

Minutes of Workers' Comp Section Executive Council Meeting
August 21, 2012 Orlando, FL

Attendees:

Dawn Traverso
Christopher Smith
Alan Kalinoski
Jeffrey Jacobs
Bill Berke
Neal Falk
Allison Hauser
Martin Leibowitz
Paolo Longo
Michael Rudolph
Michael Winer
Philip Augustine
Richard Chait
Bill Rogner
Paulo Longo
Tim Dunbrack
Rick Morales
Leo Garcia
Brian Carter
Glen Wieland
Mark Touby
Richard Thompson
Arlee Coleman
Diana Polston-Burnett
Fausto Gomez
Chief Judge Langham

- I. Presiding: Jeff Jacobs, outgoing Chair.

Welcome and Introduction of Guests

Rob Grace is newest member.

Introduction of Judge Langham: Suggestions regarding app from DOAH/OJCC. They have put WIFI up in the JCC offices. Go to settings and click on other and input "JCC" and it is good for all 17 JCC offices and there is no password. Case filing and efilng explained. Judge Langham is working to fill vacant spot in Tampa. Remodeling Miami office and may use the new Tampa judge to

focus on Miami via VTC in order to pull back on the JCC's around the state who are helping the Miami JCC's office.

Fausto Gomez is present.

Diana Polston is introduced as our bar liaison.

Awards: Allison Hauser – Forum; Michael Winer retiring from News & 440; Leo Garcia – Working on updating professional rules of responsibility; Jacque Blanton – Secretary; Steve Kronenberg has retired from section and the practice of law; Dawn Traverso – CLE chair for 5 years, outstanding work.

Passing the Gavel to Dawn Traverso incoming Chair.

II. Approval of May Meeting Minutes: Approved by unanimous vote.

III. Treasurer's Report: Alan Kalinoski

Section has balance of \$64,396 and last year had \$89,809. Council questioned Arlee regarding how the section lost \$30k over the last year in budget. Need a better breakdown of year end budget. Chair asked Alan to investigate and have a better handle on why the budget is \$30k off.

Tim Dunbrack is going to check what the membership level is. Jacobs noted that we had increased our dues to \$60 so we should not be running less than last year on dues to the section.

Discussion of soliciting sponsorship. Chair wants to appoint someone to head up committee for sponsorship. Work with Alan on what our expenses are. Rob Grace and Alan will work on this and will co-chair the Sponsorship Committee.

IV. Committee Reports

A. CLE: Excusal for Chris Petrucelli. He will do CLE with Michael Randolph. Set up the rest of the year. First telephonic webinar went well on Medicare per Arlee. October CLE is tentatively scheduled with Bill Rogner.

B. Ski Seminar: in Tahoe at the Embassy Suites the last week in February. \$129 per night for weekdays and \$224 night for weeknights. Brochure ready within 3-4 weeks so we can publicize that early. Closest airport is Reno and a half hour ride to the resort.

- C. HB 903 Relief Committee: Brian Sutter not present.
- D. Legislative Report by Fausto Gomez. Summary of recent legislative action: The repeal of the law to prepare an annual report; The appeal of excess profits passed; Adopted Jeff Atwaters' check cashing legislation; Matt Gates tried to eliminate the office of the JCC although issue may be back next year; Elimination of 440.191 did not pass; It was a proposal by the higher ed committee because rehab used to be under the dept. of education and now under a different branch; Whole section transferred to the CFO's office; Drug repackaging is a significant issue as it adds 8% of the cost on WC policies; Modifications to Exemptions did not pass; The look back period modifying the penalties for not having WC from 1-3 period did not pass.

Next year priorities. Presumption is on the agenda for being cut to reduce pension. WC reports.

Report of issues focused on by newly elected candidates: The first responder presumption and the drug repackaging issue.

Republican and House leaders have come to Fausto's office for events he has hosted. Also wants for Council to be present at Democratic events he will have at his home which will occur in November after the election.

The Leadership of the Senate if the focus of the upcoming election. Will it be moderate or much more conservative? Jacksonville election – Weinstein and Bean won the vote which is a Negron vote. Brandis won which is a Negron vote. AIF was present, too. The parties are moving further apart, not closer together. The year was successful. Fausto predicts an active year as Governor Scott will be moving his agenda along over the next two years.

Interaction with the Fla. Bar over issues. Fausto has met with MaeAnn Downs. Issues are poor funding and split house. Reduction of filing fees and how it is made up are issues. November 6th Constitutional Amendment for court funding. Supreme Court budget has to be approved by the Senate. Can be overruled by 2/3 vote of the Senate.

Discussion that this is a positive trend for the Council. Not previously been able to enlist support of Bar president. Lots of synergy.

- E. News & 440 Report: Jeff Appel, Editor. Done by Mike Winer and he asks that we all submit articles to Jeff for inclusion and that we maintain the high quality of the publication.

F. Appellate Issues Committee: Bill Rogner, Chair.

Randy Forshe' is running the WC dept. of the First DCA and Bill is going to have lunch with him. Would he want to be a speaker at the WC Forum. He spoke to Neal Faulk's group and he did a great job per Neal. He has an hour long PP presentation.

New portal for DCA will be coming in about a year to First DCA.

Bill suggested that we send thank you notes to the First DCA for coming to the WCI conference. We have letterhead in order to do that. Dawn will write a letter to Clerk Wheeler and Bill will send an email to Dawn containing the names of all of the judges who were here today.

