The Maine State Bar Association promotes the honor, dignity and professionalism of lawyers, advances the knowledge, skills and interests of its members, and supports the public interest in a fair and effective system of justice.

Antitrust Statement

The Maine State Bar Association (MSBA) is organized to promote the honor, dignity and professionalism of lawyers; advance the knowledge, skills and interests of its members; and support the public interest in a fair and effective system of justice. The MSBA, its officers, Board of Governors and employees shall not, and do not, play any role in the competitive decisions of its members or their employees, or in any way restrict competition in any aspect of the legal profession. By adoption of this statement of policy, the MSBA makes clear its unequivocal support for the fair and effective policy of competition served by the antitrust laws and its uncompromising intent to comply strictly in all respects with those laws.

Members Present: Babcock, Bishop, Burbank, Cloutier, Columber, Cramer, Day, Hall, Herman, Johnson, Kreckel, McDonald, McNally, Okun, Peterson, Saufley, Stitham, Tebbetts and Willey.

Members Absent: Dunitz, Faunce and Haddow

Staff Present: Armstrong and Seavey

Item 1. Accepted Items 1A – 1D: A motion was made, duly seconded, and voted in the affirmative to accept Items 1A – 1D.

A. Approved minutes of the following meetings:
   1. August 18, 2020 Board meeting.
   2. September 8, 2020 special Board meeting.

B. Set the date of next Board of Governors meeting for Tuesday, January 26, 2021, at 1:00 p.m. by Zoom.

C. Confirmed the President’s appointment of the following Section Chairpersons, Chairpersons Elect and Co-chairpersons for 2020-2021:
   
   **BIPOC Lawyers**
   Carlos Diaz, co-chair
   Thomas Douglas, co-chair

   **Consumer & Financial Institutions**
   Samuel Sherry, chair
Elder Law
Daniel Eccher, chair

Labor & Employment Law
Laura White, co-chair

New Lawyers
Elizabeth Johnston, chair

D. Adopted the following resolution appointing attorneys to the Board of Directors of Pine Tree Legal Assistance, Inc.:

WHEREAS, the membership of the Maine State Bar Association represents a majority of attorneys practicing in Maine; and
WHEREAS, the Board of Governors is the governing body of the Maine State Bar Association; and
WHEREAS, appointments to the Board of Directors of Pine Tree Legal Assistance, Inc., are made so as to ensure that the attorneys include women and minorities and reasonably reflect the population of the areas served by Pine Tree Legal Assistance, Inc., and
WHEREAS, the persons hereafter listed as appointees are admitted to practice in Maine, are supportive of the purposes of the Legal Services Corporation Act, and have an interest in and knowledge of the delivery of quality legal services to the poor.

It is hereby RESOLVED by the Board of Governors that the following individuals are appointed for two-year terms (September 2020 - September 2022) to the Board of Directors of Pine Tree Legal Assistance, Inc.:

- Travis Brennan (Lewiston)
- Daniel Emery (Yarmouth)
- William Knowles (Portland)
- Joel Moser (Portland)
- Clifford Ruprecht (Portland)
- Daniel Wathen (Augusta)

Item 2. Treasurer’s report.

A. ED Armstrong provided the report in Treasurer Haddow’s absence. She reviewed the August 2020 financial statement, reporting that we had received 100.39 percent of revenue and had spent 80.2 percent of expenses through the end of August. In August of the previous year, we had received 104.05 percent in revenue, and spent 81.77 percent of expenses. A motion was made, duly seconded, and voted in the affirmative to accept the August 2020 financial statement.

B. Reviewed the preliminary September 2020 financial statement, which is subject to adjustments by the auditors from their biennial November review. ED Armstrong expects to receive the auditor’s report in January. However, the preliminary statement shows revenue at 104.4 percent (last year 107.34 percent) and expenses at 87.35 percent (last year 96.19 percent). The budgeted net for FY 2019-2020 was a loss of $24,871.62. Yet, after capitalizing assets, recording depreciation and applying investment gain, the estimated net for FY 2019-2020 is $248,864.90. The significant differences that impacted the estimated surplus include CLE net of $149,175 higher than budgeted, LRS net of $31,246 higher than budgeted, savings of $22,227 in the personnel line
due to the departure of an employee, membership meetings net over $10,000 higher than budgeted, and savings on expenses relating to sections, website, and staff and officer travel costs.

