Lee Russell, CPS Companies, Dallas
Mr. Mark Vojvodich, Constable, Bexar County Precinct 3, San Antonio
Mr. Justiss Rasberry, Rasberry & Associates, El Paso

Members Judge Albert Cercone and David Neblett were not in attendance.

Also present was Mr. Jim Crowson, Assistant Attorney General, Office of Attorney General. Staff present were Tyees Holcombe, Christelle Moore and Lesley Ondrechen.

MINUTES

With a quorum present, Chairman Blenden called for a motion to approve the June 7, 2013 meeting minutes. Judge Lindsay noted a correction to the meeting minutes. Upon motion by Judge Lindsay and second by Mr. Blenden, the minutes of the June 7 meeting, as corrected, were approved.

OLD BUSINESS

A. Process Server Class via Remote Videoconferencing

The Board discussed the proposal presented by Kathy Burrow at the June 7 meeting. Discussion points included instructor approval and the need for more details on the class content before moving forward. Judge Lindsay moved to approve the instructor requirements and evaluation questionnaire, prepared by the Education Committee; there was no second. The Chair appointed Mr. Rasberry as an additional member of the Education Committee.

B. Standardized Curriculum

The Chair reviewed the curriculum materials prepared by the Curriculum Committee to date. The Board discussed the materials, forms and other issues related to a standardized curriculum, including mandatory e-filing, beginning January 1, 2014, and new Justice Court rules. Mr. Blenden noted that the standardized curriculum is not ready for approval at this time.

C. Photo Identification Cards for Process Servers

The Chair reported on his conversations with two companies regarding preparation of photo i.d. cards for process servers. Mr. Crowson noted that without approval by the Supreme Court of an increase in fees, the PSRB will not be able to require a process server to pay an additional fee in order to receive an identification card. This could mean that whether a certified process server possesses a PSRB-approved identification card would be at the discretion of each individual process server. Mr. Blenden stated that process servers have strongly indicated their desire for an identification card issued by the Board, and that it would be a benefit to the public in identifying certified process servers. After further discussion, including associated costs, increased staff time, and the logistics of producing the cards, Judge Lindsay moved to approve the concept of offering an identification card with a security feature and a photo, and to delegate authority to the chair to determine how to accomplish this. Mr. Johnson seconded, and the motion carried.

NEW BUSINESS

A. Submission of New Courses for Approval

The Chair reminded the Board that it had decided to close submissions of new courses for approval, pending completion of the standardized curriculum. However, because of the extensive time involved in the process, the Board's website has been updated to show that the curriculum is being updated, but new course submissions are being accepted in the meantime.

B. New vs. Reinstatement Application - Kyle Voelker

In response to a query from Mr. Rasberry, Mr. Crowson explained that the Board took the position that an individual who was once certified by the Board cannot be considered as a new, first-time applicant. Mr. Voelker did not appear, and no action was taken by the Board.

C. E-Filing Pleading Mandate, January 1, 2014

The Board discussed the mandate as it relates to law firms. Implementation of mandatory e-filing starts on January 1, 2014, as set forth in the Supreme Court of Texas' Misc. Docket Orders 12-9206, 13-9092 and 13-9128. Miscellaneous docket orders are available from the Supreme Court of Texas' website, <http://www.supreme.courts.state.tx.us/miscdocket/home.asp>.

D. New Justice Court Rules, Service of Process

Some discussion was had during the discussion of the standardized curriculum. The Board discussed the new rules related to service by mail. The new justice court rules, effective as of August 31, 2013, were promulgated by Misc. Docket Order No., 13-9049.

ADJOURN TO EXECUTIVE SESSION

Chairman Blenden adjourned regular session at 10:20 a.m. so that the Board could enter into Executive Session to consider applicants with criminal history. The Executive Session was adjourned at 12:25 p.m. and re-convened at 1:15 p.m. At 1:50 p.m. the Board adjourned the Executive Session and reconvened in Regular Session at 1:55 p.m.

COMPLAINTS

Juan San Miguel and Jason Hamilton

Constable Vojvodich presented complaint number PS2013-0023 and complaint number PS2013-0022, submitted by Michael Bradle. The complaint states Mr. San Miguel and Mr. Hamilton committed a criminal trespass while serving process. Mr. Hamilton is not currently certified to serve process statewide. Mr. San Miguel did not file a response, but appeared in person with his attorney Joanne San Miguel. Ms. San Miguel advised the Board Mr. Hamilton would be available by phone if necessary; Mr. Bradle did not appear. Mr. San Miguel testified and answered questions from the Board. Constable Vojvodich recommended dismissal of the complaints, based on a preponderance of the evidence, for lack of good cause for disciplinary action. Mr. Dyer moved to dismiss the complaints as unfounded, and Mr. Russell seconded. There being no further discussion, the motion carried.

Zeke Jackson

Constable Vojvodich recommended administrative dismissal of complaint number PS2013-0020 submitted by Dottie Hyatt and complaint number PS2013-0021 submitted by Kate Rugroden for lack of jurisdiction. Constable Vojvodich so moved, and Judge Lindsay seconded. There being no discussion, the motion carried. All parties had asked to appear by phone; Ms. Moore left the meeting to notify the parties their appearance was not required.

Jason Lightner

Constable Vojvodich presented complaint number PS2013-0013, submitted by Mahmood Shareef, noting it was continued from the June 7, 2013 meeting. Constable Vojvodich reminded the Board he had recommended a suspension at the June meeting, but the Board wanted to hear from Mr. Lightner before it was imposed. Mr. Lightner did not appear, and submitted no further documents. Constable Vojvodich moved to suspend Mr. Lightner's certification to serve process for one year, with three months active suspension and nine months probated. Judge Lindsay seconded, and there being no discussion, the motion carried.

Stephanie Hooper

Constable Vojvodich presented complaint number PS2013-0016, submitted by Elizabeth Trowbridge. Ms. Hooper did not file a response and did not appear. The complainant alleged Ms. Hooper had made a false return by claiming personal service when the citation was mailed. In addition, there was a lapse of over thirty days between the date of execution and the date of return. Ms. Trowbridge, clerk for Justice Court 3 in Tarrant County, received notice from the U.S.P.S. that the papers were placed in a private mailbox, without postage. Based on a stated violation of postal regulations or law, the papers were confiscated. Constable Vojvodich recommended, based on a preponderance of the evidence, to revoke Ms. Hooper's certification to serve process statewide for lack of due diligence in the service of process and making false statements on a return of citation. Judge Lindsay so moved, and Mr. Dyer seconded. After discussion, the motion carried. Ms. Trowbridge had requested to appear by telephone; Ms. Moore left the meeting to notify her that her testimony was not required.

Keith Billiris

Constable Vojvodich presented complaint number PS2013-0018, submitted by Comelle Wright. Mr. Billiris filed a response and asked to appear by telephone. The complainant alleged that Mr. Billiris did not effect personal service as he claimed, but served a relative of the defendant instead. The defendant stated he was out of the state at the time the process server claimed he made personal service. Constable Vojvodich moved, based on a preponderance of the evidence, to dismiss the complaint as unfounded with no good cause to take disciplinary action. Mr. Russell seconded. There being no discussion, the motion carried. Ms. Moore left the meeting to notify Mr. Billiris that his testimony was not required.

