

**Workers' Compensation Section Executive Council Meeting**  
**Chicago, IL, Renaissance Hotel**  
**May 18, 2013**  
**9:00 am CT**

- I. Presiding: Dawn Traverso, Chair
- A. Welcome-there were no guests.
- B. Attendees:
- |                   |                     |
|-------------------|---------------------|
| Dawn Traverso     | Paolo Longo         |
| Christopher Smith | Bill Rogner         |
| Joanne Prescott   | Richard Thompson    |
| Alan Kalinoski    | Mark Touby          |
| Jeffrey Jacobs    | Glen Wieland        |
| Philip Augustine  | Timothy Dunbrack    |
| Geoff Bichler     | Willie Mae Shepherd |
| Richard Chait     | Mary Ann Obos       |
| Allison Hunnicutt |                     |
- Telephonic-
- Paul Anderson  
Richard Berman  
Neal Falk  
Michael Rudolph  
Robert Strunin  
Bill Berke
- II. Approval of minutes of January 25, 2013 meeting as amended to renumber outline and include Mark Touby in attendance at January 25, 2013 meeting
- III. Treasurer: Alan Kalinoski
- \$57,011 revenue budgeted but already collected \$83,196, so we are already ahead. \$75,480 expenses budgeted, spent \$57,167...76% of budget
  - Very good shape financially, especially because of Forum
  - Treasurer's report approved
- IV. Committee Reports
- A. CLE-Chris Petrucelli  
Sign up for Learn at Lunch program, participation strongly encouraged
- B. HB 903 Relief Committee-Brian Sutter, Chair  
Tabled until next meeting
- C. Legislative Committee-Paul Anderson, Chair; Fausto Gomez, Section Lobbyist
- Chait reported that session was quiet this year. Repackaging bill passed, next year anticipated to be more active. Encouraged to stay vigilant.

- Thompson reported on “clean up” bill passing: \$700 cap on weekly benefits removed for catastrophic injuries; no longer a requirement that physician be certified, just have to be licensed; broadened time frame for medical bill dispute; EMA language remained the same. Governor expected to sign.
- Chait commented on effect of NCCI’s power to report on cost of the effect of certain caselaw and legislation, ie, *Westphal* cost on industry (2.6% increase in rates) \$2.3 million, without much analysis. Bichler suggested looking into section involvement in encouraging competitive rate making. It seems most carriers opposed to this however.
- Anderson feels court will have to issue opinions to strike certain portions of statute...otherwise, much change is not expected legislatively.
- Anderson reported on potential abolishment of JNC. Section took position that we wanted JNC to remain in position.
- Anderson is chair elect to FJA. Discussion on how and if section can and should support.

D. New & 440 Report—Jeff Appel, Chair

Tabled until next meeting.

E. Appellate Issues Committee—Bill Rogner, Chair

- *Westphal*-last brief filed on 5/16. Deadline 5/21 for state and city to file response to amicus briefs. Surprisingly, House and Senate filed amicus brief on behalf of carrier. Oral argument will likely be granted. One pro-claimant judge (Justice Davis), who was on original panel has retired. Comment on Legislature filing a brief...Rogner researched and the Legislature does have standing to file a brief to defend the statute.
- *Jacobsen-Winer* case. Oral argument was 3/13. Still no opinion yet.
- *Keith Elms*-Appel case dismissed on procedural issue.
- *Serrano v. Del Air*-Rogner case, defense prevailed over Tan, PCA.
- *Bacari Young*-Anderson case. Right to contract case with regard to fees. 5/14 oral argument.
- Winer cost case still pending.
- *Cespedes v. Yellow Transport, Inc.* and *Miller Elec. Co. v. Oursler*—conflicting decisions on admissibility of medical opinions. Motion for rehearing en banc filed. Jay Levy (appellant atty on *Oursler*) asked the court to consolidate.
- Giving Court a complimentary Forum book to Randy Porcher. Trying to get Court involved in the Forum next year.
- Court asked to be involved in our next meeting and possibly having oral argument in Miami at same time. January 24, 2014
- Rogner reported that frequency of oral argument being granted has remained the same.
- Brief discussion on issue of claimant’s winning appeals but appellate fees are being denied.

F. Membership Committee—Paolo Longo and Tim Dunbrack, Co-chairs

- 1191 members, one picked up at Forum at membership table. Will do another membership table at Convention. Dunbrack suggested having the ability to swipe credit card at table for fee and a one time discount for that day only. Suggested

that we look at the people who signed up for Forum that were not section members and going to them directly to solicit membership.

- Encouraged firms to have all comp attorneys to become members.
- Traverso will encourage students at Nova about signing up. Judge Lazzara, Judge Sculco and Shickel will be asked to talk about membership to their students.
- Rogner suggested section to offer to law schools to allow us to be guest speakers.
- Chait suggested that potential oral argument in Miami at a law school can also be a membership drive as well.

