

Minutes of August 19, 2008 Executive Council Meeting held at the Marriott World Center

Attendance

- (1) Paul Anderson
- (2) Jacque Blanton
- (3) Richard Chait
- (4) Robert Donahue
- (5) Alan Aronson
- (6) Tuwana McMillan
- (7) Raul de la Heria
- (8) Jeff Jacobs
- (9) Paolo Longo
- (10) Ricardo Morales
- (11) Michael Rudolph
- (12) Christopher Smith
- (13) Glen Wieland
- (14) Tom Conroy
- (15) Tim Dunbrack
- (16) Tim Jesaitis
- (17) Alan Kalinoski
- (18) Chris Petruccelli
- (19) Rick Thompson
- (20) Mark Zientz
- (21) Ray Malca
- (22) Steve Kronenberg
- (23) Brian Carter
- (24) Eric Stiffler
- (25) Mike Winer
- (26) Gerry Rosenthal
- (27) Stewart Colling
- (28) Bill Rogner
- (29) Robert Strunin
- (30) Judge Langham
- (31) Judge Sculco
- (32) Jake Schickel
- (33) Fausto Gomez

I. Tuwana McMillan opened and welcomed everyone to the meeting as the new chair.

II. Immediate Past Chair Mark Zientz made the following awards/presentations:

Ray Malca was awarded a section service award for dedicated service in running the trial advocacy program

Eric Stiffler was awarded a section service award for his dedicated service in running

the winter meeting program

- Tuwanna McMillan was awarded a section service award for her dedicated service as Editor of the News & 440 Report
- Dawn Traverso was awarded a section service award for her dedicated service in running CLE programming/telephonic seminars
- Martin Leibowitz was awarded a section service award for his dedication and service to the section website as chair of the technology committee
- Rick Thompson was awarded a section service award for his dedicated service in running the WC Forum (former board certification program)

Emeritus Awards were presented to the following members:

Nancy Cavey
 Martin Leibowitz
 Ray Malca
 Steve Kronenberg
 Richard Sicking
 Gerry Rosenthal

- III. Passing of the Gavel
- IV. E/C Election/Approval of Nominees for Section Officers for 2008

The Executive Committee made the following nominations for Section Officers:

Chair Elect - Richard Chait
 Treasurer - Nomination to be received
 Secretary - Jacque Blanton

Alan Kalinoski was nominated from the floor to serve as Treasurer.

The council moved, seconded and passed approval of the officers slate as presented with addition of Alan Kalinoski as nominated from the floor.

- V. Secretary's Report - the minutes from the Dallas meeting held on May 17, 2008 were accepted with a motion and second to approve same - motion passed.
- VI. Treasurer's Report - Read and accepted. The Workers' Compensation Forum was noted to have made a profit for the section of \$11,500.00 which had not yet posted to the current statement of operations. The telephonic CLE program were noted to be going well with regard to profits as well.
- VII. EC Approved the published list of section committees and chairs for 2008-2009 with the

addition of Ray Holly to the membership committee

COMMITTEE REPORTS:

- A. Florida Bar CLE Liaison - Dawn Traverso - no report
- B. Section CLE - Dawn Traverso - no report
- C. Winter Meeting/Seminar - Eric Stiffler, Chair
Eric reported that the tentative location for the meeting will be Silver King and that Bob Donahue and Bill Berke had agreed to assist on this committee with planning and preparation. At this point, they have discussed changing the schedule to a morning session only to allow more free time. Further details to follow.
- D. Workers' Compensation Forum - Rick Thompson, Chair and Herb Langston, Co-Chair - A three year contract has been signed with WCCP for partnership in presenting the programming. 2009 location will be Champions Gate with tentative seminar dates of April 16-17, 2009. Plan is for a rotation of the speakers pane and focus on further book modifications. Breakouts to be added on Friday morning on effectuating a complicated settlement - MSA/special needs trust experts with defense and claimant attorney as well as a second breakout - non-w.c. causes of action like wage and hour
- E. Trial Advocacy Workshop Committee - Ray Malca - The program was completed at UM and went very well. 4 highly experienced attorneys participated in the program this year with a focus on intermediate programming which went very well. Plans for next year will again focus on having experienced attorneys participate with increased advertising. Program made \$600.00 this year with two sponsors for lunches/dinners.
- F. News & 440 Report - Mike Winer, Editor - latest edition will be emailed out shortly and the plan is to continue with email only for the report which saves on expenses and is a "green" solution. Mike voiced a need for articles and topic suggestions. New issue will include a new member form for second time for membership to increase potential application submissions.
- G. Legislative Committee Report - Paul Anderson, Chair - Paul noted that we all continue to await the Murray decision which is anticipated to bring workers' compensation issues back into the legislative session in 2009. If Murray is favorable to appellant, it was noted that NCCI may be filing for a rate increase with FWA also preparing response. The CFO has also designated committee to prepare a study regarding the impact of the 10/01/03 law. It is not known when the study/report will be completed/released.

