

Minutes of the Florida Bar Workers' Compensation Section Executive Council Meeting
held in Las Vegas, NV - May 16, 2009
Taken by Jacqueline Blanton, Secretary

Attendees:

In Person

Chris Petrucci
Tuwana McMillan
Jacque Blanton
Alan Kalinoski
Leo Garcia
Joann Prescott
Tim Dunbrack
Bill Rogner
Tom Conroy
Brian Sutter
Richard Chait
Jeff Jacobs
Rick Morales
George Cappy
Dawn Traverso
Christopher Smith
Paolo Longo
Arlee Colman

By Phone

Robert Strunin
Diane Castrillon
Mike Winer
Fausto Gomez
Rick Thompson
Paul Anderson
Mike Rudolph
Ray Holly
Tara Sa'id
Jake Schikel

The following individuals requested excused absences: Glen Wieland, Robert Donahue, Raul De La Heria and Mark Zientz. It was moved, seconded and passed that these requests for excused absences were approved.

Bill Berke and Alan Aronson were absent without request for excused absence so they each have one unexcused absence.

II. Minutes from January, 2009 - Report given, moved, seconded and passed as written.

III. Treasurer's Report - Alan Kalinoski - Report given, moved, seconded and passed as given.

IV. Committee Reports

a. Section CLE - Dawn Traverso - Budget is looking good which is encouraging because of economic issues so everyone's efforts to limit expenses and costs are working well. We have scaled back on live seminars because of costs - the telephonic lunch hour seminars are making money and being well received. Aftermarket sales really make money for a seminar overall. Live seminars are very costly, winter retreat seminar is typically loser and it made \$2,400.00 this year. Format seems to have been significant with regard to cost reduction changing to a once per day presentation avoided the cost associated with two room set-ups per day. WC Forum seminar changes have also been very effective with regard to sponsorships and costs to allow for money making with regard to this event although there was a significant drop in sponsorships this year due to timing of RIMS seminar. Trial advocacy seminar has also been well run with regard to cost containment.

b. Winter Retreat - SnowMass is being looked at for 2010. No formal report given.

c. Workers' Comp Forum - Rick Thompson gave report - traditionally the program has not been taped because of a desire to encourage live attendance. Unfortunately, guarantee on room block was problematic because not filled - hoping to break even from the 2009 presentation, worst case scenario would be a loss of \$1,200.00. 2010 will be at the Omni as well with suggestion being made that the seminar be taped for audio/DVD sales aftermarket since money would be made from this format in order to increase revenue.

d. Trial Advocacy Workshop - Jeff Jacobs gave report - 21 attorneys signed up for program on June 5th and 6th at University of Miami. Committee would like to have 24 with 2 alternates which is considered a full slate for attendance so there is a need to fill a few more slots. Please encourage others to sign up.

e. News & 440 Report - Mike Winer - The latest edition is ready to go out, but a lot has been happening in the legislative session so issue held to allow for input from the session to be included. The next issue will be released within the next few weeks. Mike asked for and needs articles to be written for the report - commentary and feedback articles on happenings in session or other areas. Needs input in the form of articles.

f. Legislative Committee - Fausto Gomez & Paul Anderson - Great efforts/thanks given to Paul Anderson, Richard Chait, Tuwanna McMillan, and Paul De La Heria for their participation in the session. Paul Anderson reported that WC Reform was in the forefront of the session this year - negotiations went back and forth with the outcome being the House and Senate passing a bill to

remove the word reasonable from the statute. At present looking toward possible veto by the Governor. Geoff Bichler has also been working hard this session. Tuwanna, Richard and Paul will be meeting with the Governor next week. The Tampa Tribune ran an article on 5/15/09 calling for the Governor to veto the pending bill. St Pete Times and Palm Beach paper are expected to also do article calling for a veto by the Governor. The bill went to Governor Crist yesterday and he has a 15 day window to take action. If no veto, judicial relief will be sought.

Richard Chait reported that he and Christopher Smith were present every week of the session. Brian Sutter, George Cappy and Rick Morales also spent a tremendous amount of time in Tallahassee as well. Our section has the opportunity to have a significant impact given the bipartisan efforts of the section. Legislative positions have been expanded over the last few years and our stance needs to fall within those positions.

Tuwanna McMillan reported that the process in Tallahassee allowed for the section to meet with the legislators in a bipartisan fashion with chair and chair-elect/defense and claimant's bars being represented and working closely together.

Fausto Gomez - disappointed with session results, Senate traded WC bill for other matters in the House with a political trade being made at the last minute. Governor has said that WC is a House priority which may signal an opening for a potential veto. A meeting with Governor Crist has been set for next week.

Paul Anderson reported that Alex Sink may play a role in future events. He reported having met with her and advised that her office was generating a letter in support of compromise, but the letter was not issued because at the time of the offer, the amendments had passed. At present, it is unknown what future will hold. Consumer Advocate was authorized by her to testify on consumer rate making and other issues.

g. Judiciary Committee - Rick Thompson - relationship with Judges is stronger than ever - which is very positive. Section is giving judges copies of the board certification book and they are very grateful. Annual survey will be out shortly or just went out. Judge Sculco is doing an informal survey among the judges about how to make our judicial survey better and more informative for the judges. A few had voiced concern about the survey and next year's survey will encompass those suggestions/concerns.

h. Council of Sections - Richard Chait - attended meeting noting that most sections are in debt with economic issues at the forefront for all sections. Cost issues appeared to be the main focus of discussion. Richard noted that the workers' compensation section membership from 2003-2007 was noted to have had the most dramatic reduction as compared to other sections, but current membership roles are promising with increases being reported. Paolo Longo will attend the next council of sections meeting in June, 2009 in Orlando.