Gregory Harper

Constable Vojvodich presented complaint number PS2012-0028, submitted by Stuart Glass. Mr. Harper and his attorney, Vesta Armstrong, appeared by telephone; the complainant did not appear. The complaint alleged that Mr. Harper improperly served the defendant by taping papers to the door, when the terms of the alternative service order did not allow service in this manner. Constable Vojvodich moved, based on a preponderance of the evidence, to suspend Mr. Harper's certification to serve process statewide for a period of six months for lack of due diligence in not properly reviewing the motion for and order granting alternative service and for effecting service not in compliance with the terms of the order. He further moved that the suspension be fully probated, contingent on no new sustained complaints, and upon the process server reporting any incidents to the Board. There was discussion regarding the severity of the disciplinary action to be imposed. Mr. Dyer seconded the motion, and there being no further discussion, the motion carried. The Chair cautioned Mr. Harper to be fully aware of the importance of proper notice and documentation, and to carefully read service orders to ensure compliance with their terms.

Ben Jordan

Constable Vojvodich presented complaint number PS2013-0019, submitted by S. Gary Werley. Mr. Jordan did not file a response, and neither party appeared. The complaint alleged that service was incomplete and invalid, because it is not in compliance with Rule 107(b) of the Rules of Civil Procedure. Constable Vojvodich recommended Mr. Jordan's certification to serve process statewide be suspended for one year, with the suspension fully probated, and that he amend his return practices to comply with Rule 107(b) and other applicable rules and laws.

There was discussion about the length of suspension, and whether it should be probated or active. The Board also discussed conditions to be imposed, including taking a class and submitting proof of completion and requiring the process server to submit returns of service for review by the Board.

Judge Lindsay moved to suspend certification to serve process statewide, under the following conditions:

- actively suspend certification until the process server completes a training course, submits proof of completion, and receives a letter from the Board confirming he may again serve process;
- submit his first three citations served after completion of the above, file-stamped by the court and including any attachments, to the Board for review; and
- from the date of the letter confirming he can resume serving process, he will be suspended for one year, with that one year probated.

Mr. Johnson seconded the motion, and there being no further discussion, the motion carried. Mr. Rasberry will review the citations submitted by Mr. Jordan.

Connie Kimich

Constable Vojvodich presented complaint PS2013-0024, submitted by Connie Bevel. The process server filed a response, and the process server, her attorney Justin Gilbert, and the complainant appeared by telephone. The complaint alleges forgery and tampering with a government record. Ms. Bevel claims Ms. Kimich forged her late husband's signature and improperly used his notary stamp on returns of service.

Ms. Bevel testified that she had filed a complaint of criminal trespass, stating Ms. Kimich had removed the contents of her late husband's office; her complaint was not pursued by the police department or the district attorney. She described the working relationship between Mr. Bevel and Ms. Kimich, stating that Ms. Kimich had signed her husband's name and used his notary stamp on numerous documents. Mr. Gilbert testified that Ms. Kimich had appeared before a grand jury, and had been cleared.

The Board members asked Ms. Kimich a series of questions regarding her use of Mr. Bevel's notary stamp. Ms. Kimich testified that she had signed his name and used his stamp with his permission for a period of approximately ten years. She would sign Mr. Bevel's name and use his notary stamp to notarize her signature on returns of service. Ms. Kimich stated she was not aware of any prohibition against this, as long as it was done with permission. Mr. Gilbert noted that signing someone else's name with his permission is not a forgery, and the complaint alleges Ms. Kimich forged Mr. Bevel's signature.

Mr. Crowson acknowledged the complaint alleged forgery, but the Board would allow the attorney to brief the issue. The Chair instructed Ms. Kimich that it is improper to use anyone else's notary stamp, and to not allow anyone to use hers. The matter will be continued to the next Board meeting.

Upon proper motion and vote, the items discussed in executive session were approved.

PUBLIC COMMENT

The chair called for public comment; there was none.

NEXT MEETING

The Board will meet again December 6, 2013 at 9 a.m., in the 3rd Court of Appeals Courtroom at 209 West 14th Street in Austin. Meeting dates for calendar year 2014 were set for March 7 and June 6.

ADJOURN

The meeting was officially adjourned at 4:30 p.m.

Mark Blenden, Chairman



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

PROCESS SERVER REVIEW BOARD

APPOINTED BY

THE SUPREME COURT OF TEXAS

MINUTES OF MEETING

January 24, 2014

9:00 AM

3rd Court of Appeals Courtroom

Price Daniel Building, Room 101

209 West 14th Street

Austin, Texas 78701

COMMENCEMENT OF MEETING

On January 24, 2014, Chairman Mark Blenden called the meeting of the Texas Process Server Review Board (Board) to order at approximately 10:35 a.m. in the Office of Court Administration, 6th Floor Conference Room at 205 West 14th Street in Austin, Texas. The start time and location were changed due to inclement weather in the Austin area.

ATTENDANCE OF MEMBERS

The following members of the Board were present:

Mr. Mark Blenden, Blenden Law Firm, Bedford

Mr. Patrick J. Dyer, Law Office of Patrick J. Dyer, Missouri City

The Honorable Rhonda Hughey, Kaufman County District Clerk, Kaufman

Mr. Lee Russell, CPS Companies, Dallas

Mr. Justiss Rasberry, Rasberry & Associates, El Paso

Mr. Mark Vojvodich, Constable, Bexar County Precinct 3, San Antonio

Members Judge Tony Lindsay, Eric Johnson and David Neblett were not in attendance. Judge Albert Cercone joined the meeting by telephone after the discussion relating to the first request for reconsideration, but was not counted for quorum purposes and did not participate in deliberations as to motions, or vote.

Also present was Mr. Jim Crowson, Assistant Attorney General, Office of Attorney General. Staff present were Jeff Rinard and Lesley Ondrechen.

MINUTES

With a quorum present, Chairman Blenden called for a motion to approve the September 6, 2013 meeting minutes. Upon motion by Mr. Dyer and second by Mr. Russell, the minutes of the September 6 meeting were approved.

REQUEST FOR RECONSIDERATION

Jesus Miranda timely filed a request for reconsideration of the denial of his application to serve process statewide at the September 6, 2013 PSRB meeting. This item was taken out of order to accommodate the applicant, who appeared in person.

Mr. Miranda was sworn in, and gave a personal statement. He recounted the circumstances relating to his disciplinary action by the State Bar of Texas Disciplinary Committee in 2012, including his obligation to pay restitution. He stated the findings leading to disciplinary action did not relate to integrity issues, and provided the Board with two letters of recommendation. Mr. Miranda answered questions from Board members relating to an arrest, his appearances before the State Bar Disciplinary Committee, his current employment situation, and the matters still pending before the State Bar.