G. Forum Committee—Allison Hauser, Chair

- Great success.
- Section will make \$26,230.97 profit.
- Will still try to sell books for additional profit. Section will send out email to advertise sale of additional books.
- 498 attendees, 129 more than last year.
- WCCP had 140 last year and now 202 this year.
- Bar had 229 last year and 252 this year.
- \$154k total revenue, \$89k expense.
- Robert Dietz, Stuart Suskin and Bob Keeter received phenomenal reviews.
- Only one more year on contract with Omni. May also look at Rosen Shingle Creek for future contract.
- 10 law firm sponsors.
- Talk to Hunnicutt if you want to speak next year.
- Will follow up with George Kagan to provide sponsorship money for this past Forum as they advertised using the app.

H. Rules Committee—Christopher Smith, Chair

- Smith encouraged suggestions for proposed changes.
- Chait encouraged constant contact with Langham on everything being proposed.

I. Judiciary Committee—Leo Garcia  
Tabled until next meeting.

J. Board Certification—Phil Augustine

- 10 of 11 who signed up actually set for test; no results yet.

K. Technology—Martin Leibowitz  
Tabled until next meeting.

V. Chair's Report: Dawn Traverso, Chair

A. Traverso thanked everyone for support this year. Kudos to Hunnicutt for Forum and Leibowitz for website.

VI. Chair-Elect's Report: Chris Smith, Chair Elect

A. Smith thanked everyone for upcoming support.

- B. His goals are to promote improvements to system, be proactive and responsive to anticipated legislative change, promote contact with other groups, and promote education and professionalism.
- Need to embrace technology: proposed central location electronically for case-related documents; electronic funds transfers; electronic medical records and direct contact with providers' offices.
  - As this is anticipated to be an active legislative year, we have to be prepared. Maintain continued contact with Fausto and tap contacts and maintain regular contacts with groups.
  - Appoint rate making committee to study competitive rate making or transparency in how rates are calculated. Thompson and Berman to co-chair.
  - Suggest that section take a position that everyone have ability to enter into contracts with attorneys, defense clients and claimant's alike.
  - Keep contact with DCA.
  - Continue lunch seminars and Forum and continue to improve them.

VII. Unfinished Business

- A. Contribution to Friends of 440
- Bar approved \$500 donation. Dawn will make presentation at banquet on June 1.

VIII. New Business:

- A. Motion approved for Leo Garcia to serve as co-chair for Forum Committee.
- B. Committee appointed (Rudolph, chair, and Leibowitz) to investigate bulletin board on website to post job openings. Should be free for members.
- C. The section is no longer able to pay for JCC's lunches due to ethics policy. Suggestion that fee for attendance include cost for lunch. Traverso will follow up.
- D. Pro Forma Motion for Approval of Attorney's Fees—Judge Langham has suggested there is too much information being filed for approval of attorney's fees and there should be one uniform form. Committee appointed to investigate, Wieland, chair and Dunbrack will ask Kellie Gilmartin to assist Wieland.
- E. DOAH should have county child support information on website soon.
- F. Judge Langham has reported there have been several requests for defense attorney's fees to be approved by JCC. Motion approved that section takes position that we are opposed to any efforts to extend to defense fees the requirement of judicial approval. One opposed.
- G. Wieland and Gilmartin met with JCC's to address issues after discussions with Bar members in geographic areas. As a result of the meeting, it has been suggested that meetings be held in each district quarterly to address issues with judges and JA's; concern over lack of uniformity of procedures; concern that there is a lack of uniformity VTC hearings. It has been suggested that there needs to be Q rules addressing VTC's to address how to deal with evidence if judge appears by VTC; notice on VTC hearing and who judge is. Need rules committee and judges to see if they can come up with a proposed rule. Also suggested to have semi-annual bench and bar meetings. Need volunteers in each district to lead meetings. Wieland and Bichler volunteered in Orlando; Touby volunteered for Miami.

- H. FL Bar and FSAWC (Florida Stay at Work Consortium) proposal to present a Legal and Educational Forum in South Florida. Hunnicut and Garcia will investigate and report whether this is a viable option.
- I. Absences excused for:
  - Leo Garcia
  - Robert Grace
  - Brian Carter
  - Brian Sutter
  - Martin Leibowitz
  - Alison Schefer
- J. Chait recommended Section giving Professionalism Award at the Convention....Frierson/Colling Professionalism award. Will be given at Convention this year but then go back to presenting at Forum in 2014. Motion approved for Ray Malca to receive the award.

IX. Future Meetings:

- A. Trial Advocacy-June 14-15, Miami
- B. Annual Meeting-August 19-20, WCI Workers' Compensation Convention, Orlando
- C. Ski Meeting last week of February at Vail. Cut off to register will be 9/1/13.

Meeting adjourned at 11:16 am CST.