

**MINUTES OF THE LABOR AND EMPLOYMENT LAW SECTION
EXECUTIVE COUNCIL MEETING OF THE OF THE FLORIDA BAR
September 27, 2007**

I. Call To Order-Steve Meck called the meeting to order at 5:03 p.m. He noted that very few have appeared in person and he strongly encouraged all to attend future meetings in person.

II. Secretary/Treasurer Report

a. Consideration of Minutes-Alan Gerlach suggested that on p. 4, paragraph b, his last name be added as prior references were to Alan Forst. Eric Holshouser moved to adopt the minutes as amended; Alan Forst seconded the motion. The motion passed.

b. Financial Statement-Steve Meck noted that section membership is down significantly. Angela reported that the membership is down, but that happens every August. She has sent reminders to those whose membership lapsed, and many have rejoined as a result. Steve asked Angela to summarize the budget noting the current fund balance. Steve asked if there are any questions about the budget, and there were none.

III. Committee Reports

a. Membership Outreach Committee-Scott Fisher reported that a first meeting of the subcommittee will be scheduled in the near future.

ABA Liaison Subcommittee-Ray Poole has no report, but will contact last year's chair to get an update on the status of pending efforts. Steve Meck asked all committee chairs to review the description of his or her subcommittee on the website and create an e-mail listing of members so each committee can meet electronically at least once between each executive council meeting.

Law School Liaison Subcommittee-Jonathan Oliff reported that his subcommittee is planning meetings with various law school contacts to make sure the schools identify persons to make presentations at each school and to oversee giving out our section's scholarships.

Local/Voluntary Bar Association Liaison Subcommittee- Don Ryce has just been appointed to chair this subcommittee. Steve asked Alan Forst to report on the efforts of his local bar's labor and employment law section to sponsor various events. Alan noted other local associations have similar sections and suggested we reach out to the chairs of those local sections to draw more to our seminars. Alan also suggested that we work to coordinate luncheons of the local section with our section's

seminars. Scott Fisher reiterated that idea referencing what was done when he was chair of the Hillsborough County Bar Association's labor and employment law section.

New Membership/Outreach Subcommittee-Patrick Martin reported that his subcommittee has not yet met, but will meet soon. Steve Meck suggested that Patrick meet with Courtney Wilson to get his ideas as past chair of this subcommittee.

- b. Long Range Planning Committee**- Damon Kitchen reported that this subcommittee met recently and discussed two items. The first is the retreat which is tentatively scheduled in Orlando on February 16, but to be scheduled a little later in the afternoon for about three hours with a social event after the retreat. This would include inviting past chairs and executive council members. The second is to reinvigorate the long range planning dinners after every meeting of the executive council. The idea would include inviting a prominent speaker to come to the dinner. It would be dutch treat, except for the invited speaker. Leslie Stein was asked to find a speaker for the October meeting, and she mentioned that Gregory Katsas might be available as the first speaker. Damon mentioned that Mr. Katsas was proposed by Alan Forst, and Alan advised that Mr. Katsas would likely accept the invitation.
- c. Legal Education Committee**-Eric Holshouser reported that attendance for the Employment Litigation seminar tomorrow is a bit light with 41 currently signed up, but the PERL seminar is off to a good start with 19 already registered. Alan Forst asked about the current status of a trial practice seminar which he believes we should continue if possible. Leslie Stein volunteered to see if Florida International University would have an interest in being a sponsor location as it has new and impressive court facilities. She also reported that a former associate of hers is on the faculty and is experience in labor and employment law.

Continuing Legal Education Subcommittee-Jill mentioned the upcoming PERL seminar. Alan Forst suggested looking in more detail as to the date and location of the fall seminar. Alan Forst also urged Steve and Angela to settle on a date for the Certification Review Seminar & Long Range Planning Meeting, as they are only tentatively scheduled for February 14-16 and we need to secure a hotel. Steve agreed, noting some hesitancy to having a conference scheduled for February 14.