Fausto Gomez reported that the study may be ready by fall release subject to review with publication shortly thereafter. He also noted that the CFO may then consider filing some legislation depending upon the results of study.

Fausto Gomez also reported that he had spoken with house legislative staff who indicated that if the Murray decision was rendered on behalf of the claimant's bar

that a special legislative session may be held in January dealing with budget issues as well as workers' compensation.

Another issue that was updated involved to possible move to take money from the trust fund for infrastructure and staff at the 1st DCA that was raised at our January meeting. It was mentioned that the area of concern for the section was that the money not be used to create a specialty panel within the First DCA. The section was advised that the money pulled from the trust fund went to infrastructure and staffing only at the First DCA with no creation of any type of specialty panel.

Indian gaming issue was also raised by Fausto Gomez who noted that a decision was pending from the Supreme Court regarding non-tribal member employees being governed by the workers' compensation law and tribe needed to agree that those employees would be covered under workers' compensation.

Update on funding of court system - Article V - included some fee increases - task fund to find a dedicated system for court funding.

Fausto Gomez also indicated that he had monitored pending bills on employee leasing issues and all bills failed.

- H. Judiciary Committee - Rick Thompson, Chair - Council provided each JCC with copy of forum course materials and he will be working with Judge Sculco - liaison to our council from the Conference of Judges. He will also be working with JCCs on what the section can do to help increase section membership by the JCCs.
- I. Council of Sections Liaison Report - This meeting was attended in Boca Raton by both Bill Rogner and Jacque Blanton. The meeting focused on the importance of generating revenues through CLE offerings and through increased section membership. Many sections are considering affiliate memberships to allow non-attorneys to join the sections. Our membership committee was asked to develop some criteria for presentation at the next council meeting to develop recommendations for affiliate memberships.
- J. Technology Committee - Rick Morales, Chair - he reported that he will be taking over from Martin Leibowitz and he will be working with him to effectuate a smooth transition.
- K. Long Range Planning Committee - Jeff Jacobs, Bob Strunin, Richard Chait, Alan Kalinoski - It was reported that the committee would be focusing on CLE revenue, the section budget and working on increasing the section's membership.
- L. Appellate Issues Committee - The committee reported on the new dedicated staffing unit at the First DCA which included the hiring of staff lawyers, secretaries - etc. Institutional professionalism was highlighted as a plus for this new unit with full time staff attorneys being hired to include Kathleen Hudson, Todd Sanders, and Randy Portia.

Time extension issues were noted as a new policy had been adopted with a motion being required now for an extension. The motion must state valid reasons

for the need for an extension and having a busy schedule is no longer good enough. First extension requests will now require date certain for filing of the brief.

The Flamelly case was also brought up and reported to involve a constitutional issue/question about JCC reviewing facts of settlement regardless of whether a claimant is represented or not.

It was reported that we continue to await a decision from the Florida Supreme Court as well on the Murray case.

Lastly, Mark Zientz reported that he will return to drafting the appellate summary section for our News & 440 Report.

- M. Membership Committee - Paolo Longo reported that the committee goal is to increase membership in the section as well as participation. Telephone contact will be made for a membership drive. He also reported an intention to gather information from existing section members with addition of questions sent to each member about who they may know that is not a section member so leads may be obtained to solicit new members.
- N. Pro-Bono Committee - Richard Sicking, Chair - no report
- O. Professionalism Committee - Tom Conroy, Chair - no report
- P. Diversity Symposium Report - Symposium was held at Florida Bar Meeting in Boca Raton and was very well attended with executives from large national and international companies providing their feedback on what they look for from their law firms in the war of diversity hiring practices. Jake Schickel also reported attending and noted that the Florida Bar wants awareness to this issue to be raised and that the Board of Governors is also focusing on awareness. He noted that we all need more minorities to become involved in section leadership and bar committees as well as sub-committees and need to get firms involved to reflect the diversity of the community that you work in. He noted that local awareness to the issue of diversity is where things need to start in order for diversity to grow and rise up from there into section leadership roles.