I. Technology Committee - Programmer being used to prepare list serve for the section. Tuwanna working on proposal and awaiting an estimate of costs.

j. Long Range Planning - Richard Chait - incoming chair - no report at this time.

k. Appellate Issues - Bill Rogner - wants to utilize committee to review cases as they arise to review issues that can be addressed on a bipartisan basis and has asked that council members advise of cases as they are working their way through the system.

l. Membership Committee - Paolo Longo - affiliate memberships added to include law students, paralegals and legal assistants. Need to encourage members to have their assistants join or become members. Will be working on encouraging section membership and will focus on doing so regionally for local focus on increased membership.

m. Professionalism Committee - Tom Conroy - He will be meeting with Judge Lazzara for report in August, 2009 during comp. convention.

n. Pro Bono Committee - Richard Sicking - not present - no report.

VI. Chair's Report

A. National Association of WC Judiciary - she and Richard were contacted by Judge Lazarra about the organization by some of the Florida judges of a National Association of WC Judiciary. They are in the process of organizing a luncheon for the newly formed National Association. This lunch would conflict with our Florida Judicial luncheon, so it was decided that we would be happy to provide the judges with our budgeted amount for our judicial luncheon which is \$3,000.00 as a sponsorship for one luncheon with the National Association sponsored by the section. The luncheon will now be combined so our judicial lunch will combine with the National Association WC luncheon to be one large luncheon with us spending our regular budgeted amount. National Association will cover costs of anything over \$3,000.00.

B. Annual Report Sent to Florida Bar - Attached to minutes.

C. Dawn Traverso - 2009-2010 CLE Chair and Bar Liaison - Dawn reappointed to continue in position.

Sean Shaw with Consumer Advocate has asked for section input into survey as to whether injured workers are getting the benefits that they are entitled to receive.

Announcement - FYI there is a Writ of Quo Warranto filed against Governor and Legislature - apparently suit has been brought for improper allocation of court funding. Robert Irving and Davidson Dunlap verses the Florida Legislature.

VII. Chair Elect's Report

Richard Chait congratulated Tuwanna on a great year.

Retreat locations 2010 - Retreat in NY City during May 2010. Westin, W in Times Square, Hotel Softel and Marriott Marquee were all discussed as possible locations. More information to

follow.

VIII. New Business

A. Nominations for Al Frierson Professionalism Award - Mark Zientz nominated Stewart Colling for award. Suggestion made to rename award Al Frierson/Stewart Colling Professionalism Award. Decision on award naming deferred to August and Stewart named to be recipient with presentation slated to be given at Forum in April of 2010.

B. State mediator CLE telephonic discount issues - cost issue. Exhibit C to agenda. Seminar fees will now be \$25.00 for mediators just as with 1st DCA law clerks. Dawn Traverso moved to add \$25.00 charge for state mediators to attend telephonic CLE seminars. Exhibit C has been amended to indicate telephonic seminars only. Letters will be sent out explaining that the charge is to defray costs only. Motion moved, seconded and passed.

C. 5th Appellate Claimant Vacancy - tabled to next meeting - need nominations to be addressed at the next meeting.

D. Excused absences - Glenn Wieland requested an excused absence as his son is getting married. Bob Donahue asked for excused absence as he is in Boston to attend his daughter's graduation. Mark Zientz requested an excused absence as he is in Dallas due to the birth of his grandchild. Raul De La Heria requested an excused absence due to a family emergency. All excused absence requests were approved.

E. Unexcused absences - Mike Rudolph and Diana Castrillon both missed two meetings and under the bylaws have been automatically removed from the council. Both were in attendance by phone and requested re-appointment by the council. Bylaws allow reinstatement with majority vote of council.

Mike Rudolph reported that he was not able to attend the meeting in Miami in January of 2009 nor was he able to attend the meeting in November of 2008 in Tampa due to calendar conflicts including mediating. He also reported being unaware of the attendance policy and voiced a desire to remain part of council. Moved and seconded to be reinstated - motion passed.

Diana Castrillon - She had made a prior excused absence request which was not provided to Tuwanna in error resulting in her having two unexcused absences. Moved and seconded to reinstate her to council - motion passed.

Jake Schikel - Survey issues - He reported working with Judge Lazzara on a survey about applicants for statewide nominating commission. JNCs appointed by circuit so reputations known. In WC, our statewide system does not have local knowledge of all applicants so it is hard to know reputation of people seeking appointment. As a result, a questionnaire is being drafted and when there is an opening information will be sought out about those who apply for the position. Questions in survey will go toward competency, professionalism, diligence, etc. Very short window for application submission and interview. Unfortunately, the questionnaire did not go out for the upcoming interviews. Jake asked for the section to endorse sending out the

survey to gather information on applicants. Survey will be sent to council for review and comment on the survey before it is distributed. Florida Bar will be checked with on Monday regarding sending of survey to insure no issue with the bar. If that is verified, the section endorsed sending the survey to section members for comments about the applicants for statewide nominating committee for workers' compensation nominating commission so that input can be obtained. Tuwanna recommended that the Judiciary Committee Chair, Rick Thompson, and Long Range Planning Committee Chair, Richard Chait, work with Jake on this project. Motion moved, seconded and approved.

Emeritus Status - Review suggested to determine who qualifies and it was recommended that informational emails be sent to advise Emeritus Members about meeting dates, times and locations, but not include Emeritus members on our list serve for dissemination of current council business issues/updates. Discussion was also had regarding removal of names of those who no longer qualify as members in good standing of the Florida Bar as well.

Meeting adjourned.