C. Reviewed membership dues collection report to-date for FY 2020-2021, which shows that we have collected $531,792.50 of the $593,800 budgeted dues (89.56 percent). This compares to a collection rate of 92.03 percent at the same time last year. ED Armstrong stated that she was pleased with the rate at this time in light of the pandemic. A final billing was mailed on December 4, and members who have not paid by the end of 2020 will be dropped from the membership rolls.

Item 3. **Approved President Elect’s appointment of James B. Haddow as Treasurer for calendar year 2021.**

Item 4. **Report of the Nominating Committee.**

Nominating Committee Chair McDonald reported that the Committee met by Zoom on October 19, 2020 to discuss the slate of officers and governor vacancies. He thanked Governors Dunitz and Okun and MSBA members Peter Bennett and Paul Chaiken for their service on the Committee. The Committee submitted the following report to the Board for discussion approval:

The Nominating Committee reports that the nominating petitions filed by members for the various offices have been checked by the Association’s staff and that these petitions meet the requirements of the Association’s Bylaws.

The Committee also reports that Rachel D. Okun and Cheryl J. Cutliffe received the most votes for the two open seats in the District Three (Cumberland County) contested election.

The following is a list of candidates who automatically assume office on January 1, 2021:

- **President:** Kelly W. McDonald, Portland
- **President Elect:** Frank H. Bishop, Jr., Portland
- **Vice President:** Stacy O. Stitham, Lewiston
- **Immediate Past President:** Thaddeus V. Day, North Yarmouth
- **District Three – Cumberland:** Rachel D. Okun, Portland
- **District Three – Cumberland:** Cheryl J. Cutliffe, Brunswick
- **District Four – Sagadahoc & Lincoln:** VACANT
- **District Five – Androscoggin:** Susan A. Faunce, Lewiston
- **District Seven – Somerset & Piscataquis:** Tonya H. Johnson, Dover-Foxcroft
- **Women’s Law Section:** TBA: WLS election closes 12/16/20
- **Public Service Sector:** VACANT
- **In-House Counsel:** William E. Saufley, South Portland

The Nominating Committee recommends appointing the following individuals to two-year terms (January 1, 2021 – December 31, 2022):

- Meegan J. Burbank of Boothbay Harbor to fill the vacancy in District Four; and,
- Jason D. Anton of Augusta to fill the vacancy in the Public Service Sector.
District Three Governor Ernest Babcock is retiring at the end of 2020 and is resigning from the Board of Governors at that time. He has one year remaining in his current term. The Nominating Committee recommends appointing the following individual to a one-year term (January 1, 2021 – December 31, 2021):
Jonathan M. Dunitz of Portland to fill the vacancy in District Three.

A motion was made, duly seconded, and voted in the affirmative to approve the 2021 slate of officers and governors recommended by the Nominating Committee.

Item 5.  
Adopted Camden National Wealth Management Corporate Authority to grant investment authority to Kelly W. McDonald, James B. Haddow, and Angela P. Armstrong.

The adoption of this item automatically removes investment authority from Immediate Past President Thaddeus V. Day.

Item 6.  
Board of Governors reports.

A.  
President Elect McDonald.
   1. Encouraged other governors to attend the virtual 2021 Winter Bar Conference (WBC) and asked them to encourage their colleagues to attend.
   2. Reported that the 2021 Meetings Calendar is available in Dropbox and asked Governors to reserve the meeting dates on their calendars.

