# NEW HAMPSHIRE BAR ASSOCIATION BOARD OF GOVERNORS MEETING

Thursday, September 17, 2015 Bar Center – Concord, NH 3:00 P.M.

## **MINUTES**

Present for all or part of the meeting were:

Mary. E. Tenn David W. Ruoff Scott H. Harris Peter E. Hutchins Robert R. Howard, III John A. Curran Edward D. Philpot, Jr. Christopher T. Regan Paul W. Chant Danielle Y. Vanderzanden Suzanne McKenna Dennis L. Morgan (by phone) Richard C. Guerriero, Jr. Ora Schwartzberg Catherine E. Shanelaris James A. Shepard

Lanea A. Witkus
Jennifer L. Parent
Gordon J. MacDonald
Cheryl M. Hieber
Jacki A. Smith
Connie L. Rakowsky
Amy B. Messer
Martha Van Oot
Jeannine L, McCoy
Denice M. DeStefano
Virginia A. Martin
Daniel Wise
Paula D. Lewis
Deborah Hawkins
Kristen E. Senz

A meeting notice reminder, preliminary Agenda and related materials were emailed September 11<sup>th</sup>. Additional materials were emailed September 15<sup>th</sup> and 16<sup>th</sup> and distributed September 17<sup>th</sup>. The Agenda is duplicated below in order of consideration of agenda items. Unless otherwise noted, all motions reported are deemed to have been appropriately proposed, seconded and voted upon by those present.

# **REGULAR SESSION**

### A. CALL TO ORDER

Mary Tenn

The Regular Session of the September 17, 2015 Board of Governors meeting was called to order at 3:05 p.m. by President Mary Tenn.

Mary Tenn offered her congratulations to Jonathan Eck, who is receiving the Kirby Award at the Bar Foundation Annual Dinner later this evening.

# PRESENTATION / DISCUSSION / ACTION ITEMS

## B. Board of Bar Examiners Presentation

Gordon MacDonald Sherry Hieber

Gordon MacDonald, Chair of the Board of Bar Examiners and Sherry Hieber, General Counsel, Office of Bar Admissions presented PowerPoint slides providing an overview of the structure of the Board of Bar Examiners, including:

### Types of Admission

- Bar Examination
- Daniel Webster Scholars Honors Program
- Admission by motion without examination
- Admission by transferred UBE score

# Impact of Decrease in Law School Enrollment

- Impact on Bar Exam Applicants
- Impact on Pass Rate

The presentation ended with Q & A.

# C. Discussion of 2017 Annual Meeting Location

Scott Harris

Vice President Scott Harris reported that he is interested in have the 2017 annual meeting be a grand resort bar meeting once again. He has a proposed contract from the Mt. View Grand in Whitfield, NH for 2017. Scott noted that the Court is in favor of a resort setting for the 2017 annual meeting and that Judge Conboy will lobby for funds in the Court budget to pay for judges to attend and to schedule some judicial education programming as an enticement.

Scott feels there is not a lot of risk in the proposal, as there is no food minimum required; the only penalty is for rooms within our room block that are not sold and not resold by the Resort.

Scott talked about the size of the room block and the package rates contained in the proposal. Scott would like the Board's support for this proposal.

President Mary Tenn stated that she would like to see the Bar hold a resort-based annual meeting every 3-5 years, as a resort setting appeals to others that Portsmouth does not. Mary further stated that the officers will work towards having firms put money in their 2017 budgets and commit to sending attorneys to the meeting.

Executive Director Jeannine McCoy reminded Board members that it will be important for them, in their role as ambassadors of the Association, to "talk it up" when asked by colleagues why we are going back to a resort-setting in 2017.

### **ACTION**

On motion to authorize a contract for the 2017 annual meeting be signed with the Mt. View Grand Resort. PASSED (C. Regan opposed).

D. BOG Committee on Administration of the Bar Recommendations

Jacki Smith

Jacki Smith, Co-Chair of the BOG Committee on Administration of the Bar, presented four proposed amendments to the Bar's Bylaws and one proposed amendment to the Bar's Constitution.

Proposal #1 – Bylaws, Article II, Membership Dues, Section 8 – would expand the Limited Active Members Dues Category and Status, for legal services volunteers to include three additional organizations: the Legal Advice and Referral Center (LARC), NH Legal Assistance (NHLA), and the Disabilities Rights Center-NH (DRC).