VII. OLD BUSINESS

- A. General Releases - Draft suggestions - Some changes made and e-mailed to all members for approval. Positive response for approval of form releases with link to be placed on JCC's website to our website with forms posted. Judge Langham indicated that he would discuss placing forms on DOAH website as well as link or instead of a link. Motion made, seconded and passed to put forms on JCC website.

Judge Langham suggested that the council present the form settlement docs project to mediator lunch and learn monthly program to get information out to them on possible benefits of using the form releases.

Rick Thompson noted that Zenith has agreed to use the settlement release forms.

Ray Malca recommended that the attorneys indicate in their negotiations that they will sign the section release forms so that it becomes a habit for use of these forms.

It was noted that the next newsletter would have an article about use of section settlement forms.

- B. At-Large Defense Seat Vacancy - Brian Carter was nominated by the Executive Committee to fill the vacancy created by the resignation of Jennifer Dietz. A motion was made to approve this recommendation and it was seconded and passed by the council.
- C. Lobbyist Contract 2008 - 2009 - Fausto Gomez has agreed to same contract from last year. It was moved, seconded and approved. Further discussion regarding month payment to him was had for months of July and August which are not included in the contract. It was moved, seconded and passed that Fausto would be paid \$2,500.00 per month for those two months. In addition, the council voted that the contract would be amended to run from Sept for one year to avoid gap issue again in the future.
- D. Legislative Positions were noted to have been approved by the Board of Governors.
- E. Al Frierson Professionalism Award - A request for nominations for the award was made with Richard Sicking being nominated. Motion to approve was made, seconded and passed. Award will be presented to Richard Sicking in April of 2009 at the Forum for greater recognition.
- F. Council Retreat - Scheduled for May of 2009 in Las Vegas. Details to follow.

VII. NEW BUSINESS

- A. Section letterhead was reviewed and approved.
- B. January Meeting Site Discussion - it was agreed that we would continue with lunch at Joe's and use meeting space close by at condo association if possible.
- C. Additional Meeting - Jacque Blanton reported that she and Tom Conroy had come up with a suggestion of a fourth meeting in November on the 14th or 21st in Tampa. Discussion was then had from the council that the legislature would be holding an organizational session in Tallahassee around that time and it may be best to have the meeting in Tallahassee in order to get some meeting time with legislators. Discussion was then raised that only certain section members are authorized to lobby on behalf of section. Those authorized include the Legislative Committee Chair, Paul Anderson as well as Richard Chait, Chair Elect; Tuwanna McMillan, Chair and Fausto Gomez, Section lobbyist. It was

then suggested that a fourth meeting date be discussed for sometime after Thanksgiving and before Christmas following the organizational legislative meeting. Tom and Jacque will come up with further suggestions for a date. It was moved, seconded and passed to have the meeting in Tampa at the Fl. Bar meeting space.

- D. Legislative Ad Hoc Committee - no report - legislative positions approved and new issues tabled until after upcoming legislative session.
- E. Consider Legislative Position Regarding JCC Compensation Issues - Judge Langham reported that the judges salaries are without a tie-in to circuit court judges system as the tie-in was lost so raises are now only done when the Executive Branch decides to provide for an increase. He reported that there has been no standard cost of living adjustment given and the JCCs are seeking to get some money out of trust fund for raises and to get a tie in to consistently address cost of living adjustments. He asked for support on this issue from the council. He also raised the same issue/concern regarding staff salary/support to increase for merit retention type program.

He reported that DOAH ALJ salaries are not tied in and they are career service appointments so the issues are very different from those facing JCCs.

The council discussed our existing legislative positions and decided that it would be best for the section to support a specific position on this issue.

A motion was then made for the section to support the following position statement: "Support legislation to increase compensation of JCCs and their staff". The motion was seconded and passed.

- F. Other - Jake Schickel - reported that he had been asked if the JCC/Mediators Survey was it truly anonymous and the answer is Yes! He stressed the value of this important tool and asked that it be utilized for comments.

VIII. Chair-Elect's Report - Richard Chait

Richard waived any specific report, but mentioned that the May 2010 retreat would likely be in Manhattan.

The meeting was then adjourned.