Ms. Hughey moved to approve Mr. Miranda's application to serve process statewide for a six-month period with a requirement that he appear before the Board at the end of six months to demonstrate his progress in resolving the issues with the State Bar. After further discussion, Ms. Hughey amended her motion. She moved to approve Mr. Miranda's application for the full three years, with an evaluation of his status at six months and eighteen months; the PSRB will have the ability to revoke his certification for good cause at the six month and eighteen month evaluation. In addition, Mr. Miranda can have no disciplinary issues regarding service of process; he must demonstrate he is making progress with State Bar issues; and can have no criminal history incidents. Mr. Rasberry seconded, and there being no further discussion, the motion carried. Chairman Blenden and Mr. Dyer clarified to Mr. Miranda that he will essentially have to re-qualify to serve process at the stated intervals.

OLD BUSINESS

A. Update on Judicial Branch Certification Commission (JBCC)

Mr. Rinard, Certification Division Director at the OCA since November 1, 2013, gave the Board a brief summary of his background and experience. He advised the Board that proposed JBCC Rules were sent to the Supreme Court of Texas earlier in the week, and they would be posted in the Bar Journal for another public comment period. Chairman Blenden requested that Ms. Ondrechen notify the Board members when this occurs.

Mr. Rinard updated the Board on major projects associated with the JBCC, including the transfer of the licensed court interpreters program, standardizing complaint and enforcement procedures, and obtaining criminal history record information on applicants for four regulated professions: process servers, court reporters, guardians, and court interpreters. Mr. Rinard told the Board that the Certification Division will be aligned by function, with a Licensing Section and a Compliance Section, headed by Ms. Ondrechen and Michele Henricks, respectively.

Chairman Blenden explained that the JBCC would be comprised of five judges and four public members, representing each of the regulated professions. An Advisory Board for each profession will be appointed by the JBCC. Among other tasks, the advisory boards will evaluate and make recommendations regarding the complaint process.

B. Standardized Curriculum

The Chair stated that he anticipates posting the standardized curriculum for public comment in the near future. He noted that the JBCC will have to approve the curriculum, with input from the Process Server Advisory Board. The Board discussed ensuring the curriculum is properly presented and taught; approval of course providers, versus approval of the curriculum itself; and periodic review of approved curricula to ensure compliance with current laws and rules.

C. Status - Identification Cards

Mr. Rinard updated the Board on the progress of preparing wallet cards for process servers. He anticipates preparing a card for each regulated professional once the JBCC comes in.

The meeting was adjourned at 12:10 p.m. and reconvened at 12:53 p.m.

D. Code of Conduct

The Chair directed the Board's attention to a draft he had circulated for comment. Mr. Crowson noted that an aspirational code of conduct cannot be the basis for sanctions. Mr. Rinard stated Senate Bill 966 requires a mandatory code. After discussion, Mr. Blenden stated he would revise the draft, and requested comments and suggestions from the Board. The matter will be on the agenda for the next PSRB meeting.

NEW BUSINESS

A. Proposed Return of Service Forms

Chairman Blenden discussed the unprofessional appearance of the proposed forms as they were formatted and first appeared on the PSRB website. Mr. Rinard stated the staff will be more diligent in ensuring that what is posted is correct. The possibility of a "preview" page was mentioned; it will be discussed at the next meeting.

B. Interpretation of Rules by Courts and Clerks

Chairman Blenden told the Board about an issue that arose as a result of mandatory e-filing. Under the new e-filing rules, lawyers are required to e-file, but process servers are not, and clerks cannot require a process server to e-file his or her return of service. A message to this effect was posted on the PSRB website and was sent to the clerks' association for distribution to its members via a listserve. The Board discussed other methods by which to ensure clerks have accurate information regarding e-filing, including seminars and the clerks' manuals published by the OCA. Ms. Ondrechen will give an update on the latter at the next meeting. Mr. Blenden urged a system allowing immediate and direct electronic communication between the PSRB, through the Office of Court Administration, with the court clerks' offices in the 254 counties of Texas.

C. Responsibility of Process Server to Verify Personal Information on PSRB Website

The Board discussed the issue and reviewed some proposed changes to both the application and the information posted on the PSRB website. The consensus of the Board was that the process server is ultimately responsible for verifying the information posted on the PSRB website.

ADJOURN TO EXECUTIVE SESSION

Chairman Blenden adjourned regular session at 1:30 p.m. so that the Board could enter into Executive Session to consider applicants with criminal history. The Board adjourned the Executive Session and reconvened in Regular Session at 2:00 p.m.

REQUEST TO APPEAR

Tricia Jones

The Board agreed to defer this item until its next meeting. Ms. Jones will be requested to appear at the March 7 meeting and show cause why her certification should not be revoked. Ms. Jones' certification to serve process statewide remains suspended pending the outcome of the next meeting.

REQUEST FOR RECONSIDERATION

Stephanie Hooper

Ms. Ondrechen summarized the complaint filed against Ms. Hooper by Elizabeth Trowbridge. Ms. Hooper's certification to serve process statewide for lack of due diligence in the service of process and making false statements on a return of citation was revoked at the September 6, 2013 meeting, and she timely filed a request for reconsideration. Ms. Ondrechen advised the Board that although Ms. Hooper had stated she would provide additional documents in support of her request, the only document received was her original request for reconsideration.

Ms. Hooper joined the meeting by telephone. After being duly sworn, she provided testimony regarding her practices as a process server, her former employer. She stated that she never left papers to be served in a mailbox. Ms. Hooper answered questions from the Board regarding personal service she had done and effecting alternative service. Chairman Blenden advised Ms. Hooper that she would need to provide copies of her service notes and a copy of the actual return of service on Nelma Edgar. The matter was continued until the March 7 meeting.

COMPLAINTS

Tiffany Lordi and Tina Peters

Constable Vojvodich presented complaint number PS2013-0017 submitted by William and Janice Lanham. The complainants allege that the process servers caused damage to their property and did not respond to requests to repair it. The Lanhams sued the process servers in justice court and received a judgment for damages.

Ms. Lanham, Mr. Lanham and Ms. Lordi appeared by telephone and were duly sworn; Ms. Peters did not appear. Chairman Blenden advised the parties that the Board had reviewed the documents and issues raised in the complaint, and stated that the issue before the Board was whether there was any misconduct by a process server.

Ms. Lanham testified that the method by which papers were affixed to the door caused damage when removed. She stated that the door was damaged, she contacted Ms. Lordi and Ms. Peters regarding repairing the door, and they refused to do so. Ms. Lordi responded that she did have a court order permitting her to post the papers to be served. Ms. Lordi stated she did not intend to cause any damage, and has since changed the method by which she affixes documents (she now uses painters tape, rather than shipping labels). Ms. Lordi confirmed she has paid the judgment to the Lanhams.

Constable Vojvodich moved to issue a written reprimand for good cause, that the process server recklessly caused damage to private property; there was no second. Following further discussion, Mr. Dyer moved to dismiss the complaint due to insufficient evidence of misconduct. Mr. Russell seconded, and the motion carried. Mr. Rasberry noted for the record that he found no cause to discipline either Ms. Lordi or Ms. Peters.