There was an amendment made to the proposed language, (adding the words "unpaid volunteer" in the next to last sentence, before the words, "civil pro bono legal services to the indigent.) which was approved.

## **ACTION**

On motion to approve the proposed amendment, as amended, to Article II, Section 8 of the Bylaws which is attached as a permanent part of these Minutes. PASSED.

Proposal #2 – Bylaws, Article VI, Nomination and Election of Governors and Officers, Sections 1-5 – adds language to the end of each section to clarify that candidates for a BOG position must be Active status in order to be nominated.

# **ACTION**

On motion to approve the proposed amendment to Article VI, Section 1 of the Bylaws which is attached as a permanent part of these Minutes. PASSED.

Proposal #3 – Bylaws, Article VI, Section 6. Ballots and Voting – allows for the "shuffling" of candidate names on the election ballot. PASSED.

## <u>ACTION</u>

On motion to approve the proposed amendment to Article VI, Section 6 of the Bylaws which is attached as a permanent part of these Minutes. PASSED.

Proposal #4 – Bylaws, Article X, Sections, Section 2. – eliminates the words, "in good standing", and replaces them with language that is more precise and speaks only to that which the Association can comment on. Using the words in good standing, could lead someone to believe that it also addresses disciplinary actions, when it in fact does not. PASSED.

### **ACTION**

On motion to approve the proposed amendment to Article X, Section 2 of the Bylaws which is attached as a permanent part of these Minutes. PASSED.

Proposal #4 – also includes a proposed amendment to the Constitution Article II, Membership, Sections 3 & 8.— again eliminating the words, "in good standing", and replaces them with language that is more precise and speaks only to that which the Association can comment on. Using the words in good standing, could lead someone to believe that it also addresses disciplinary actions, when it in fact does not. PASSED.

# **ACTION**

On motion to approve the proposed amendment to the Constitution Article II, Membership, Sections 3 & 8 which is attached as a permanent part of these Minutes. PASSED.

All of the proposed amendments will be put before the Membership at a Special Business Meeting later this fall for vote. It was also noted that the proposed amendment to the Constitution, if approved at the Special Business Meeting, will also need to be submitted to the NH Supreme Court for approval before it can go into effect.

# E. Bench/Bar Conference Report

Jennifer Parent

Co-Chair of the 2015 Bench/Bar Conference Jennifer Parent recapped the Conference held in March. Jennifer directed the Board to the recommendations contained in the Conference Report and answered questions. Jennifer noted that the recommendations in the Bench/Bar Report will, for the most part, be carried out by the Committee on Cooperation with the Courts. Jennifer agreed that ideas will be brought to the Board for input and feedback along the way.

Sullivan County Governor Lanea Witkus did object to language in Appendix G, under Session #2, the 3<sup>rd</sup> bullet point, suggesting that members of the Bar are all public servants. Others on the Board felt the same so it was agreed to amend that 3<sup>rd</sup> bullet point to read:

Members of the Bar and judges are officers of the court and have a duty to assure that self-represented litigants are given the opportunity to be heard and "get their day in Court";

### **ACTION**

On motion to accept March 27, 2015 Bench/Bar Conference Report with Recommendations, as amended in Appendix G. PASSED.

## F. ABA New Lawyer Delegate Seat

Jennifer Parent

Newly appointed ABA Association Delegate Jennifer Parent reported on a change in the makeup of the ABA House of Delegates that was approved at the 2015 Annual Meeting in Chicago. Each state gets one State Delegate and 1 or more Association delegates, depending on the size of the association. The change approved at the 2015 Annual Meeting adds a young lawyer seat to the State delegation for a 2-year, staggered term. The ABA defines young lawyer as one whose first bar admission is within the last 5 years and is under 36 years of age.

Jennifer is confirming when this seat is slated to start and an election take place and will report back to the Board.

## G. Treasurer's Report/Update

Peter Hutchins

The **Board received** statistics on Dues Court & Fees billed and paid to date; NHMCLE invoices billed and paid to date; and Trust Account Compliance forms received to date.

Going forward, the Board can expect quarterly financial statements and brief financial information other months.

