

MINUTES OF EXECUTIVE COUNCIL MEETING HELD ON AUGUST 18, 2009 AT
ORLANDO WORLD CENTER MARRIOTT

I. Presiding: Richard Chait, Chair - Welcome - It has been a turbulent year with legislative activity, but the section worked together throughout the session and will continue to do so. He indicated that he looked forward to the upcoming year and working with everyone.

Tuwanna McMillan - Awards:

Mike Winer - News and 440 Report - gratitude for service and dedication.

Dawn Traverso - CLE Chair - award for commitment for service as CLE program chair.

Rick Thompson and Herb Langston - award for outstanding achievement and service work on Forum (former board certification program) over the last several years. .

Tom Conroy - Award for years of service and guidance to section - In grateful appreciation for years of loyalty and dedication. Richard Chait - congratulated Tom on his retirement.

Martin Leibowitz - Award for website service and technology committee work and webmaster service.

Passing of the gavel to chair - Richard Chait - presentation of gavel. Thanks for allowing service - Tuwana thanked council and Richard presented her with past chair award - crystal gavel.

Attendance:

- (1) Bill Berke
- (2) Geoffrey Bichler
- (3) Leo Garcia
- (4) Dennis Smejkel (Em)
- (5) Fausto Gomez
- (6) Tuwanna McMillan
- (7) Richard Chait
- (8) Al Frierson (Em)
- (9) Paul Anderson
- (10) Michael Rudolph
- (11) Mark Zientz
- (12) Bill Rogner
- (13) Rick Thompson
- (14) Bob Strunin
- (15) Christopher Smith
- (16) Tom Conroy (Em)
- (17) Joanne Prescott
- (18) Judge Langham
- (19) Bob Donahue
- (20) Raul DeLaHeria
- (21) Jeff Jacobs
- (22) Alan Kalinoski

- (23) Dawn Traverso
- (24) Brian Sutter
- (25) Peter Burkert
- (26) Tim Dunbrack
- (27) Arlee Colman
- (28) Chris Petrucelli
- (29) Martin Leibowitz
- (30) Jake Schickel
- (31) Glenn Wieland
- (32) Paolo Longo
- (33) Mike Winer
- (34) William Ray Holley
- (35) Tara Said
- (36) Jacque Blanton
- (37) Judge Sculco
- (38) Rick Morales
- (39) Neal Falk

Introduction of Special Guests - Sean Shaw - Florida Consumer Advocate - Thanks for having him here - membership in council is a blend and vital role in system of workers' compensation. Going forward he wants to focus on ratemaking and fairness standard. Diversity of section will allow great things to happen. Interest in information gathering to make system better for all with focus on workers. He thanked council for opportunity to speak.

Peter Burkert - He is placing his name in for District 27 Senate seat (Democratic). He is seeking support for his campaign. He has spent his career in the practice of workers' compensation. The district is Lee, Palm Beach, Glades and Charlotte counties. The seat is transitioning toward a Lee County seat.

Eugene Flynn - He is placing his name in for the seat 117 currently held by Rep Rubina for House of Representatives. Seeking support for election - lifelong practice of workers' compensation practice.

Judge David Langham - Chief Judge - DOAH - He thanked the council for inviting him to speak. He addressed some rule change proposals - looking for suggestions for review. He advised that there are no actual proposed rule changes - just seeking comment on the existing rules to determine if changes are needed. Meeting tomorrow to discuss proposals/suggestions in Hall of Cities Room - Tampa. He advised that DOAH did not have a position on mediator CLE class reimbursement.

Judge Sculco - liaison to the section from the Conference of Judges of Compensation Claims - Our relationship is good. Survey concerns addressed by the judges and they would like some issues addressed with regard to changes in the survey questions in the future.

II. Minutes from 05/16/2009 - Las Vegas, Nevada - motion to approve made and seconded - minutes approved.

III. Treasurer's Report - Current Statement of Operations - Alan Kalinoski - Section is \$50k under budget - doing well and will conclude the year under budget.