Belinda Salyer

Constable Vojvodich presented complaint number PS2013-0025, submitted by Sean Hollenbeck. Ms. Salyer did not file a response and did not appear; Mr. Hollenbeck appeared by telephone and was duly sworn. The complainant alleged that Ms. Salyer did not serve process as she had been contracted to do; that he received no response to his repeated attempts to contact Ms. Salyer, and that he had to hire another process server to complete service. Court action was delayed and additional costs were incurred by Mr. Hollenbeck due to Ms. Salyer's actions. Mr. Hollenbeck stated Ms. Salyer did not return his calls, and did not return his check. Mr. Hollenbeck responded to questions from the Board regarding how he contracted with Ms. Salyer, her attempts at service, and his engaging a second process server. Constable Vojvodich moved, based on a preponderance of the evidence, to suspend Ms. Salyer's certification to serve process statewide for a period of twelve months for lack of due diligence as required under Rule 105 of the Texas Rules of Civil Procedure. He further moved that two months of the suspension be active and the remaining ten months be probated. Mr. Dyer seconded. Constable Vojvodich clarified that ten months' probated suspension is contingent upon no other sustained complaints during the probationary period. The ten months' suspension would become an additional active suspension, if subsequent disciplinary action is taken by the Board. Mr. Dyer so moved, and Mr. Russell seconded. There being no further discussion, the motion carried.

James Wills

Constable Vojvodich presented complaint number PS2013-0028, submitted by Pamela Ann Hughes. Mr. Wills filed a response and appeared by telephone. The complainant also appeared by telephone, and both were duly sworn. The complainant was a civilian employee of the Brownwood Police Department and alleged that Mr. Wills made several attempts to serve a Brownwood police officer. She further alleged that Mr. Wills did not complete service properly and that he was rude in performing service. Ms. Hughes stated her version of events, and Mr. Wills denied behaving inappropriately. Mr. Wills responded to questions from the Board regarding his attempts at service and whether he did serve the officer personally. Constable Vojvodich stated that he finds no good cause to take disciplinary action, and recommended the complaint be dismissed as unfounded. Mr. Dyer moved, based on a preponderance of the evidence, to dismiss the complaint as unfounded with no good cause to take disciplinary action, and Mr. Rasberry seconded. There being no discussion, the motion carried.

PUBLIC COMMENT

The chair called for public comment; there was none.

NEXT MEETING

The Board will meet again March 7, 2014 at 9 a.m., in the 3rd Court of Appeals Courtroom at 209 West 14th Street in Austin. The last meeting date in fiscal year 2014 is June 6, 2014

ADJOURN

The meeting was officially adjourned at 3:52 p.m.

Mark Blenden, Chairman



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

PROCESS SERVER REVIEW BOARD

APPOINTED BY

THE SUPREME COURT OF TEXAS

MINUTES OF MEETING

March 7, 2014

9:00 AM

3rd Court of Appeals Courtroom

Price Daniel Building, Room 101

209 West 14th Street

Austin, Texas 78701

COMMENCEMENT OF MEETING

On March 7, 2014, Chairman Mark Blenden called the meeting of the Texas Process Server Review Board (Board) to order at approximately 9:01 a.m. in the 3rd Court of Appeals Courtroom at 209 West 14th Street in Austin, Texas.

ATTENDANCE OF MEMBERS

The following members of the Board were present:

Mr. Mark Blenden, Blenden Law Firm, Bedford

Mr. Patrick J. Dyer, Law Office of Patrick J. Dyer, Missouri City

The Honorable Rhonda Hughey, Kaufman County District Clerk, Kaufman

Mr. Eric Johnson, EZ Messenger, Houston

Mr. Lee Russell, CPS Companies, Dallas

Mr. Justiss Rasberry, Rasberry & Associates, El Paso

Mr. Mark Vojvodich, Constable, Bexar County Precinct 3, San Antonio

Members Judge Albert Cercone, Judge Tony Lindsay and David Neblett were not in attendance. Also present was Mr. Joe Thrash, Assistant Attorney General, Office of Attorney General. Staff present were Jeff Rinard, Tyees Holcombe, Pedro Villarreal and Lesley Ondrechen.

MINUTES

With a quorum present, Chairman Blenden called for a motion to approve the January 24, 2014 meeting minutes. Upon motion by Mr. Dyer and second by Mr. Russell, the minutes of the January 24 meeting were approved.

OLD BUSINESS

A. Update on Judicial Branch Certification Commission (JBCC)

Mr. Rinard gave an overview of the four programs that will fall under the JBCC: process servers, guardians, court reporters and court interpreters. He updated the Board on the status of the proposed JBCC Rules, and reported he had no new information on appointment of the Commissioners and public members.

Mr. Rinard discussed the organization of the Certification Division by licensing and compliance/enforcement functions. He told the Board about how the complaint process will work, and gave an update on how criminal history record information will be received for all regulated professions, including process servers, once the JBCC begins operating. Mr. Rinard stated that the Certification Division staff is working on consolidating application forms to make them as uniform as possible for all four professions.

Chairman Blenden acknowledged Pedro Villarreal, Investigator and Michele Henricks, Compliance Manager.

B. Standardized Curriculum

Chairman Blenden reminded the Board that the proposed curriculum had been sent to them for review. Mr. Dyer moved, and Ms. Hughey seconded, that the proposed curriculum be posted for public comment. There being no discussion, the motion carried. Comments will be accepted through August 31, 2014.

C. Code of Conduct

The Chair told the Board he was working on revisions to the Code of Conduct, and requested comments and suggestions from the Board. The matter will be on the agenda for the June 6 PSRB meeting.

D. Posting of Information to PSRB Website

Ms. Ondrechen reported that she had consulted with the OCA's IT Division staff about problems with items posted to the PSRB website. A "development" page will be prepared for her review before new items go live on the website.

NEW BUSINESS

Office of Court Administration's Clerks' Manuals: E-Filing by Process Servers

Ms. Ondrechen reported that clerks are directed to e-filing information posted on the OCA's website. She noted that as of January 1, 2014, e-filing is mandatory in counties with a population of over 250,000 and in one other county by local rule. Mr. Johnson and Mr. Rasberry commented on local practices in their areas of the state. The Chair reminded the Board of a statement on the PSRB website that process servers are not required to e-file their returns of service.

COMPLAINTS

Ben Daily

This item was taken out of order to accommodate Mr. Daily, who appeared in person. The complainant did not appear.

Mr. Villarreal presented complaint number PS2013-0008 submitted by Sean Hollenbeck. The complainant alleges that documents were not served, and that he had to hire another process server. The complainant further alleged he was unable to contact the process server to ascertain the status of the matters.

After being duly sworn, Mr. Daily answered questions from the Board regarding the delay in serving papers for Mr. Hollenbeck, the difficulty Mr. Hollenbeck had in contacting him, how long he has been certified, and the volume of papers he serves. Chairman Blenden noted that process servers must be aware of all deadlines, and that theirs is a very important step in the judicial system.

Constable Vojvodich moved for good cause to impose a six month suspension, all of it probated, contingent upon there being no sustained complaints during the probated suspension. He further moved that the probated suspension would not be pro-rated. Mr. Russell seconded, and there being no further discussion, the motion carried.

