



SPECIAL MEETING MINUTES

GOVERNMENT LAW SECTION

January 19, 2023 – 4:30 PM

A meeting of the Government Law Section was called to order by Chair Mithani at 4:30 p.m.

Call to Order

1. **Attendance and Excused Absences**

Present: Bluhm, Brown, Fisher, Forbush, James, Joppich, King, Kolb, McGee, Mithani, Nettleton, So, Steele, Tamm, Thomas, Watza, Williams,

Absent: Forsyth, Mills, Zeits

Motion to excuse absences: Fisher **Second:** Nettleton

Council approved by unanimous vote.

2. **Approval of Agenda**

Motion to approve as presented: King **Second:** Tamm

Council approved by unanimous vote.

3. **Old Business**

a. Zingerman's Catering Contract for Winter Seminar

Chair Mithani indicated that the catering contract with Zingerman's for the Winter Seminar was finalized and needed approval of the Council.

Motion to approve the contract with Zingerman's for catering service for the Winter Seminar: Williams **Second:** Joppich

Ayes: Bluhm, Brown, Fisher, Forbush, James, Joppich, King, Kolb, McGee, Mithani, Nettleton, So, Steele, Tamm, Thomas, Watza, Williams,

Nays: None

Absent: Forsyth, Mills, Zeits

Abstain: None

b. SBM Public Policy Acknowledgment

Chair Mithani shared her conversation with the State Bar of Michigan Public Policy Counsel. In short, the Section cannot take a position on a public policy issue that is contrary to a position adopted by the State Bar. If the State Bar takes no position on an issue, then the Section may request to take a position on an issue. In order to do anything, the Bylaws require the Section Officers sign an acknowledgment of the provisions of the bylaws and an agreement to abide by them.

McGee commented that the Bylaws are not clear, and in fact may be contradictory on their face. His recommendation is to sign the acknowledgment, but to not abandon the position of the Section with respect to any public policy issue.

Chair Mithani stated that the State Bar Public Policy Counsel acknowledged that the Bylaws are not clear, but she believes Sec. 9 only applies IF the State Bar is not taking a position on a public policy issue. It is her opinion the State Bar may be waiting for input from all section before deciding if it will take a position.

Williams indicated his agreement with McGee's recommendation.

Joppich also agrees, and feels it is important to get input from several sections. He asked if the acknowledgment could be signed and the Section input sent separately?

Williams stated that the Bylaws seem clear that the acknowledgment must be signed.

Chair Mithani stated the Section does have to notify the SBM when taking a position on a public policy issue (including filing an amicus brief) within 10 days, and the SBM reserves two days to respond, though if the matter is time sensitive, they will try and respond sooner.

Fisher clarified that the SBM wouldn't need the brief or statement of position from the Section at the point, the Council would just need to make the SBM aware of the Council's vote.

Motion to approve execution by the Council's Officers: Williams **Support:** Sluggett

Ayes: Bluhm, Brown, Fisher, Forbush, James, Joppich, King, Kolb, McGee, Mithani, Nettleton, So, Steele, Tamm, Thomas, Watzka, Williams,

Nays: None

Absent: Forsyth, Mills, Zeits

Abstain: None

c. Referral of ADM File No. 2021-35

Chair Mithani discussed the proposed amendments to MCR 7.202 and 7.209, which remove the right to an automatic appeal for denial of governmental immunity. SBM specifically requested input from the GLS Council by February 6, 2023.

Brown discussed the actions the ad hoc committee approved at the January meeting had been working on, including filling out the form required by the SBM and reaching out to government interest group. The committee was meeting every Friday morning until the February 6th deadline.

Forbush stated that they had reached out to the MML. She shared that the MML was working on pulling statistics showing how often summary dispositions motions based on governmental immunity were denied, how many were appealed, and how many were successful.

Joppich shared that the MMRMA, the Michigan Association of Counties, and the Michigan Sheriff's Association were all working on position statements.

Brown asked whether the Council would want to offer any suggested changes to the proposed amendments.

Chair Mithani shared that the Michigan Association of State Universities would not be commenting, as they felt it would be seen as self-serving, and that the AG's office should handle.

Steele questioned what actions MAMA was taking. Bluhm shared that she, Tom Schultz, and Nick Curcio were working on something. Bluhm stressed the importance of getting as many comments out there as possible to stop SBM from supporting the change. She mentioned the idea of creating a template for our various client communities to communicate their objections to the change.

Chair Mithani indicated we needed to advise SBM that the Council is taking a position, and questioned whether there was interest in proposing amendments.

Joppich asked if the Council could indicate its objection to the change and a make a recommendation to the SBM that it object or take no position.

Tamm agreed that the communication to the SBM should be that it oppose the change or take no position.

Motion to submit the Council's objection to the proposal, and request to the SBM to oppose the proposal or take no position: McGee **Second:** Fisher

Ayes: Bluhm, Brown, Fisher, Forbush, James, Joppich, King, Kolb, McGee, Mithani, Nettleton, So, Steele, Tamm, Thomas, Watza, Williams,

Nays: None

Absent: Forsyth, Mills, Zeits

Abstain: None

Meeting adjourned at 5:07 pm.

Minutes taken by Kolb