IV. Committee Reports

A. Workers Comp Forum - Jeff Jacobs - has taken over as co-chair with Herb Langston for upcoming 2010 Forum Seminar - Jeff Jacobs presented report - thanked Rick Thompson for his work in transforming the Forum program. He advised that new speakers will be brought in for next year with WCCP. Check presented in the amount of \$7,612.42 in profit from 2009 seminar. 2010 will be at Champions Gate again. New speakers with new materials and additional breakouts including complex settlements and IARP presentation. April 14-16, 2010 at Champions Gate.

Potential incorporation of golf tournament run by Glen Wieland in memory of his father. Glenn confirmed that the tournament will be the Weds before the forum presentation so it can be easily incorporated in the materials with the forum on Thursday/Friday. Judge Wieland Memorial Golf Tournament.

B. Section CLE - Dawn Traverso - \$93,392.00 made on CLE programs over the past year. Consideration for addition of another live seminar since cost containment issues have been met and funds appear available to allow for a live section seminar.

C. Winter Retreat - Eric Stiffler chair - Aspen, Snowmass.

D. Trial Advocacy Workshop - Jeff Jacobs - 2009 program was very well attended.

E. News and 440 Report - Latest edition out 6 weeks ago electronically for "green" savings. Next issue in the mix, being prepared with additional assistance. CLE advertising will be included in next newsletter - need articles for submission to newsletter.

F. Legislative Committee - Paul Anderson and Fausto Gomez - HB 903 done - moving forward - Section has committed to provide input to Sean Shaw - Consumer Advocate - for input into ratemaking. 2010 and 2012 will be critical political cycles. Term limits will play a key role in the cycle of what will come. FJA will likely file a w.c. bill this next session.

Fausto Gomez commented on upcoming election cycle as well. Fausto thanked those that participated in the legislative session this past year. 2010 will be freshman legislators and 2012 will involve re-apportionment so that 2012 will be another set of freshman legislators. Right now Fair District Florida is a movement to look at the redistricting set to take place - signatures allowed by Florida Supreme Court and effort has a significant portion of the signatures necessary - movement will likely have the necessary signatures. Special election in Jacksonville set as well due to unexpected death of Senator King. Drastic changes to come within the next four years.

G. Judiciary Committee - Chris Smith - Chair - Rick Thompson previously held chair and he (Chris) will continue to focus on building relationships with JCCs as Rick did in the past. Richard Chait also commented that the relationship between the council and the JCCs is

growing, section had an excellent turnout for luncheon and 1st DCA is interested in hearing oral arguments again in Miami in 2010 as done in 2009. Proposal that it be set again in January again in conjunction with the Joe's meeting. He asked Christopher Smith and Jeff Jacobs work on setting that up to again take place at the historic courtroom in the Miami courthouse and alternatively, possible use of a high school facility.

H. Council of Sections Liasion - Paolo Longo - He attended the section meeting and reported that the section was well represented and was the only section to be emailing the section newsletter. Other sections mentioned having success with use of webinars. Elder Law section mentioned doing monthly teleconference with a few experts in their area where call-ins can be made for questions - like a tele-mentoring program.

I. Technology Committee - Martin Leibowitz - website is going through changes - new page will be online shortly with new functionality. Possible use of Listserve will be investigated as well.

J. Long Range Planning Committee - Rick Thompson - Continue in efforts to build section membership and support of workers' compensation issues. Leading section forward through additional service. Looking for preparation of a list of all section members per geographic areas.

K. Appellate Issues Committee - Bill Rogner - he has system set up where he gets a summary of every JCC order daily and he will be emailing fee orders to executive council for review and use. On Friday, new case - Areola - false SS# case - JCC denied all benefits for claimant using false number. Mark Zientz reported on the filing of the Murray amicus brief and noted that the section could do that again if appropriate interest in doing so in other matters as we move forward.