ADJOURN TO EXECUTIVE SESSION

Chairman Blenden adjourned regular session at 9:55 a.m. so that the Board could enter into Executive Session to consider applicants with criminal history. The Board adjourned the Executive Session at 10:50 a.m. and reconvened in Regular Session at 11:05 a.m.

COMPLAINTS

Veronica Burlingame

Chairman Blenden recused himself from this matter; Constable Vojvodich chaired the meeting. The complainant and a witness appeared in person. The process server did not appear.

Mr. Villarreal summarized complaint number PS2014-0006, submitted by Samuel Weeks against Veronica Burlingame. Mr. Weeks contends that the process server gave legal advice regarding a restraining order while she was serving the respondent in a family law matter. Mr. Villarreal noted that in a conversation with the respondent, the respondent stated he did not believe the process server did anything wrong.

Samuel Weeks and Carl Weeks were duly sworn. Mr. Samuel Weeks testified that Weeks & Co.'s client, an attorney, had complained to his office about Ms. Burlingame's remarks. He answered questions from Board members regarding his knowledge of the conversation between the process server and the respondent, his prior working relationship with Ms. Burlingame, and his subsequent contact with her. Mr. Carl Weeks testified regarding his contact with the client and the difficulties the attorney experienced following Ms. Burlingame's advice to the respondent. Mr. Carl Weeks stated he believed it was irrelevant whether the process server answered a question or volunteered information regarding the restraining order. He further stated that in some counties, such as Travis County where the underlying action was filed, a restraining order is automatically included.

Mr. Carl Weeks answered questions from the Board regarding his knowledge of the conversation between the process server and the respondent, and the practice regarding restraining orders in the respondent's county of residence. He stated his belief that Ms. Burlingame should not have said

anything regarding the restraining order, and that her conduct had jeopardized his company's relationship with a long-standing client.

After discussion, Mr. Dyer moved for good cause to impose a six month suspension, all of it probated, contingent upon no sustained complaints during the probated suspension period. He further moved that the suspension not be pro-rated. Ms. Hughey seconded, and the motion carried. Mr. Blenden resumed the chair after the vote.

Connie Kimich

The Chair presented complaint PS2013-0024, submitted by Connie Bevel against Connie Kimich, noting it had been continued from the January 24, 2014 meeting. Chairman Blenden told the Board that the Secretary of State, which commissions and regulates notaries public, had found a violation and required Ms. Kimich to attend training and provide proof of attendance.

Justin Gilbert, attorney for Ms. Kimich, and Connie Bevel appeared by telephone. Ms. Kimich did not appear. Ms. Bevel was duly sworn.

Chairman Blenden summarized the issues in the complaint. The original complaint alleged a forgery, but it is not a forgery issue. Ms. Kimich worked with Les Bevel (now deceased), and stated she used his notary stamp and signed his name to her returns, with his permission. The issue before the Board is whether she falsely or improperly notarized her own signature, and whether such actions may have resulted in invalid service of process.

Mr. Gilbert addressed the Board regarding the action taken by the Secretary of State's office regarding his client's notary commission. He stated his position: he hopes the Secretary of State's action concludes the matter before the Board. Mr. Gilbert answered questions from the Board regarding the propriety of a process server notarizing her own signature, whether Mr. Bevel had actually given permission for Ms. Kimich to use his stamp, when Ms. Kimich last took process server training, and whether improperly notarized returns of service are valid.

Ms. Bevel testified that she was not involved in Mr. Bevel's process serving business until after his death, and therefore did not know if he had given permission for his notary stamp to be used by someone else. She stated she was aware his stamp was not locked up.

Constable Vojvodich moved to revoke Ms. Kimich's certification to serve process for good cause. Mr. Johnson seconded. After further discussion, the motion carried with one opposing vote.

Michael May

Chairman Blenden presented complaint number PS2014-0005, submitted by Rick McClain against Michael May. Mr. McClain appeared by telephone and was duly sworn; Mr. May did not appear.

Chairman Blenden stated it appears the PSRB does not have jurisdiction. Mr. May is located in Kentucky, and is not a certified process server in Texas. Mr. McClain testified that he believed Mr. May was certified in Texas, because his company has an office in Houston.

There being no discussion, and on proper motion and second, the complaint was dismissed for lack of jurisdiction.

Aubrey McIlveene

Mr. Villarreal presented complaint number PS2014-0001 submitted by M. Shannon Kackley against Aubrey McIlveene. Mr. Kackley alleged that Mr. McIlveene put an incorrect date on his return of service, which could have resulted in a default judgment against his client. Mr. McIlveene acknowledged his error, but stated he was unaware of it until the complaint was filed. Ms. Ondrechen reported that Mr. McIlveene has now retired, has surrendered his certification, and has asked to be removed from the list of certified process servers.

Upon proper motion and second, the complaint was dismissed. Both complainant and process server had asked to appear by telephone; Mr. Rinard left the meeting to ask staff to call the complainant and process server to inform them of the Board's decision.

Robert Leonard

Mr. Villarreal summarized complaint PS2014-0002 submitted by Dimi Waters against Robert Leonard. The complainant alleges that the process server created a disturbance and acted in an unprofessional manner when attempting to serve her at her place of employment. Mr. Villarreal stated he was unable to contact Mr. Leonard by telephone. The process server did not file a response, and did not appear. Ms. Waters was unable to appear by telephone due to her work schedule. Mr. Villarreal noted he had spoken to the school administrator who corroborated Ms. Waters' version of events as set forth in her complaint.

After discussion, Constable Vojvodich moved for good cause, to suspend Mr. Leonard's certification for three months, with the suspension probated contingent upon there being no sustained complaints during the probated suspension. Mr. Rasberry seconded, adding that the process server must provide current contact information within 30 days. Mr. Dyer suggested Mr. Leonard be required to provide current contact information, and that the suspension take effect as an active suspension if he fails to do so.

Constable Vojvodich amended his motion to suspend Mr. Leonard's certification for three months, and to require current contact information be provided to the Board within 30 days. He further moved that if the contact information is provided within 30 days, the suspension will be probated; if he does not, certification to serve process will be suspended for three months; and that suspension not be pro-rated. Mr. Rasberry seconded the amended motion. There being no further discussion, the motion carried.

Emory Arlious Smith

Mr. Villarreal summarized complaint number PS2014-0003 submitted by Kristina Kollaja against Emory Arlious Smith. The complainant alleges that in attempting to serve her at her place of employment, Mr. Smith divulged personal information to her supervisor. Ms. Kollaja and Mr. Smith appeared by telephone, and were duly sworn.

Mr. Villarreal noted that Ms. Kollaja's supervisor stated to him that she did not discuss anything contained in the documents with Ms. Kollaja, and that she believed Mr. Smith was just doing his job. Ms. Kollaja testified that Mr. Smith should not have made any statements about anything contained in the documents being served to anybody. Ms. Kollaja answered questions from the Board regarding the

discrepancies in her supervisor's statements to her and to Mr. Villarreal and the specifics of personal information she alleges was divulged by Mr. Smith.

