

1507 - 21st Street, Suite 330
Sacramento, California 95811
Telephone: (916) 445-1888
Contact Person: Nicole Angulo
www.nmvpb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held its 8th Industry/Attorney Roundtable which was treated as a Special Meeting on March 30, 2011, at the Auditorium at the California Secretary of State's Office, Sacramento, California.

2. **ROLL CALL**

Ramon Alvarez C., President of the Board, called the meeting of the Board to order at 9:14 a.m.

Present: Ramon Alvarez C. Robin Parker, Senior Staff Counsel
Robert T. (Tom) Flesh Dana Winterrowd, Staff Counsel
Peter Hoffman Dawn Kindel, Office Manager
Bismarck Obando
Victoria R. Pearson
Glenn E. Stevens

Absent: Ryan L. Brooks
David C. Lizárraga
David W. Wilson

3. **PLEDGE OF ALLEGIANCE**

Mr. Obando led the members, staff, and audience in the Pledge of Allegiance.

4. **INDUSTRY/ATTORNEY ROUNDTABLE DISCUSSION TO EDUCATE:**

- The Board members on industry-related issues and to provide them with an opportunity to interface with dealer and factory personnel.
- Attorneys that regularly appear before the Board, or who would like to appear before the Board, on procedures and laws relating to the Board.
- Manufacturer and distributor counsel or employees who prepare or review statutorily required notices sent to the Board and the impacted dealers.

- Government and Industry Affairs Committee.

Mr. Alvarez C. welcomed and thanked everyone for their attendance. The meeting was turned over to Tom Flesh, Chair of the Government and Industry Affairs Committee. Mr. Flesh also welcomed the speakers and attendees, and reminded the audience that under the Bagley-Keene Open Meeting Act, public comments can be made regarding any topic. Mr. Flesh announced that the Board's Executive Director, Bill Brennan, had a family emergency and was unable to attend the Roundtable. Mr. Flesh asked Robin Parker, the Board's Senior Staff Counsel, to address the following matters in an effort to engage in an open dialogue:

First, the audience and participants are asked not to comment or ask questions about any contested matters currently before the Board. Such statements may be inappropriate ex parte communications, and improper as being presented to the Board outside of the formal case management process.

Second, the audience and participants are asked not to make any comments, pose questions, or raise any issues concerning pricing, trade secrets, or other proprietary information that could arguably be construed as, or give the appearance of, being collusive or in furtherance of unfair trade or monopolistic business practices.

Third, the discussion today is not being transcribed by a court reporter. Minutes concerning topic discussion in general will be prepared in the ordinary course.

Mr. Flesh functioned as the moderator of the event. Prior to getting started, Mr. Flesh asked the Board Members, staff and participants to introduce themselves.

The following specific topics were discussed:

Topic 1:

THE AMERICAN ARBITRATION ASSOCIATION'S ROLE IN ADMINISTRATING
THE GENERAL MOTORS AND CHRYSLER ARBITRATIONS

- ❖ Dwight James, Vice President, American Arbitration Association
- ❖ Jeffrey Garcia, Vice President, American Arbitration Association
- The role of the American Arbitration Association in administering the Section 747 Arbitrations (Sec. 747 of the Consolidated Appropriations Act of 2010).
- The lessons learned from the experience.
- Questions and answers.

Topic 2:

OVERVIEW OF THE ENERGY COMMISSION'S ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE TECHNOLOGY FUNDING PROGRAM BY PAT PEREZ, DEPUTY DIRECTOR OF FUELS AND TRANSPORTATION DIVISION, CALIFORNIA ENERGY COMMISSION

PANEL DISCUSSION CONCERNING ALTERNATIVE FUEL VEHICLES

- ❖ Russell Vare, EV Regional Manager, Nissan North America, Inc.
 - ❖ James Chen, Director of Public Policy, Tesla Motors, Inc.
 - ❖ Pat Perez, California Energy Commission
-
- Introduction and overview of the alternative fuel vehicle industry; the type and quality of vehicles.
 - Are "green collar" jobs being created?
 - Consumer demand for these alternative fuel vehicles.
 - Incentives and tax rebates.
 - Do these incentives drive consumer demand?
 - The role of the new vehicle dealers.
 - The investment required in terms of the infrastructure.
 - Questions and answers.

Topic 3:

UPDATES CONCERNING THE DEPARTMENT OF MOTOR VEHICLES' OCCUPATIONAL LICENSING BRANCH BY MARY GARCIA, BRANCH CHIEF,

- Questions and answers.