L. Membership Committee - Paolo Longo reported that he has the list of section members broken down by geography for review to determine who each of the members know that are not section members and need to encourage membership.

M. Professionalism Committee - Leo Garcia reported on an effort to increase ethical standards and professionalism in our practice to improve public perception of our section and our practice.

N. Pro Bono Committee - Richard Sicking will continue in role as chair - no report.

O. HB 903 Relief Committee - Brian Sutter - Order tracking will be helpful and bar needs to communicate about cases working their way through the system.

P. The Florida Bar Liasion Committee - Neal Falk, Chair - He practices in Ft. Lauderdale managing wc defense department in his practice. He is looking to offering ideas for garnering support within the bar.

Q. BOG Report, Jake Schikel, BOG Liaison - Representatives need to get active in their local bar associations and meet with their Board of Governors representatives. BOG has to approve

positions because of the mandatory nature of the Florida Bar. He reported on change in mid year meeting to Orlando from Miami. Survey of applicants done and survey results are mixed, nothing negative but only one week between time when applications closed and when committee met so more time needed to expand response time. Also need to encourage responses to judicial survey and to tweak user friendliness for more responses to survey.

V. Chair's Report -

A. Consumer Advocate - Sean Shaw asked for information and input - he wants to be objectively educated on issues/problems in the w.c. system. Richard Chait, Tuwana McMillan, Glen Wieland, Mike Winer, Chris Petrucelli, Rick Thompson

B. WC Section Professionalism Award - received by Al Frierson and Richard Sicking in the past. Proposal made in Las Vegas to modify the award name to the "Albert Frierson - Stewart Colling" Professionalism Award. Moved and seconded - passed.

C. General Discussion

VI. Chair-Elect Report

A. Retreat Locations 2011 - Possible locations - Memphis, Tennessee.

VII. New Business

A. State Mediator CLE Telephonic Discount - Richard Chait received an email from Stuart Suskin - mediator in Gainesville about the seminar cost issue. There is a cost of approximately \$23.00 for telephonic seminars so fees cannot be waived because of expense to the section - no provision for waiver of fees to mediators. Each section may determine if fees should be waived to others aside from the rule provided waiver provisions. As a result, section agreed to allow mediators to attend CLEs for \$25.00 which is the cost associated with an individual's attendance. Mr. Suskin wrote a letter seeking reinstatement of the waiver provision.

It was decided that the reduced fee provision passed in Las Vegas would remain in effect.

B. 5th DCA Vacancy - Geoffrey Bichler appointed to take the DCA vacancy created by Stewart Colling's death - he is also seeking re-election during the re-election cycle which is to be held this afternoon.

C. At Large Vacancy - Tom Conroy is resigning his seat due to his retirement and submitted the name of his partner, Alison J. Schefer, as a candidate for appointment to fill his remaining term. Executive committee approved nomination and it was passed by affirmation by the executive council that she be appointed to fill the vacancy.

D. Vote on Request for Excused Absences - None

E. Fausto Gomez Contract - renewals - same terms as prior year - Moved, seconded and passed for contract renewal.

F. Bylaw Change for Affiliate Status for Paralegals - Exhibit C - Moved and seconded to adopt language - passed.

Method of Conducting Meetings - recommended by Florida Bar - to permit telephonic and webinar attended only type meetings. Moved and seconded, passed by council to add language.

G. Suggested Rule Changes - Jeff Jacobs - changes are submitted for consideration and workshop forum set up for August 19th.

VIII. Future Meetings

A. Executive Council Meeting at Joe's Stone Crab - 01/22/2010 - 1st DCA recommended for Jan. 20/21st if scheduling permits.

B. Retreat - New York - May 2010 - Manhattan, New York City. Date to be announced.

GENERAL SECTION MEETING OF THE WC SECTION OF THE FLORIDA BAR WAS HELD ON AUGUST 18, 2009 INCLUDING ELECTION OF 4TH AND 5TH DCA SEATS.