Mr. Smith testified that he does not read any documents he serves; he could not disclose any personal information, because he does not know what the documents contain. He denied raising his voice or creating any kind of disturbance at her workplace. He further testified that he has been serving process for eight to ten years, that he has served hundreds of people without incident, and that he always attempts to be private and discreet while serving process.

After discussion, and upon proper motion and second, the complaint was dismissed for lack of evidence of any good cause to take disciplinary action.

Greg Harper

Mr. Villarreal presented complaint PS2014-0007 submitted by Gloria Carter against Greg Harper. The complainant alleges the process server did not provide the services for which he was contracted. Ms. Carter alleges Mr. Harper was to obtain signatures on summonses; Mr. Harper's response was that he was only to serve the documents.

Mr. Thrash raised a jurisdictional question, and told the Board that his interpretation is that service of process in federal court is outside the jurisdiction of the PSRB.

Ms. Carter, Mr. Harper, and Vesta T. Armstrong, Mr. Harper's attorney, joined the meeting by telephone so they could hear the Board's decision. The Chair stated the Board has determined it does not have jurisdiction in this matter, and is dismissing the complaint for lack of jurisdiction. A letter from the Board advising of that will be forthcoming.

REQUEST TO APPEAR

Tricia Jones

Chairman Blenden reminded the Board that this item was deferred from the January 24, 2014 meeting. Ms. Jones was requested to appear and show cause why her certification should not be revoked. Ms. Jones did not respond to correspondence from the Board and did not appear.

Mr. Dyer moved, and Ms. Hughey seconded, to revoke Ms. Jones' certification to serve process. Mr. Thrash advised the Board that it could decide that her two year suspension would remain active for the entire term. Mr. Dyer so moved, and Mr. Russell seconded. After discussion, the motion carried.

REQUEST FOR RECONSIDERATION

Stephanie Hooper

Chairman Blenden summarized the complaint submitted against Ms. Hooper by Elizabeth Trowbridge. Ms. Hooper's certification to serve process statewide for lack of due diligence in the service of process and making false statements on a return of citation was revoked at the September 6, 2013 meeting, and she timely filed a request for reconsideration.

Chairman Blenden reminded the Board that Ms. Hooper had appeared by telephone at the January 24, 2014 meeting. Ms. Hooper was instructed to provide copies of her service notes and a copy of the actual

return of service on Nelma Edgar. The matter was continued until the March 7 meeting. Ms. Ondrechen verified that Ms. Hooper had not provided the documents, and that she had not contacted Board staff regarding attendance at this meeting.

There being no discussion, Mr. Dyer moved to deny the request for reconsideration. Mr. Russell seconded, and the motion carried.

PUBLIC COMMENT

The chair called for public comment; there was none.

NEXT MEETING

The Board will meet on June 6, 2014 at 9 a.m., in the 3rd Court of Appeals Courtroom at 209 West 14th Street in Austin.

ADJOURN

The meeting was officially adjourned at 2:17 p.m.

Mark Blenden, Chairman



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

PROCESS SERVER REVIEW BOARD

APPOINTED BY

THE SUPREME COURT OF TEXAS

MINUTES OF MEETING

June 6, 2014

9:00 AM

3rd Court of Appeals Courtroom

Price Daniel Building, Room 101

209 West 14th Street

Austin, Texas 78701

COMMENCEMENT OF MEETING

On June 6, 2014, Chairman Mark Blenden called the meeting of the Texas Process Server Review Board (Board) to order at approximately 9:05 a.m. in the 3rd Court of Appeals Courtroom at 209 West 14th Street in Austin, Texas.

ATTENDANCE OF MEMBERS

The following members of the Board were present:

Mr. Mark Blenden, Blenden Law Firm, Bedford

Judge Albert Cercone, Justice of the Peace, Precinct 3-1, Dallas

Mr. Eric Johnson, EZ Messenger, Houston

Mr. Lee Russell, CPS Companies, Dallas

Mr. Justiss Rasberry, Rasberry & Associates, El Paso

Mr. Mark Vojvodich, Constable, Bexar County Precinct 3, San Antonio

Members Patrick J. Dyer, Rhonda Hughey, Judge Tony Lindsay and David Neblett were not in attendance. Also present was Mr. James Crowson, Assistant Attorney General, Office of Attorney General. Staff present were Jeff Rinard, Tyees Holcombe, Pedro Villarreal and Lesley Ondrechen.

MINUTES

With a quorum present, Chairman Blenden called for a motion to approve the March 7, 2014 meeting minutes. Upon motion by Judge Cercone and second by Mr. Johnson, the minutes of the March 7 meeting were approved as submitted.

OLD BUSINESS

1. Update on Judicial Branch Certification Commission (JBCC)

Mr. Rinard recognized staff members Christelle Moore, Robin Murphy, Ms. Holcombe and Ms. Ondrechen for their contributions to the Board. He commended all Certification Division staff members for their commitment to the success of the JBCC.

Mr. Rinard updated the Board on the status of the proposed JBCC Rules, noting they would be published in the June issue of the State Bar Journal for public comment; comments may be submitted through August 1. He gave the Board a status report on various projects in the Certification Division, including the transfer of licensed court interpreters, the JBCC website, new fingerprinting procedures, wallet cards for regulated professionals, and new application forms.

2. Code of Conduct

The Chair asked for questions or comments on the proposed Code of Conduct. There being none, Mr. Russell moved that the Board recommend the proposed Code of Conduct for consideration by the Judicial Branch Certification Commission. Judge Cercone seconded, and the motion carried.

NEW BUSINESS

The Chair asked for information on the two people who submitted curricula for approval. Ms. Ondrechen provided background information on Andrea Hoxie and Justin Nobles. The Chair noted that one submission was not detailed, one is not Texas-specific, and neither contains the level of detail necessary for the Board to make a determination.

There being no further discussion, Judge Cercone moved to deny both submissions. Mr. Johnson seconded, and the motion carried.

The Chair called for a motion regarding the proposed standard curriculum. Judge Cercone moved that the Board recommend approval of the proposed standard curriculum, as posted for public comment following the March 7, 2014 Board meeting, by the Judicial Branch Certification Commission, subject to any public comments received by August 31, 2014. Constable Vojvodich seconded, and there being no discussion, the motion carried.

The Chair asked the Board to discuss whether to continue to accept submissions of new curricula for approval. After discussion, Mr. Russell moved that the Board decline further consideration of curricula, and Mr. Johnson seconded. The motion carried; any future submissions will be handled by the JBCC.

ADJOURN TO EXECUTIVE SESSION

Chairman Blenden adjourned regular session at 9:20 a.m. so that the Board could enter into Executive Session to consider applicants with criminal history. The Board adjourned the Executive Session at 10:40 a.m. and reconvened in Regular Session at 11:00 a.m.