DISCUSSION CONCERNING THE DEPARTMENT OF MOTOR VEHICLES' BUSINESS PARTNERS AUTOMATION AND ELECTRONIC LIENS/TITLES BY ANDREW CONWAY, CHIEF, REGISTRATION POLICY AND AUTOMATION BRANCH

- Questions and answers.

Topic 4:

PANEL DISCUSSION CONCERNING MANUFACTURER/DISTRIBUTOR PRESSURE TO UPGRADE FACILITIES

- ❖ Michael J. Flanagan, Esq., Law Offices of Michael J. Flanagan
 - ❖ Aaron Jacoby, Esq., Arent Fox LLP
 - ❖ Allen Resnick, Esq., Jeffer, Mangels, Butler & Mitchell LLP
 - ❖ L. Joseph Lines, III, Esq. or Gregory Oxford, Esq. (to be determined)
-
- What are manufacturers/distributors requiring in terms of facility upgrades and new facilities?
 - What financial incentives are being provided?

- Anticipated impact, if any, from recently amended Vehicle Code sections 11713.1 and 11713.13 (effective July 2, 2009)?
- Questions and answers.

[Due to their flight schedules, the members adjourned the Industry Roundtable prior to the commencement of the Attorney Roundtable portion of the event. Topics 5 and 6 were presented after the meeting adjourned and the members left.]

Topic 5:

DISCUSSION CONCERNING THE TRENDS IN CASE MANAGEMENT

❖ Robin Parker, Senior Staff Counsel, New Motor Vehicle Board

- Introduction and overview of the New Motor Vehicle Board.
- Discussion concerning trends in case management including:
 - Types and number of notices of termination being filed;
 - Types of protests being filed;
 - Number of cases going to a merits hearing; and
 - The number being resolved prior to hearing.

PRACTICING BEFORE THE NEW MOTOR VEHICLE BOARD

❖ Robin Parker, Senior Staff Counsel, New Motor Vehicle Board

- What are the common mistakes encountered by the Board's legal staff with the pleadings submitted?
 - No proof of service;
 - "Notice to Dealer";
 - "Original" signatures versus copy;
 - The franchise is not part of the record or not referenced when drafting pleadings; and
 - Wrong Vehicle Code section referenced.

Topic 6:

RECENTLY PROMULGATED REGULATORY PROVISIONS (13 CCR § 550, et seq.)

❖ Robin Parker, Senior Staff Counsel, New Motor Vehicle Board

- Overview of the recently promulgated regulatory amendments that provide clarity and consistency in addition to filling a number of case management gaps in the Board's procedures.
- Questions and answers.

The following attended and participated in the Industry/Attorney Roundtable:

- Ramon Alvarez C., President/Dealer Member, New Motor Vehicle Board
- John Bronstein, Esq. Arent Fox LLP
- Leonard L. Broseker, Esq., Staff Counsel, DMV Legal
- Dean Bunch, Esq., Nelson Mullins Riley & Scarborough LLP
- Alton Burkhalter, Esq., Partner, Burkhalter Kessler Goodman & George LLP
- Mike Carpenter, Esq., Partner, Carpenter Hawkins Sievers
- Carrie Catherine, Franchise Development Manager, Jaguar Land Rover North America, LLC – Western Region
- James Chen, Director of Public Policy, Tesla Motors, Inc.
- Louis S. Chronowski, Esq., Seyfarth Shaw LLP
- Andrew Conway, Chief, Registration Policy and Automation Branch, Department of Motor Vehicles
- Rob Cohen, President, Auto Advisory Services
- Steve Corle, Dealer Network Development Manager, Chrysler Group LLC
- Donald H. Cram, III, Esq., Attorney, Severson & Werson, P.C.
- Victor Danhi, Esq., Attorney, Arent Fox LLP,
- Skip Daum, Executive Director, California Recreation Vehicle Dealers Association
- Robert E. Davies, Esq., Partner, Caulfield, Davies and Donahue LLP
- Robert L. Ebe, Esq., Partner, Nixon Peabody LLP
- Gregory Ferruzzo, Esq., Partner, Ferruzzo & Ferruzzo, LLP
- Morgan Filbey, Esq., Senior Counsel, Nissan North America, Inc.
- Robert T. (Tom) Flesh, Public Member, New Motor Vehicle Board
- Michael J. Flanagan, Esq., Attorney, Law Offices of Michael J. Flanagan
- Mary Garcia, Branch Chief, Occupational Licensing, Department of Motor Vehicles
- Jeffrey Garcia, Vice President, American Arbitration Association
- Deborah Goldman, Esq., Managing Counsel, Toyota Motor Sales, U.S.A., Inc.
- Ross Good, Senior Manager-State Government Relations, Chrysler Group, LLC
- Diana Woodward-Hagle, Administrative Law Judge, New Motor Vehicle Board
- Peter Hoffman, Dealer Member, New Motor Vehicle Board
- Gavin M. Hughes, Esq., Attorney, Law Offices of Michael J. Flanagan
- Aaron Jacoby, Esq., Arent Fox LLP
- Dwight James, Vice President, American Arbitration Association
- Kavitha Janardhan, Esq., Seyfarth Shaw LLP
- Amie Johnson, Program Specialist, Franchise, Mercedes-Benz USA
- Steve Kelso, Esq., Wheeler Trigg O'Donnell LLP
- Dawn Kindel, Staff Manager, New Motor Vehicle Board
- L. Joseph Lines, III, Esq., Attorney, General Motors LLC
- Ros Lockwood, Esq., Senior Associate, Burkhalter Kessler Goodman & George LLP
- Bernard Lu, Esq., Senior Staff Counsel, DMV Legal
- Brian Maas, Esq., Government and Legal Affairs Counsel, California New Car Dealers Association
- Ryan S. Mauck, Esq., Jeffer, Mangels, Butler & Mitchell LLP
- Steven A. McKelvey, Jr., Esq., Partner, Nelson Mullins Riley & Scarborough LLP
- Brady McLeod, Esq., the Miles Law Firm
- Lawrence W. Miles, Jr., Esq., the Miles Law Firm
- Delbert L. Miller, Vice President, KZRV, LP
- Sherrie Moffet-Bell, Chief, Arbitration Certification Program