Current Legal Developments Subcommittee-Archie Thomas advised that his subcommittee has no report this time, but is in the process of scheduling a meeting. Also, all members of the subcommittee are being encouraged to submit articles, and Archie noted that the subcommittee is about twice as large as it has been in the past. Steve Meck advised that he

feels that it is the most difficult subcommittee to oversee and, as the first chair of this subcommittee, he offered his input and advice.

Judicial Outreach Subcommittee - No report at this time. Steve Meck asked that Robert Larkin talk with his predecessor, Mike Spellman.

Publications Subcommittee

Journal-Frank Brown reported that a couple of articles are in the works: one on family responsibility discrimination, another is on the labor pool case issue being dealt with by the U.S. Supreme Court.

Checkoff-Sherrill Colombo advised that a meeting is scheduled for October 8, and contact has been made with the subcommittee members. The hope is to publish three issues this year.

Website Subcommittee - Marc Snow is in the process of putting together the new committee and subcommittee listings that were received last week and hopes to have them posted on the website in the next week. Also, he would like to see if those that are doing the “new case updates” for the Check Off could forward him what’s going to be published so that he can add them directly to the website. Right now, he just has a blurb referring any reader to the most recent Check Off. Additionally, he would like to add some more FAQ topics, since what we currently have hasn’t changed in a while, but he would like input from the section members regarding what FAQs you think would benefit the membership. Finally, if anyone would like to see something new or different on the website, please drop Marc an email and/or give him a call to discuss. Marc’s goal is to keep the website as attractive and useful as possible, and he will be happy to make any changes to the site that will make it a better resource.

- d. **Special Projects Committee** - No special projects are pending.
- e. **Sanctions Committee and Sponsorship Committee** - No report

IV. New Business

- a. **BOG Report** - No report

- V. **Council of Sections Issues** - A written report is attached. Damon also reported that the Bar is taking more money from the sections, including employee time distribution, CLE administration, audio-visual expenses and four other categories. The Bar is increasing significantly the cost of audio and video taping the seminars. We can opt out of selling the tapes, but Damon wants to talk with Angela about the revenue to see if we could end up losing

money and will report back. Damon also spoke with the incoming president of Young Lawyers Division who advised that YLD is not planning a basic skills seminar in our area. She said that next year, YLD may plan such a seminar and promised to coordinate with our section. She also reported that YLD has no control over when its seminars are scheduled. She also suggested that a YLD member who is a member of our section be appointed as a liaison to our section.

VI. Chair Report/Committee Appointments-a listing of appointments is attached to the agenda. Complaints or additions should be directed to Steve.

VII. Adjournment

Eric Holshouser moved to adjourn the meeting, and Scott Fisher seconded the motion. The motion passed, and the meeting adjourned at 6:00 p.m.

Executive Council Members in Attendance:

Stephen A. Meck
Alan O. Forst
Eric J. Holshouser
Jill S. Schwartz*
David E. Block*
Frank E. Brown*
Sherril M. Columbo*
Scott A. Fisher
Alan M. Gerlach*
Leslie W. Langbein*
Marguerite Longoria*
Patrick Martin
Robert A. Miles*
Shane T. Munoz*
Jonathan Oliff*
Ray J. Poole, Jr.*
Donald T. Ryce, Jr.
Leslie K. Reicin Stein*
Archibald J. Thomas*

Executive Council Members with Excused Absence:

Gregory A. Hearing
Cynthia Sass
Cecil Howard
Ron Rosengarten
Cathleen Scott
Marcus L. Snow, Jr.
Michael P. Spellman

Committee Chairs/Program Administrator/Members in Attendance

Damon Kitchen*

Angela Froelich

Member guests:

Grace Mora

Martin Soll

*Attended via conference phone

Damon Kitchen's Report of the September 8, 2007 Council of Sections Meeting.

The meeting was called to order at 9:00 a.m. and followed the Agenda you provided to me fairly closely. The last meeting's minutes were approved with minor typographical changes.