REQUEST FOR RECONSIDERATION

Connie Kimich

Ms. Kimich and her attorney, Justin Gilbert, joined the meeting by telephone. Ms. Kimich was duly sworn. Chairman Blenden noted that the original complaint filed against Ms. Kimich by Connie Bevel made an allegation of forgery, but the issue before the Board was whether she falsely or improperly

notarized her own signature, and whether such actions may have resulted in invalid service of process. Ms. Kimich's certification to serve process statewide was revoked by the Board at its March 7 meeting, and she timely filed a request for reconsideration.

Mr. Gilbert questioned Ms. Kimich regarding her business practices, any complaints regarding service of process and her employment by Mr. Bevel. She testified that she had used Mr. Bevel's stamp to notarize her own signature at Mr. Bevel's direction, and had done so since her first day on the job in 2003 through his death in January 2012. Mr. Gilbert stated the Angleton Police Department took no action on a complaint filed by Ms. Bevel, and the Secretary of State required Ms. Kimich to undergo additional notary training.

Ms. Kimich answered questions from the Board regarding the process server training she had completed, notary guidelines, and any complaints filed against her. She reiterated that she had used Mr. Bevel's notary stamp with his permission and at his direction. Mr. Gilbert addressed the Board, stating Ms. Kimich now understands her actions were improper and has been re-trained as a notary. He asked the Board to consider a less severe action than revocation.

After discussion, Constable Vojvodich moved to affirm the revocation of Ms. Kimich's certification. Judge Cercone seconded, and the motion carried. Mr. Gilbert requested a record vote. Constable Vojvodich, Judge Cercone, Mr. Russell and Mr. Johnson voted in favor of the motion; Mr. Rasberry was opposed; and the Chair did not vote.

COMPLAINTS

Chairman Blenden turned the chair over to Constable Vojvodich for this portion of the meeting.

Ray Sturges

Mr. Villarreal presented complaint number PS2014-0011, submitted by John Roberson against Ray Sturges. Both parties agreed to be available by phone should the Board request their input. Mr. Villarreal reported that the fee dispute has been resolved, and that Mr. Roberson agreed to withdraw his complaint, providing a record of it was kept.

Judge Cercone moved, and Constable Vojvodich seconded, to dismiss the complaint. There being no discussion, the motion carried.

Andy Ikele

Mr. Villarreal presented complaint number PS2014-0015 submitted by Lisa Martens against Andy Ikele. The complainant states that she discovered a notice from the process server at her vacation home, addressed to a person unknown to her. She alleges that when she contacted Mr. Ikele to notify him of his error, his demeanor and conduct were unprofessional. Ms. Martens and Mr. Ikele appeared by telephone, and were duly sworn.

Mr. Ikele told the Board he had made six attempts at service, acknowledged that he had a bad address, and was contacted by Ms. Martens a month after he had closed the case. He answered questions from the Board regarding the number of cases he works at a time, how long he has been certified, and any

previous complaints. Ms. Martens testified that Mr. Ikele's manner was hostile and belligerent. She stated Mr. Ikele had not made any threats, and that she did not believe he had trespassed on her property.

After discussion, Constable Vojvodich moved to dismiss the complaint for lack of evidence of any good cause to take disciplinary action. Mr. Russell seconded, and the motion carried.

Eloy Bravo

Judge Cercone acted as chair for this portion of the meeting.

Mr. Villarreal presented complaint PS2014-0013 submitted by Casey Moore against Eloy Bravo. The complainant alleges the process server harassed her and committed criminal trespass. Ms. Moore and Mr. Bravo appeared by telephone and were duly sworn.

Ms. Moore testified that Mr. Bravo, in attempting to serve her husband, gained access to her property by using a "panic button" on her security gate. In response to questions from the Board, she described the fence and the gate, noting that the "panic button" was for emergency access, and that the process server did not have permission to be on her property.

Mr. Bravo testified and answered questions from the Board. He acknowledged he had reached through the gate to access the "panic button," but stated he was not aware that opening a gate was not permitted. He further acknowledged that he did not have permission to enter the property. Mr. Villarreal brought photographs of the gate itself to the Board's attention.

Constable Vojvodich moved to find good cause to take disciplinary action because Mr. Bravo had trespassed onto private property. He further moved to suspend Mr. Bravo's certification to serve process statewide for six months, with the entire suspension probated but not pro-rated, providing there are no new complaints during the six month suspension. Mr. Russell seconded. No vote was taken.

Mr. Blenden proposed an alternative disciplinary action; he believed the proposed penalty was too severe. He moved to issue a letter of reprimand for good cause, and Mr. Russell seconded. There being no further discussion, the motion carried.

Stephen Hartman

Mr. Blenden resumed the chair. Process server Stephen Hartman, his attorney John Morgan, and witness Philip Klein appeared in person. Attorney Alto Watson, assisting Mr. Morgan, also appeared in person. Complainant Judge Layne Walker and his attorney, Mark Sparks, appeared in person. Mr. Hartman and Judge Walker were duly sworn. The primary fact issues before the Board in complaint PS2013-0026 are whether Mr. Hartman disrupted Judge Walker's courtroom or acted improperly in trying to serve him there; whether Mr. Hartman committed misconduct or acted improperly in making other service attempts on Judge Walker; and whether Mr. Hartman served process in lawsuits in which he had an interest, in violation of Rule 103 of the Texas Rules of Civil Procedure.

At Mr. Sparks' request, the Board viewed a video taken in the courtroom on the day the alleged disruption of Judge Walker's courtroom took place.

In his opening statement, Mr. Sparks summarized the complaint Judge Walker filed, alleging that Mr. Hartman attempted to serve Judge Walker with papers in a federal lawsuit filed by Mr. Morgan at his home, and that his conduct was threatening and unprofessional. The complainant further alleged that Mr. Hartman attempted to serve him while court was in session, and that he disrupted courtroom proceedings in doing so. In his opening statement, Mr. Morgan refuted the allegations, specifically stating Mr. Hartman did not attempt to serve Judge Walker while he was on the bench.

Judge Walker testified, answering questions from Mr. Sparks regarding the incident in his courtroom, the attempt at service at his home and Mr. Hartman's conduct with Judge Walker's family, and Mr. Hartman's use of a recording device in the courtroom. Mr. Sparks introduced eight exhibits in support of Judge Walker's testimony. Mr. Morgan questioned Judge Walker regarding the courtroom incident, the conduct of the courtroom bailiffs, the prohibition against recording devices in the courtroom, the original complaint submitted, and Mr. Hartman's relationship to Philip Klein. Mr. Morgan gave Judge Walker a notebook containing thirteen exhibits in support of Mr. Hartman.

The Board recessed at 2:40 p.m., and reconvened at 2:50 p.m.

Mr. Morgan called witness Klein. Mr. Klein responded to questions regarding his business structure, Mr. Hartman's employment relationship, his knowledge of Mr. Hartman's attempts to serve Judge Walker, recording devices supplied by his company that employs process servers, and his lack of financial interest in any lawsuit involving Judge Walker.

Mr. Morgan directed the Board's attention to a particular portion of the video. Mr. Klein answered further questions from Mr. Morgan relating to any misconduct on Mr. Hartman's part. He then answered questions from Mr. Sparks.

