

**Workers' Compensation Section Executive Council Meeting**  
**AGENDA**  
**The Driskill Hotel, Austin, TX**  
**May 16, 2015**  
**9:00 am – 11:00 am**

- I. Presiding: William Rogner, Chair
- A. Welcome-Introduction of Guests: Mark Sickles, The Zenith
- B. "Opt-Out" Presentation: Mark Sickles, Texas
- In Texas, used to have several hearings day. Now, less hearings, designated doctor. No settlement in Texas, entitled to lifetime medical, so hearings are issue based only. Over the years, system has changed. 30-35% employers opt out. Business creates crisis and then sells the administration
  - Opt-out, TX and OK. SC and TN have proposals. In Texas, have always had opt-out. Employer not required to have wc insurance. Few exceptions for public employees. Option to provide tradition wc insurance, administer as certified self insured, alternate coverage (nonsubscriber) and provide any type of benefits you want. Larger companies do this. Does not have to be approved by state, no minimum.
  - If you do provide wc, you have exclusive remedy, if you have alternate coverage, you are open to negligence lawsuits.
  - Why go bare, perceived up front cost savings, selection of doctors, retain more control over fraud and abuse, medical care direction, set up standards when entitled to indemnity, close claims. Can't settle claims, but if you have a benefit plan, and employee signs off, they only get what is in the plan.
  - If there is a dispute, most handled in arbitration.
  - Not a lot of attorneys handle nonsubscriber work, most are handled by arbitration.
  - In 2013, OK overhauled system. It was court based but now it is administrative. It used to be claimant friendly. Now, with new governor, it is more employer friendly. Attorney fees have changed. Only if there is a valid dispute. You can still settle, but if no dispute, attorneys not usually involved. Also adopted OK option, qualified employers can opt out. Provide written notice, provide same benefits at same level or higher, written benefit plan, state approved. Currently, roughly 45 employers have opted out. Larger employers.
  - TN filed for opt-out. If you have 5 or more employees, you have to have wc insurance. The proposed bill was to save employers money on coverage.
  - No limit on reasonable medical treatment, no cap on indemnity. The opt out had maximum cut offs but no minimum. No protection for employees. The lawyers are out of the system. There was a lot of opposition so it did not pass. There are amendments not to try to get it passed.
  - In FL, we would want it crafted that employees get at least the same benefits as if employer had insurance, and require Coverage B if opt out.
  - A special meeting will be called if a "pro-claimant" decision comes down from Supreme Court so that we can decide how to handle quickly.

- Winer suggested identifying allies in the industry to assist.
- Chait suggested developing a committee to address.

## II. Approval of Minutes of the January 23, 2015 Meeting: Joanne Prescott, Secretary

- Motion to approve minutes passed

## III. Treasurer's Report: Alan Kalinoski, Treasurer

- Revenues: \$133,444.00 budgeted  
\$109,897.00 actual (82% budget)
- Expenses: \$122,765.00 budgeted  
\$75,375.00 actual (61% budget)
- Total Fund Balance: \$89,475.00 budgeted  
\$117,563.00 actual (+131%)
- Phil Augustine to take over as Treasurer in July

## IV. Committee Reports:

### A. Section CLE: Dawn Traverso, Chair

- 'Learn at Lunch' seminars are going well
- CLE ski retreat either Beaver Creek or Park City

### B. Legislative Committee: Rick Thompson and Christopher Smith, co-chairs

- Nothing happened in the legislature, waiting for Castellanos. Anticipates special session should Castellanos returns fees.

### C. News & 440 Report: Jeff Appel, Chair (not present)

- On track to be published in June

### D. Membership Committee: Tim Dunbrack, Chairperson

- Table at comp convention; asked for volunteers to man the table
- Other plan is to focus on JCC's to become members. Suggested to reach out to Judge Cohen who is a member of section to encourage other memberships.
- The Bar approved our motion to allow judges to join dues-free. Some judges will not join because of lobbyist. We have done a great job of improving image of section to the judges.

### E. Forum Committee: Leo Garcia, Chairperson

- Several judges have expressed interest in speaking next year.
- More attendees and sponsors than last year.
- Profit \$26,476.28.
- Chait suggested having elections at Forum, which will require a bylaw amendment.
- The cost of having First DCA may be prohibitive so we will just focus on them attending January meeting

### F. Rules Committee: Mark Touby, Chair

- New rules were effective this past November. We got most of the things we wanted as a section, except election of live judge. It did get a lot of discussion.
- Phil is incoming chair of rules advisory committee.

- G. Judiciary Committee: Neal Falk, Chair
    - See above.
  - H. Board Certification Committee: Phil Augustine, Chair
    - 7 people sat, grading test in July
  - I. Technology Committee: Richard Manno, Chair
    - Rogner complimented Manno as Chair.
    - Facebook 200-400 hits per week. Need more exposure, ask friends to like the page.
    - If you have anything you want posted, send to [rmanno@winterparklaw.com](mailto:rmanno@winterparklaw.com)
  - J. Sponsorship & Advertising: Lizzette Francisco and Richard Berman, Co-Chairs
    - Efforts since last meeting were on securing sponsorships at Forum, 14 this year, more than last year.
    - Now focusing on selling banner advertisements on website.
- V. Chair's Report: Bill Rogner, Chair
- A. last meeting
- VI. Chair Elect's Report: Mike Winer, Chair-elect
- A. Echoed Thompson's forecast that there will be a special session if Castellano reinstates fees.
  - B. This will be our busiest year as a section if Castellanos reinstates fees
  - C. Will have to propose alternative legislation that everyone can live with
  - D. Suggesting Nashville for retreat next year
- VII. Unfinished business: Bill Rogner, Chair
- A. Excused absences
    - Mike Rudolph
    - Robert Strunin
    - Motion approved
  - B. Future meetings
    - August meeting 8/25/2015 1:00-3:00 pm
    - January meeting 1/22/2016
    - Ski trip last 2/21-2/25/2016
    - May meeting 5/12-5/15/2016

Attendees:

Bill Rogner  
 Mike Winer  
 Joanne Prescott  
 Alan Kalinoski  
 Paul Anderson  
 Phil Augustine  
 Richard Chait  
 Karen Cullen

Tim Dunbrack  
 Neal Falk  
 Leo Garcia  
 Robert Grace  
 Jeff Jacobs  
 Paolo Longo  
 Richard Manno  
 Sean McCormack

Rick Morales  
Dennis Smejkal  
Christopher Smith  
Brian Sutter  
Rick Thompson  
Mark Touby  
Willie Mae Shepherd

Phone:  
Richard Berman  
Geoff Bichler  
Lizzette Francisco  
Chris Petruccelli  
Dawn Traverso  
Glen Wieland  
Fausto Gomez

Motion to adjourn approved 10:17 am