After consideration of the minutes, discussion of The Florida Bar Cost Allocations System handout ensued as a portion of the "Old Business" segment of the meeting. As this information had evidently been explained at the previous meeting, a full and detailed overview was not provided. However, upon reviewing the document, it appears that the Bar's Cost Allocations System is predicated on charging for the following items: (1) Employee Time Distribution; (2) CLE Administration; (3) Audio/Visual Expenses; (4) Registrar Services; (5) General and Administrative ("G&A") Allocation; and (7) Other Expenses. No detailed explanation was provided at either the meeting or in the handout about these areas of cost allocation and it appears that in many instances, there is some overlap for some of these services. For example, employee time distribution supposedly applies to all Bar employees, yet employee time is also recouped under the cost allocations of CLE Administration and Audio/Visual Expenses (which are charged by the hour), as well as Registrar Services. Are the sections being charged for each of these items, or just once? I couldn't tell from the handout.

I was also concerned by the Audio/Visual Expenses. They appear so high (i.e., \$227.15 for set up and taping, as well as \$90.50 per hour for editing and \$7.60 per sale for media production) that these expenses might eat up any meager income our Section could derive from selling tapes of our CLEs. In other words, we could go into the hole producing tapes of our programs unless we sell a lot of them. In my opinion, this is something the section needs to evaluate. What do you think?

Finally, the two tables appended to the Cost Allocations Systems handout do not make sense to me. The first table shows our section's CLE profitability on a year-by-year basis from fiscal year 2002 through 2006. On average, our CLE profits were \$15,236. Nevertheless, the Bar projects that our CLE profits for fiscal year 2007 will be \$29,749 (i.e., almost double our 5 year average). Even noting that this year we go to an 85%-15% CLE profit/loss split with the Bar, I do not see how we will double our profits in CLE revenue in 2007. Do you? The second table shows Section Administrative Expenses in 2007. Although the chart shows we do not owe the Bar any money, we do not get a

refund from the Bar either. This chart shows we paid an administrative fee of \$25,120 to the Bar (for what I do not know) in addition to \$9,413 for staff time and \$4,709 in G&A. Other sections who paid both more and less than us in administrative fees got refunds. I do not know why we didn't get one, but then I am uncertain about what the refund criteria are. Notably, several other sections did not get a refund. Our total expenses for the year were \$14,122, i.e., the 3rd lowest of all of the sections.

Neither chart shows the allocation of CLE revenues between the sections and the Bar. Moreover, neither chart shows several of the Cost Allocation Systems criteria listed on the handout (such as CLE Administration, Audio/Visual, Registrar Services and Other Expenses), thus we are in the dark as to whether we are paying these cost allocations, if so, in what amount, and if so, for specifically what services that have been provided to us. Even the cost allocations for "Staff Time" and "G&A" do not provide us with a line item breakdown of what was done and what it cost us. I find this somewhat concerning. I was unable to run down the person who briefly explained the handout as he left the meeting before it was over. However, I think we need an explanation.

No financial report was given during the meeting as it had not been finalized by the Treasurer. Also, no report from the BLSE was given because no BLSE representative appeared.

During the Section Updates portion of the meeting, I provided a brief update about our CLE programs for this month as well as next month's joint Public Employees Labor Relations Forum with the City, County and Local Government Section. The Section Update portion of the meeting lasted an hour and a half and was very boring. I did note, however, that the Appellate Law Section is interested in partnering with other sections on CLEs. They are evidently having a hard time making money and are looking for help. If this is something you want to do, you may want to place this on the Agenda for the upcoming Executive Council Meeting.

During the COS meeting, I spoke to the President-Elect of the YLD, Jewell White Cole, who indicated that the YLD was not planning any basic skills programs in our practice area for the Bar year. She suggested that the YLD supply the Section with a liaison to attend our meetings to prevent potential CLE overlaps from occurring. This sounded like a good idea to me. She seems nice and willing to work with us.

The meeting concluded at 11:30 a.m.