B.  
Vice President Bishop.
   1. Reported that he will attend the virtual ABA Bar Leadership Institute (BLI) on March 17-19, 2021.
   2. Reported that President Day formed an ad hoc MCILS Committee and asked him to chair the Committee. MCILS is under much scrutiny lately, and this ad hoc committee will allow the MSBA to respond quickly and knowledgeably. Governors McNally, Tebbetts and Willey volunteered to serve on the Committee.

C.  
Immediate Past President Columbrr indicated that his time on the Board was very rewarding and thanked his colleagues and the MSBA staff for their support during his many years on the Board.

D.  
Other Governors: no reports.

Item 7.  
Executive Director’s report.

A.  
Reported that although the NEBA Annual Meeting was cancelled due to the pandemic, the NEBA Annual Business Meeting was held virtually on October 25, 2020, and host duties were transferred to Rhode Island for 2021 at that time.

B.  
ABA Midyear Meeting scheduled for February 17-22 will now be held virtually. Registration is complimentary for ABA members.

C.  
NABE and NCBP have departed from holding their Midyear Meetings with the ABA. NABE and NCBP will hold a joint 2021 Midyear Meeting virtually on February 1-4.
D. MSBA has a total of 2,051 registered Casemaker users. For October 2020, there were 333 unique users (four of which were first-time users) who conducted 3,643 searches in 952 sessions.

Item 8. President’s report.

A. President Day thanked the Governors for their support of Bar Talk, and expressed a special thank you to those Governors who served as guest speakers during 2020. He indicated that Bar Talk will continue in 2021 under 2021 President McDonald’s tenure, and asked Governors to send ideas for topics and speakers to ED Armstrong.

B. Reported that he is working with ED Armstrong and Jim Cohen on letters to send to Governor Mills’ office concerning the vacancy on MCILS.

C. President Day recognized outgoing Governors Babcock, Columbia, and Herman, and thanked them for their collective many years of service to the MSBA and the Maine Bar. Plaques will be mailed to departing Governors.

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Strategic Goal 1: Increase and expand access to legal information and legal services for all Maine residents.

- Objective 1.1: Convene a statewide working group to spotlight barriers to justice in rural areas and facilitate recommended steps to a more comprehensive approach to legal service delivery in Maine.
- Objective 1.2: Enact a rural practice initiative around: 1) the development of resources to help new lawyers starting and retiring lawyers exiting rural practice; 2) the use of message boards to facilitate conversations between retiring and incoming lawyers; and, 3) exploring legislative avenues for either direct aid or loan forgiveness.

Item 9. Rural Practice Fellowship.

UMaine School of Law is continuing the Rural Practice Fellowship program in the summer of 2021. The school will share the announcement on December 8, and the MSBA will assist with marketing and distribution of the application to attorneys/firms who are interested in serving as mentors. ED Armstrong will serve on the selection committee again this year. Once the mentors are chosen, students will have the opportunity to apply.

Discussion about the Rural Practice Fellowship brought about further discussion concerning the MSBA’s new strategic plan and its goal of enacting a rural practice initiative. The President formed an ad hoc Rural Practice Committee to begin assessment of our goals and objectives. Governor Kreckel volunteered as chair of the ad hoc committee, and Governors Burbank and Stitham volunteered to serve on the committee. Governor Kreckel will follow up with an email to the Board to determine if there is anyone else interested in serving on the committee, and then she will set up an initial Zoom meeting.
Item 10. Update on MSBA CLE and other educational/joint programs.

A. Legal Year in Review was held virtually on November 16-19. There were 391 attendees, and the net income was approximately $75,000.

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Strategic Goal 2: Promote diversity, inclusivity and equal opportunity in the Maine legal profession.

- Objective 2.1: 1) Publish results of diversity survey; 2) issue annual diversity report; 3) create mentoring program with law school to build support systems for minority lawyers; 4) promote existing programs which incentivize BIPOC students to go to law school; 5) develop and offer CLEs on diversity, equality and inclusion throughout state; 6) recruit BIPOC lawyers for leadership academy; and, 7) create new BOG seat for BIPOC Lawyers Section.

Item 11. CLE programs.

