

**MINUTES
MEETING OF THE BOARD OF DIRECTORS
SOCIETY OF PROFESSIONAL JOURNALISTS
AUGUST 30, 2007
VIA CONFERENCE CALL**

MEETING CALLED TO ORDER

With President Christine Tatum presiding, the meeting of the board of directors of the Society of Professional Journalists was called to order at 2 p.m. EDT on Thursday, August 30, 2007, via a telephonic conference call originating in Indianapolis, Indiana.

ROLL CALL

In addition to President Tatum, the following were in attendance for all or portions of the meeting: President-Elect Clint Brewer; Secretary-Treasurer Dave Aeikens; Vice President, Campus Chapter Affairs Mead Loop; Immediate Past President David Carlson; Directors-at-Large Sally Lehrman and Molly McDonough; Student Representative John Patrick; Regional Directors Carolyn James, Holly Fisher, Kevin Smith, Gordon Govier, Travis Poling, Tom Henderson, Paul McAfee and Sonny Albarado.

Also participating in the call was Bruce Sanford, partner with Baker & Hostetler, the Society's legal counsel. Staff members on the call were Executive Director Terrence G. Harper; Associate Executive Directors Chris Vachon and Julie Grimes; and Editor Joe Skeel.

FAULKNER V. NATIONAL GEOGRAPHIC AMICUS BRIEF

The stated purpose of the call was to discuss a decision by the SPJ President and Legal Defense Fund Chairman — made in accordance with established practices — to sign the Society on to an amicus brief in support of National Geographic in the matter of *Faulkner v. National Geographic* now before the Second Circuit Court of Appeals. The issue before the Second Circuit involves the principal of contractual clarity. Another facet of the case involved copyright issues; however, the copyright matter had previously been litigated and denied certiorari by the U.S. Supreme Court. The copyright matter was not involved in the current aspect of the case.

It is added parenthetically to these minutes that the established procedure for handling amicus brief requests is that the requests typically flow from the Society's legal counsel, Baker & Hostetler, to the SPJ President, Legal Defense Fund Chair and Freedom of Information Committee Chair to review and respond. In most cases, including *Faulkner v. National Geographic*, the Executive Director and other members of the Society's Executive Committee are copied on the recommendations.

Like a request for a Legal Defense Fund grant, if the amount to participate in the brief is less than \$1,000, the SPJ President, LDF Chair and FOI Chair may, by majority vote, decide to participate in an amicus brief. In *Faulkner v. National Geographic*, FOI Chair Joel Campbell was traveling and unable to participate, thus, the vote was 2-0 in favor of participation in the amicus brief.

Sanford explained that the attorneys for Time Inc. organized this particular brief. Baker & Hostetler associate Laurie Babinski wrote the E-mail to SPJ describing the case and issues involved, and recommending that the organization sign on given the firm's belief that both publishers and writers would benefit from contractual clarity.

Sanford said he believed SPJ's process worked fine in this case, but that the case was misperceived by some members of SPJ's freelance community as an "us vs. them" situation. Sanford indicated that he thought it would be a good idea, in the future, to poll the SPJ board when appropriate.

Poling asked if would be possible for SPJ to take a position in a matter such as *Faulkner v. National Geographic* without taking sides. In other words, could SPJ file its own amicus brief? Sanford indicated that could be done.

Tatum reported that Bob Becker, a longtime SPJ member and attorney in Washington, D.C., has been asked to draft a set of recommendations in dealing with amicus briefs for the board's consideration at its October 3, 2007 meeting. Becker's report is due on Monday, September 10. Becker will work independently on his report although Harper was asked to share it with Baker & Hostetler who may offer its own recommendations or comments.

McDonough inquired as to whether SPJ's freelance committee was consulted on the Faulkner v. National Geographic amicus request. Tatum said she did not consult with the committee, but did speak with at least three other SPJ freelance members and one non-member about the merits of the brief.

McAfee inquired of Sanford whether there was any discussion at the firm of a possible perceived conflict of interest given that Baker & Hostetler has represented National Geographic, as well as many freelance authors, in the past. Sanford said there was not because no conflict existed. Sanford explained that while Baker & Hostetler has indeed represented National Geographic in other matters, those matters had nothing to do with either the Faulkner case specifically or contractual matters in general. The Code of Professional Responsibility by which attorneys must abide requires the attorney to disclose conflicts when they in fact exist.

Brewer followed up by asking Sanford if, in the future, the firm could let the Society know if they have represented in the past any of the parties that may be involved in a potential amicus brief. Sanford indicated that the firm could accommodate such a request and that it would accompany any such statements with its view that the firm could represent SPJ in the matter.

Lehrman inquired as to the genesis of the amicus brief because it was her impression that the Supreme Court had already decided not to hear the case. Tatum and Sanford pointed out that Lehrman was correct with respect to the copyright issues relating to the dispute, but that this action is related to contractual clarity and applies only to the Second Circuit litigation.

McAfee inquired as to how many amicus briefs SPJ has considered this year. Aeikens responded that SPJ has been invited to participate in seven briefs and has signed on to six. Sanford indicated that SPJ's participation is good visibility for the organization.

McDonough requested that she be added to the distribution list any time SPJ is asked to participate in an amicus brief. Aeikens said he would be sure to add McDonough and any other member of the board who so desired.

MEETING ADJOURNED

There being no further business to come before the board of directors, Tatum declared the meeting adjourned at 2:40 p.m. on Thursday, August 30, 2007.