Mr. Morgan questioned Mr. Hartman, who testified regarding his attempts at service of Judge Walker, his lack of financial interest in any lawsuit involving Judge Walker, and the disciplinary action taken against two courtroom bailiffs. Mr. Hartman gave further testimony in response to questions from Mr. Sparks.

Mr. Hartman answered questions from the Board regarding his conversations with courtroom personnel, his attempts at service, and his use of a recording device. The Chair then called for brief closing statements from the parties, which were given by Mr. Morgan and Mr. Sparks.

The Board adjourned regular session at 4:08 p.m. and went into closed session to consult with counsel. The Board reconvened in open session at 4:17 p.m.

The Chair reminded the Board of the three issues before it. After discussion, Constable Vojvodich moved to find good cause to issue a letter of reprimand, because of Mr. Hartman's disruption of Judge Walker's courtroom. After further discussion, including questions to Mr. Hartman by the Board regarding how long he had been serving and how many papers he has served, Mr. Russell seconded the motion. There being no further discussion, the motion carried.

Philip Klein

Process server Philip Klein, Complainant Judge Layne Walker and his attorney, Mark Sparks, appeared in person. Mr. Hartman and Judge Walker were duly sworn. The primary fact issue before the Board in complaint PS2013-0027 is whether Mr. Klein served process in lawsuits in which he had an interest, in violation of Rule 103 of the Texas Rules of Civil Procedure.

In his opening statement, Mr. Sparks told the Board about Mr. Klein's blog attacking Judge Walker, which links directly to Mr. Klein's process serving business. Mr. Sparks identified six of the eight exhibits introduced in the Hartman matter in support of Judge Walker's testimony in this complaint.

Mr. Klein addressed the Board, stating he had no direct role in any of the matters complained of relating to Hartman. Mr. Klein told the Board about his various companies, acknowledged he has a political blog, but denied any personal gain from serving Judge Walker.

Mr. Sparks questioned Judge Walker, who testified regarding Mr. Klein's blog, his understanding of Mr. Klein's interest in the Morrison suit (Mr. Hartman attempted to serve Judge Walker with papers relating to this federal civil lawsuit), and his lack of any personal interaction with Mr. Klein. Mr. Klein questioned Judge Walker on his knowledge of Mr. Klein's businesses, volume of subpoenas processed, and the income generated by these businesses.

In response to questions from Mr. Sparks, Mr. Klein testified regarding his blog, and how he determines if there is a conflict of interest when assigning papers to serve. Following his testimony, Mr. Klein and Mr. Sparks each gave closing statements.

The Board adjourned regular session at 5:30 p.m. and went into closed session to consult with counsel. The Board reconvened in open session at 5:35 p.m.

Mr. Klein answered questions from the Board regarding his various business, his ownership interests, and his role in the incidents complained of in the Hartman matter. Constable Vojvodich moved, and Mr. Russell seconded, to dismiss the complaint against Mr. Klein because there is no good cause to take disciplinary action. There being no further discussion, the motion carried.

PUBLIC COMMENT

The chair called for public comment. Mr. Tod Pendergrass addressed the Board regarding Senate Bill 966, the bill that created the Judicial Branch Certification Commission in the 2013 legislative session. He provided the Board with a transcript he had prepared of a Senate Committee meeting on April 9, 2013 regarding Senate Bill 966. Mr. Pendergrass expressed his concerns regarding the Board's authority to hear complaints.

NEXT MEETING

There are no more meetings scheduled at this time.

ADJOURN

The meeting was officially adjourned at approximately 6:00 p.m.

Mark Blenden, Chairman



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

PROCESS SERVER REVIEW BOARD

APPOINTED BY

THE SUPREME COURT OF TEXAS

MINUTES OF MEETING

August 15, 2014

1:00 PM

Office of Court Administration, 6th Floor Conference Room
205 West 14th Street
Austin, Texas 78701

NOTE: These minutes were recognized by the Judicial Branch Certification Commission, but were not officially approved by the entity that held the meeting.

COMMENCEMENT OF MEETING

On August 15, 2014, Chairman Mark Blenden called the meeting of the Texas Process Server Review Board (Board) to order at approximately 1:05 p.m. in the Office of Court Administration Sixth Floor Conference Room at 205 West 14th Street in Austin, Texas.

ATTENDANCE OF MEMBERS

The following members of the Board were present:

Mr. Mark Blenden, Blenden Law Firm, Bedford

Mr. Patrick Dyer, Law Office of Patrick J. Dyer, Missouri City

The Honorable Rhonda Hughey, Kaufman County District Clerk, Kaufman

Mr. Eric Johnson, EZ Messenger, Houston

Mr. Lee Russell, CPS Companies, Dallas

Mr. Justiss Rasberry, Rasberry & Associates, El Paso

Members present participated by telephone, as provided by the Phone Meeting Policy. Members Judge Albert Cercone, Judge Tony Lindsay and David Neblett were not in attendance. Also present was Mr. Joe Thrash, Assistant Attorney General, Office of Attorney General. Staff present were Jeff Rinard, Tyees Holcombe, Pedro Villarreal and Lesley Ondrechen.

MINUTES

With a quorum present, Chairman Blenden called for a motion to approve the June 6, 2014 meeting minutes. Chairman Blenden noted a change to the draft minutes. Upon proper motion and vote, the minutes of the June 6 meeting were approved as revised.

OLD BUSINESS

Update on Judicial Branch Certification Commission (JBCC)

Mr. Rinard announced the appointment of JBCC members by the Supreme Court of Texas, and congratulated Mr. Blenden on his appointment. Advisory board members are expected to be appointed later this month. JBCC members will receive orientation training on September 4, and the first meeting will take place on September 5.

Mr. Rinard updated the Board on pending matters, including the transition of licensed court interpreters to the JBCC, certification cards, process servers code of ethics, and new procedures for applicants to obtain their criminal history reports.

ADJOURN TO EXECUTIVE SESSION

Chairman Blenden adjourned regular session at 1:20 a.m. so that the Board could enter into Executive Session to consider applicants with criminal history, including an applicant requested to appear, and to confer with counsel. The Board adjourned the Executive Session at 2:50 p.m. and reconvened in Regular Session at 3:07 p.m.

REQUEST FOR RECONSIDERATION

Stephen Hartman

John Morgan, attorney for Stephen Hartman, joined by meeting by telephone. Chairman Blenden noted that a request for reconsideration of the disciplinary action imposed by the Board at its June 6 meeting was scheduled to be heard. He called for a motion or discussion by the Board.

Mr. Dyer moved to table the request for reconsideration of Stephen Hartman and to refer the matter to the JBCC. Mr. Russell seconded, and there being no discussion, the motion carried.

Chairman Blenden addressed Mr. Morgan, stating that the Board had tabled the request for reconsideration, and that the JBCC would be in contact with him. Chairman Blenden briefly explained the transition from the Board to the JBCC, and referred Mr. Morgan to the website for more information.

PUBLIC COMMENT

There was no public comment.

Chairman Blenden expressed his appreciation to Board members, and several Board members expressed they had enjoyed serving.

ADJOURN

The meeting was officially adjourned at approximately 3:15 p.m.

Mark Blenden, Chairman