### **REGULAR BUSINESS – CONSENT ITEMS**

H. Membership Status Changes for September 2015

Denice DeStefano

The **Board received** Membership Status changes, which are attached as a permanent part of these minutes.

I. Report on Dues Waiver Requests

**Board Committee** 

President Mary Tenn noted that since Jacki Smith is no longer on the Board, the Dues Waiver Subcommittee is short one Board member. Sullivan County Governor Lanea Witkus agreed to serve on the Dues Waiver Subcommittee along with Ted Clancy and Jim Shepard.

The **Board approved** (with Lanea abstaining) appointing Lanea Witkus to the Dues Waiver Subcommittee.

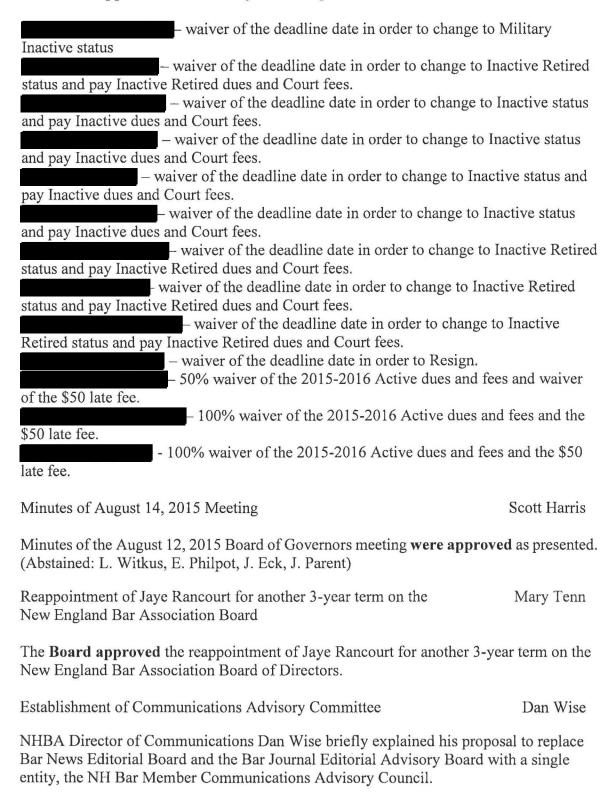
The **Board further approved** authorizing whatever decision the Subcommittee, with new member, makes re: ID #14532 – 100% waiver of the 2015-2016 Active dues and fees and the \$50 late fee (Existing 2 Subcommittee members not in agreement)

The **Board approved** the following waiver requests:

J.

K.

L.



The purpose of the Communications Advisory Council is to provide member perspectives and advice on the content, format and policies of the NH Bar Association's regular member communications, including print and digital publications, as well as social media, website content/usability and special communications efforts and projects.

In addition to assisting in the development of annual content strategies and calendars, council members would be asked to contribute and/or solicit articles to help keep NHBA content relevant and useful for association members. The Communications Advisory Council would also play a role, when necessary, in drafting, interpreting or amending NHBA advertising and editorial policies.

## **ACTION**

On motion to approve the establishment of the Communications Advisory Council. PASSED.

### **REGULAR BUSINESS**

M. President's Report

Mary Tenn

President Mary Tenn reported on the following:

Trust Account Compliance (TAC) Update – Mary reported that many members missed the deadline date for filing their TAC form this year. The Court did grant a 30-day extension for filing before the first fine. The Bar notified those members affected and the problem was well managed by Association staff, some of whom (Jeannine McCoy or Denice DeStefano and Nancy Kerrins) spent time each day at the Court opening and processing mail containing TAC filings.

Mary further noted that the Bar is working on a technological interface, through the NHBA website, to assist members in better managing their compliance deadlines.

 Update on BF/Campaign for Legal Services – Mary reported that work in ongoing to try to bring the three organizations (NH Bar Foundation, Campaign for Legal Services & NH Legal Assistance) back together in an effort to increase fundraising.

Meetings have been held with Justice Basset and Justice Duggan (retired) and with representatives from all three groups (in August) with vary candid discussions taking place.

The Campaign for Legal Services is going to their Board to craft a proposal that will come to the NHBA Board, once done. Mary expects this will take some time. Any final proposal will be brought to this Board.

Vice President Scott Harris is serving on a small group working on this for the Association.