- Colm A. Moran, Esq., Partner, Hogan & Hartson, LLP
- Jonathan Morrison, Esq., Staff Counsel, California New Car Dealers Association
- Michael P. Norton, Esq., Associate General Counsel, Kawasaki Motors Corp., USA
- Bismarck Obando, Public Member, New Motor Vehicle Board
- Eugene Ohta, Consumer Mediator, New Motor Vehicle Board
- Greg Oxford, Esq., Partner, Isaacs Clouse Crose & Oxford LLP
- Robin Parker, Esq., Senior Staff Counsel, New Motor Vehicle Board
- Victoria R. Pearson, Dealer Member, New Motor Vehicle Board
- Pat Perez, California Energy Commission
- Jerold A. Prod, Administrative Law Judge, New Motor Vehicle Board
- Alexis Ramirez, Analyst, Department of Consumer Affairs, Arbitration Certification Program
- Allen Resnick, Esq., Partner, Jeffer, Mangels, Butler & Mitchell LLP
- Mark W. Redman, Esq., Corporate Counsel, BMW of North America, LLC
- Kelly Russo, Franchise Manager, Mercedes-Benz USA
- Maurice Sanchez, Esq., Partner, Baker & Hostetler LLP
- Jeffrey Schwarzschild, Esq., Deputy Attorney General, Office of the Attorney General
- Christopher W. Sheron, Esq., Managing Partner, Ackeret-Sheron LLP
- Michael M. Sieving, Esq., Attorney, Law Offices of Michael M. Sieving
- Glenn E. Stevens, Public Member, New Motor Vehicle Board
- Kathy Tomono, Analyst, New Motor Vehicle Board
- Houston N. Tuel, Jr., Esq., Owner, Law Offices of Houston Tuel
- Russell Vare, EV Regional Manager, Nissan North America, Inc.
- Peter K. Welch, President, California New Car Dealers Association
- Robert Wheatley, Esq., Managing Partner, Wheatley Sopp LLP
- Dana F. Winterrowd, Esq., Staff Counsel, New Motor Vehicle Board
- Gwen Young, Esq., Wheeler Trigg O'Donnell LLP
- Christopher Zammit, Esq., Senior Counsel, Chrysler Group, LLC

5. **ADJOURNMENT**

With no further business to discuss, Mr. Flesh moved to adjourn the meeting. Mr. Stevens seconded the motion. The motion carried unanimously. The meeting was adjourned at approximately 3:11 p.m. The Board continued with Topics 5 and 6 above for the Attorney Roundtable portion of the event.

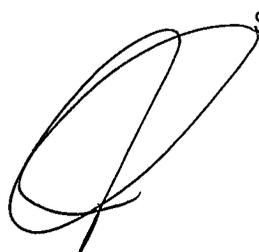
Submitted by



WILLIAM G. BRENNAN

Executive Director

APPROVED:



Ramon Alvarez C.
President
New Motor Vehicle Board