A. Unconscious Barriers to Effective Employment Decisions in Legal Organizations was held December 4 by Zoom. Cosponsored by the MSBA and the Maine Board of Overseers, this was the second session of the H&D series with Dr. Destiny Peery. There were 217 attendees. The next program in the series will be held on February 4, 2021.

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Strategic Goal 3: Expand MSBA membership through initiatives designed to enhance member relevance.

- Objective 3.1: Expand on the success of pandemic-related innovations like Bar Talk to enhance the Bar’s role as an educator and information provider.
- Objective 3.2: Expand member engagement through a reinvigorated, reimagined section architecture, complete with online communities, section growth and engaged leadership.

Item 12. Membership.

A. A motion was made, duly seconded, and voted in the affirmative to elect the following members to Life Membership in the Association beginning January 1, 2021:

John Andrews – Rochester, NH
Alan Atkins – Portland
John Atwood – Newcastle
Albert Ayre – South Portland
John Bonneau – Lewiston
Robert Crowley – Portland
Ronald Cullenberg – Farmington
Robert P. Cummins – Portland
Robert Daviau – Rangeley
David Fletcher – Scarborough
Robert Goodrich – East Boothbay
G. William Higbee – Topsham
The Honorable Joseph Jabar – Waterville
Samuel Kilbourn – South Portland  
Robert L. Knupp – Cumberland Foreside  
George Kurr, Jr. – Bangor  
William Macomber – Huntley, IL  
Robert Marks – Washington  
Jon S. Oxman – Auburn  
Christopher Redman – Overland Park, KS  
Randall Smith – Portland  
David B. Soule, Jr. – Wiscasset  
Stephen Sunenblick – South Portland

B. Deputy ED Seavey reported membership stands at 2991 as of December 8, 2020. There was a total of 72 new members since the August 18, 2020 meeting, and 21 resignations during the same period. Of the 21 resignations, 14 were due to retirement.

Item 13. Committee reports.

A. Bylaws & Policies: Although unable to attend the meeting, Chair Dunitz sent recommended amendments to the Bylaws for review in hopes that the amendments could be approved in time for the MBSA Annual Business Meeting on January 28. Because the Board was not provided time to review the changes prior to the meeting, President Day tabled this item until the January 26 Board meeting.

B. Civics Education: Chair Willey reported that the High School Mock Trial (HSMT) program is short in its funding for the current year. He is working with the Committee to create a plan for the HSMT program going forward and will present it at a future meeting. Additional information is available in the written report posted to Dropbox.

C. Continuing Legal Education: Governor Stitham reported that the Committee is working on new virtual CLE programming to add to the CLE calendar. Additional information is available in the written report posted to Dropbox.

D. Diversity: no report.

E. Finance: no report.

F. Judicial Evaluation: The Committee has not met recently but will be conducting evaluations in early 2021.

G. Legislative Review & Response: Chair Okun reported that the Committee will resume weekly meetings in January 2021.


I. Medical Legal: In Chair Faunce’s absence, Governor Babcock reported that the Committee has made progress with outreach to both attorneys and doctors, and discussions about the Code of Cooperation are ongoing. Additional information is available in the written report posted to Dropbox, as well as the results from the survey that was sent to MSBA members and Maine Medical Association (MMA) members.

J. Membership: The Committee has not met recently, but has a meeting scheduled for December 17.
Item 14. **MSBA Section Leadership & Legislative Meeting.**

The meeting was held on Thursday, November 5, 2020 by Zoom. This annual meeting is held to inform new section leaders of their duties, explain the MSBA’s legislative process, and to ensure the MSBA lobbyist is aware of legislation that is important to MSBA sections for the upcoming session. ED Armstrong, MSBA legislative counsel Jim Cohen, President Elect McDonald and Deputy ED Seavey presided over the meeting. The Uniform Law Committee as well as the following MSBA sections were represented at the meeting: Administrative Law, Consumer & Financial Institutions Law, Elder Law, Environmental & Energy Law, Family Law, Intellectual Property, Labor & Employment Law, Municipal Law, New Lawyers, Real Estate & Title, Tax Law, and Women’s Law.