# N. Membership Survey Update

Dan Wise

Director of Communications Dan Wise recapped the process to date on the membership survey schedule for this fall.

There will be six (6) general topic areas with questions under each. Dan intends to hold a member focus group for input and feedback once the draft questions are compiled.

Providing everything goes as planned, the member focus group will be meeting the first week in October and the survey sent the second half of October. Dan expects 3-4 weeks for responses, analysis and reports. The December 3<sup>rd</sup> BOG meeting is the target date for the BOG to have the results for discussion.

It's anticipated that 2,000 members will be surveyed, across all segments of the bar.

If any Board member is interested in being part of the membership focus group, please let Dan know, ASAP.

# O. State Update

All Board Members

President-elect David Ruoff reported that Maureen O'Neil is the new clerk in Hillsborough North.

Belknap County Governor Ed Philpot reported that he has received two complaints from transactional lawyers re: real estate closing checks and their trust accounts; resulting in the bank notifying the Attorney Discipline Office. Secretary Rob Howard, who is a transactional lawyer, noted that that there is a serious competitive disadvantage for lawyers, when title companies are involved in the transaction

Vice President Scott Harris, who is the BOG representative on the PCC, with raise this issue with them.

Governor-at-Large John Curran reported that a good time was had at the Manchester Bar golf tournament recently held.

Belknap County Governor Suzanne McKenna reported that Dan Wise, NHBA Communications Director, is presenting to the Belknap County Bar on the recent law economics survey.

Sullivan County Governor Lanea Witkus reported that the Sullivan County Bar recently met and had some new lawyers in attendance.

# P. Any New Business

President-Elect David Ruoff noted that the ACLU & UNH School of Law have issued a

Debtors' Prison Report that will be made public on Friday, September 18<sup>th</sup>. Circuit Court judges in New Hampshire commonly jail those who have no ability to pay fines without a meaningful hearing and without providing access to counsel

In an alarming number of cases where indigent defendants appear in court to address an unpaid fine, judges do not inform these defendants of their right to an "inability to pay hearing"... Judges do not afford them a lawyer. Judges do not even determine whether they can pay the fine. Judges simply put them in jail.

The Board will take up this issue next month; the ACLU & UNH School of Law would like the Boards support for the report.

The Report will be circulate to the Board once it is public.

# **ADJOURNMENT**

The September 17, 2015 Board of Governors Meeting adjourned at 5:10 p.m.

Respectfully submitted,

Denice DeStefano, for

Robert R. Howard, III, Secretary

### PROPOSAL #1, AS APPROVED BY THE BOG 9/17/2015:

Bylaws, Article II:

Section 8. Limited Active Membership Status for unpaid volunteer pro bono service through the NHBA Pro Bono Referral System, the Legal Advice and Referral Center (LSRC), NH Legal Assistance (NHLA), and Disabilities Rights Center-NH (DRC). Members who are otherwise not engaged in the practice of law in any jurisdiction, or who occupy a position the duties of which do not require the giving of legal advice or services in New Hampshire or any other jurisdiction, are eligible to request Limited Active Membership Status for NHBA PBRS pro bono service for the sole purpose of providing unpaid volunteer civil pro bono legal services to the indigent. As annually certified, by April 20th, by the Director of the named entity.

The annual membership fee for the Limited Active Membership Status for NHBA PBRS pro bono service shall not exceed 10% of the Active membership fee. The NHBA Board of Governors reserves the right to grant and rescind Limited Active Membership Status for NHBA PBRS, and strongly encourages members requesting or maintaining this membership status to volunteer for approved civil legal services through *one or more of the above named entities* the NHBA Pro Bono Referral Service for a minimum of 40 hours per year.

# PROPOSAL #2, AS APPROVED BY THE BOG 9/17/2015:

Bylaws, Article VI, Sections 1-5:

Nomination and Election of Governors and Officers

Section 1. Governors Representing Counties. Nominations for Governors representing counties or divisions shall be made by petition signed by at least ten (10) active members having their principal offices in the county or division concerned, and filed with the Association not later than March 1. Any nominee for county governor shall be Active membership status in the Association. No member may sign more than one such petition.

Section 2. Governors-at-Large. Nominations for Governors-at-Large to be elected in any year shall be made by petition signed by any twenty-five (25) or more active members filed with the Association not later than March 1. Any nominee for governor-at-large shall be Active membership status in the Association.