Alan K. expressed the DCA would be happy to come to come to the Forum.

Rick suggested that we figure out how to use the Administrative Trust Fund to help us pay for expenses of DCA to travel to oral argument. Potentially use \$10-15k from the fund. Dawn will follow up with Judge Cohen to see if she can figure out how to make it happen.

University of Miami may help out with funding to the first DCA.

Maybe do oral argument at the same time that Ray Malca's trial advocacy course per Dawn.

G. Membership Committee: Paulo Longo/Tim Dunbrack, Chair.

Tim would like to travel to county bars in order to explain what members would get out of the WC section. He can have media consultant put something in publications.

H. Forum Committee – Allison Hauser, Chair.

Check for \$17,713.34 tendered by Allison Hauser to Ms. Traverso and given to Ms. Coleman for deposit.

Contract with the WCCP 55/45 split is recommended and also splitting loss 50/50 instead of along the lines of the original contract.

Dawn brought up that we have clients who will hopefully be attending the Forum rather than WCI.

I. Rules Committee – Christopher Smith, Chair.

Three proposed rules got the attention of the Rules Advisory Council. \$250 Safe Harbor costs were ok and so were the electronic filing changes.

By Chris Smith - 60Q-6.116(5) Stipulations and Agreements – Phil and Leo and Jeff and Rick on claimant’s perspective. Proposed rule language was submitted to FWA who approved the language last week and sent letter to Cohen and Langham as to what was approved. RAC met yesterday and approved the proposed language on the screen, which is contained on page E of the agenda.

Martin is moderator.

FWA and the rules committee have agreed to the “Upon the agreement of the parties, in the absence of fraud, the judge shall enter an order approving . . .” The judge shall not inquire beyond the stipulation or agreement, except upon verified motion of a party to such agreement or stipulation.”

Discussion of pros/cons of rule: Need to create some type of rule that will allow us to get in front of the judge. There may or may not be good cause. They put a time deadline on it in order to have the issue resolved. Problems with JCC enforcing an email. There is no discretion of the judge with regard to what must be approved.

The rule was approved. 15-8 with one abstention.

Motion to disapprove rule that claimant’s counsel being responsible for determining liens. A certificate from claimant’s counsel that diligent efforts have been made. 6.123(9). Motion carried.

J. Judiciary Committee: Leo Garcia, Chair.

JCC conference was chaired by Judge Portuallo in Chicago. Judge Portuallo looked at the rules that Leo and his committee prepared. They are seeing professionalism eroding a bit. Leo will get with Diana Polston to see that the new professional guidelines will be published in the Florida Bar News. The guidelines will be published in the Bar Journal. The JCC’s have endorsed them and do support them. Historically was published in the book at the WC Conference. Suggestion to publish in the Forum course book.

Sub tab on OJCC website and on Section website – current rules of professionalism are on our website.

K. Board Certification Committee: Philip Augustine, Chair.

10 sat for the test and only two passed. One person did not show up.

CA company says they can no longer ask true or false questions

Discussion of reason for 20% passage rate? Lack of preparedness vs. questions.

Discussion of content presented at Forum vs. test. Suggestion that what was presented at the Forum was not necessarily where the questions were focused.

Phil indicated that the Board Certification committee is required to pretest at the EC level.

L. Technology Committee: Martin Liebowitz, Chair.

Martin has debuted the new website. Provision in contract for advertising. \$150 for each banner and one-time fee. Our cost is \$150 and we can start obtaining additional revenue for our website. Appoint someone to look into advertising for website. Cross-selling of advertising – if an ad appears in News & 440 and then we can also post that on the website, too and they can get additional advertising on the website.

Fausto should do a blog and so should Dawn and updated it frequently. Not for everyone to have their own blog.

We can give JCC Langham access to our website to do a blog on there. We can also give access to others who are members of the EC, for example Allison Hauser who chairs the Forum can post business of the A-Team on the blog.

We also have a calendaring function in which we can send info to Arlee and she will make sure it is added to the calendar. FWA can put their meeting schedule on it. Many people can take advantage of one centralized calendar on our website.

Current newsletters and minutes will also be on the website.

CLE's will be posted but you have to go to the Bar website in order to register. The bar is the merchant and the section is not.

Can we send appointments to Outlook into our calendar? Martin and Arlee do not know but Arlee will investigate.

Website not up yet, but will be within the next few weeks.

Newsfeed is also available.

V. Chair's Report: Dawn Traverso, Chair

- A. Elections – Voting on 4th and 5th districts on site.
- B. Should not have been on the agenda.
- C. Motion made to approve the Nominating Committee's suggestion that Bill Rogner serve as chair after the motion was made and approved, Mr. Rogner accepted the nomination.
- D. Anderson, Prescott, Bichler, Sutter, Longo, and Petrucelli – all requested excused absences. Approved.

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

Should get more involved in the Workers Injury Law Group in order to have some input in what CMS and MSP are doing. Be more aggressive on fund raising. Also wants to do something to move us as a group to more electronic practice, including paying benefits electronically and viewing medical records electronically. Make as a priority to our section what is being done in other states concerning electronic records. Priority, also that his recommended venue for his Chairmanship of the Committee wants to go back to Manhattan.

Suggestion of rule change requiring electronic production of medical records.

VII. New Business

VIII. Future Meetings

Meeting adjourned.