Item 15. **MEBarConnect update.**

Deputy ED Seavey provided an update on MEBarConnect, our new online community software. We have completed the implementation with our database, and have already set up some communities such as sections, committees and the Board of Governors. We are currently populating these communities with members, and updating section pages with bylaws and mission statements. Our next step is beta testing, and member rollout is expected for February 2021.

Item 16. **BIPOC Lawyers Section.**

A. A motion was made, duly seconded, and voted in the affirmative to approve the BIPOC Lawyers Section mission statement and bylaws.

B. The section leadership will work with the MSBA staff to send out an invitation to MSBA members to join the section in early 2021.

Item 17. **New Lawyers Section.**

A. The section has sent out a request for nominations for the following leadership positions: chairperson elect, secretary, treasurer, and 12 seats on its governing council. The nominations are due by December 30. Should there be a need, an online election will be held in early January, with the newly elected officials announced at the section business meeting on January 20, 2021.

B. The section has “adopted” a family through the United Way of Kennebec Valley. The family consists of a mother and her three daughters, ages 7, 10 and 16. Wish lists for the family members have been provided to NLS members, and they have been asked to submit purchased items to Deirdre Salsich no later than December 15.

Item 18. **Women’s Law Section.**

A. The section recently sent out a request for nominations for a co-chair position and the BOG representative seat. There was more than one nomination for the BOG seat, so the section is currently holding an online election for that position. The section will meet by Zoom on
December 17 at which the new co-chair and BOG representative will be announced.

Item 19. Governor liaison reports: none.

Item 20. Old business.

A. Considered extension of mandated suspension of all in-person events held by MSBA entities. After brief discussion, a motion was made, duly seconded, and voted in the affirmative to approve extending mandated suspension of all in-person events through February 23, 2021.

B. Considered request by Dean Saufley to add ex officio seat to the Board for a UMaine Law School student.
   1. This item was tabled at the August 18 meeting in order for ED Armstrong to conduct additional research and discuss policies with her colleagues from other state bar associations.
   2. ED Armstrong reported that a majority of the bar associations she spoke with do not have a law-school student representative on their Boards. Many have a student representative on their New/Young Lawyers Section board. The MSBA New Lawyers Section has a UMaine Law School student representative on its Board of Directors.
   3. Based on the research, the student representative on the NLS board, and the desire not to increase the size of the MSBA Board, the Board rejected adding an ex officio seat to the Board for a UMaine Law School student.


A. Governor Burbank, raising an issue from her constituents, asked if the MSBA might be willing to assist with advocating for lawyers to have access to plexiglass partitions between them and their clients in the conference rooms of courts. The ADAs and AAGs are generally well protected in courtrooms, as are the judges and the clerks, but the defense attorneys and other attorneys with clients, especially when meeting in the smaller rooms, have no real protections available. Governor Johnson offered that she had recently done some research and found that the partitions cost approximately $70 each. President Day indicated that the MSBA would contact the Judicial Branch with this concern and determine if we might work together on it.

B. President Elect McDonald reported that the Kennebec County Commissioners were considering requests for the removal of the Chief Justice Melville Fuller statue, which sits in front of the courthouse on State Street, and asked if the MSBA should consider taking a position. There was a great deal of discussion and the Board did not come to a consensus on taking a position, and there was not enough time to reach out to constituents for their input before submissions to the Commissioners were due. However, the Board felt it important for members to have the information if they wanted to submit a position for or against the removal of the statue, and therefore a motion was made,
duly seconded and a majority voted in the affirmative to send notice to MSBA members about the status of the statue and how to contact the Kennebec County Commissioners for comment. ED Armstrong was directed to send out notice to MSBA members the following morning by email as well as post to the MSBA website.

Adjourned at 3:50 p.m.

Respectfully submitted,

Angela P. Armstrong
Executive Director