Section 3. Public Sector Governor. Nominations for Governor, meeting the criteria as established by the Public Sector/Public Interest Task Force<sup>1</sup> for

representing public sector members, shall be made by petition signed by any twenty-five (25) or more active members filed with the Association not later than March 1. Any nominee for public sector governor shall be Active membership status in the Association.

Section 4. Out-of-State Governor. Nominations for Out-of-State Governor shall be made by Petition signed by any twenty-five (25) or more active members of the Association whose primary offices are located outside of New Hampshire, and who certify as such. Petitions shall be filed with the Association no later than March 1. *Any nominee for Out-of-state governor shall be Active membership status in the Association*. If no valid petition is submitted, the position may remain vacant or be filled by the Board of Governors, at their option.

Section 5. Officers and Delegate. Nominations for Vice President, Secretary, Treasurer, and the Delegate(s) to the American Bar Association House of Delegates shall be made by petition signed by any twenty-five (25) or more active members of the Association, filed with the Association not later than March 1. Any nominee for officers and the delegates to the ABA shall be Active membership status in the Association. On or before December 31st in each year, the members of the Board of Governors shall nominate a candidate for President-Elect.

## PROPOSAL #3, AS APPROVED BY THE BOG 9/17/2015:

Bylaws, Section VI, Section 6:

Section 6. Ballots and Voting. The Association shall prepare separate ballots for each county or division which shall contain the names of all persons nominated for the Office of Governor from that county or division; and a ballot for the election at large of the officers of the Association, delegate(s) to the House of Delegates of the American Bar Association, and Governors to be elected at large, which shall list below each office the names of the nominees therefore. Below the name of each office shall be printed the words "Vote for not more than" followed by a number designating how many persons are to be voted for. All ballots shall designate briefly the manner in which each nominee was nominated, as "Nominated by Petition," or "Board of Governors Nominee." The names of the nominees shall be arranged in the alphabetical random order of their surnames, and at the right of the name of each candidate and on the same line there shall be a square. Following the names printed on the ballots, after the name of each office to be filled, shall be as many blank lines for write-in votes, without squares at the end thereof, as there are persons to be elected to that office. The Association shall mail, either by first class mail, electronically or any technologies that can accomplish the same result as technologies specifically listed in this section, the county or division ballots to the active members of

the Association having their principal offices in the county or division concerned and the ballots for elections at large to all active members, in each case not later than April 1. Voting shall be by secret ballot according to the double envelope system, via electronic voting or any technologies that can accomplish the same result as technologies specifically listed in this section. The ballots shall be returned to the Association not later than April 15<sup>th</sup> unless a weekend or holiday, upon which the following business day will be used; and no ballots received after that date shall be counted.

### PROPOSAL #4, AS APPROVED BY THE BOG 9/17/2015:

Bylaws, Article X, Section 2:

Section 2. Any member of this Association, in good standing whose Association Dues and Court Fees are current, may become a member of any Section, upon enrollment in that Section and payment of Section dues.

### **AND**

Constitution, Article II, Sections 3 & 8:

Section 3. The membership of this Association shall consist of two classes known respectively as "active" members and "inactive" members. Every member shall be an active member unless, upon request and payment of any required Administrative Fee as set by the Board of Governors, that person is enrolled as an inactive member. No person shall be eligible for enrollment as an inactive member who is engaged in the practice of law in this State, or who occupies a position the duties of which require the giving of legal advice or service in this State. Any inactive member in good standing whose Association Dues and Court Fees are current may change classification to that of an active member by filing with the Association written application for transfer to the class of active members and by paying the dues required of active members and any required Administrative Fee as set by the Board of Governors. No inactive member shall be entitled to practice law in this State, or to hold office or vote in any meeting, election or referendum of the Association. An inactive member may attend meetings of the Association and participate in the debates of such meetings, and shall be entitled to receive the official publications of the Association and such notices and other materials as are mailed to active members. Members of the judiciary including Justices, judges and NH Masters who are wholly prohibited by statute from engaging in the practice of law, or who are designated as "essentially full time members of the judiciary", by the New Hampshire Supreme Court Administrative Office of the Courts (AOC) and not engaged in the practice of law, shall be considered Full-Time Judicial members. Part-time members of the NH judiciary, as designated by the AOC, including justices, judges and masters who are wholly prohibited by statute, or Court rule,

from engaging in the practice of law, or sit on a part-time basis and are not engaged in the practice of law, shall be considered part-time Judicial members.

Section 8. A member of the Association in good standing whose Association Dues and Court Fees are current may resign from the Association by filing with the Association written notice of such election, and such person shall thereupon cease to be a member of the Association and the individual's name shall be removed from the membership register. A member who has resigned shall not thereafter engage in the practice of law in this State unless again admitted to the practice of law upon compliance with such rules governing readmission to the Bar as may from time to time be promulgated by the Supreme Court.

### NEW HAMPSHIRE BAR ASSOCIATION

# Membership Status Changes

Presented to the Board of Governors September 17, 2015

### Active to INACTIVE

14364 Borchers, Timothy B., Medway, MA (effective August 21, 2015)

8235 Christo, Ellen V., Hampton Falls, NH (effective August 21, 2015)

13830 Cioffi, Eric R., Maidens, VA (effective August 21, 2015)

264906 Donegan, Brian J., Wakefield, MA (effective August 11, 2015)

18392 Dulany, J. Patrick, Exeter, NH (effective August 24, 2015)

266270 Early, Amanda N., Malden, MA (effective August 3, 2015)

14198 Gardner, Peter J., Lebanon, NH (effective August 11, 2015)

13738 Greco, Thomas J., Biddeford, ME (effective August 14, 2015)

14123 Harris, Kristen S., Avon, CT (effective August 14, 2015)

266875 Kinsey, Joann G., Chicago, IL (effective June 29, 2015) New Admit 6/29/2015

265407 Licciardi, Michelle D., Wakefield, MA (effective August 5, 2015)

266211 Loftus, Katherine C., Dorchester, NH (effective September 2, 2015)

266698 Meidanis, Jonathan A., Hampstead, NH (effective September 4, 2015)

266877 Papanek, Andrea, West Chesterfield, NH (effective June 29, 2015) New Admit 6/29/2015

265839 Shah, Sana B., Charlestown, MA (effective August 14, 2015)

19942 Weber, Lance T., Lake Worth, FL (effective August 24, 2015)

# Active to **INACTIVE RETIRED**

17869 Beal, Jonathan S.R., Belfast, ME (effective August 14, 2015)

1069 Halvorsen, John H., Bedford, NH (effective August 5, 2015)

2608 Van Dorn, Edward Jr., Orford, NH (effective July 31, 2015)

### Active to **RESIGNED**

17545 Moran, Susan L., Falmouth, NH (effective August 14, 2015)

### Active to PROBONO ACTIVE

265800 Warburton, Jennifer E., Bow, NH (effective September 3, 2015)

## Active to **DECEASED**

10989 Games, Lara V., Danville, NH (effective July 13, 2015)

### Inactive to **ACTIVE**

12929 Orso, Gregory J., York Harbor, ME (effective August 27, 2015)

20360 Vitale, Alexander J., Grand Junction, CO (effective September 4, 2015)

### Inactive to **INACTIVE RETIRED**

445 Auten, Hanford L., South Acworth, NH (effective August 14, 2015)

1126 Duwell, Sarah E., South St. Pau, MN (effective August 24, 2015

12872 Heirtzler, Paul L., Virginia Beach, VA (effective August 23, 2015) 305 Murray, Marcia, Castleton, VA (effective August 14, 2015) 2032 Silva, Pilar P., Concord, NH 16265 (effective August 14, 2015)

# Inactive to **DECEASED**

108 Cohen, Jeffrey R., Orlando, FL (effective July 15, 2015) 16307 Monahan, James F., Quechee, VT (effective July 30, 2015)

## Inactive to **RESIGNED**

17677 Demeusey, Elizabeth, Nashua, NH (effective August 14, 2015) 2204 Roth, Jennifer, Davie, FL (effective August 11, 2015)

# Inactive Retired to RESIGNED

8200 Lloyd K. Anne, Meredith, NH (effective August 14, 2015) 16265 Stephens, Cynthia J., Stoughton, MA 8200 (effective August 14, 2015)

# Inactive Retired to **DECEASED**

537 Bergman, Howard Standish, Manchester, CT (effective November 4, 2014)

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