

The Florida Bar

Business Law Section

Computer and Technology Law Committee

MINUTES OF MEETING – JUNE 23, 2011

Attendance: Kevin Levy (klevy@gunster.com), incoming Chair
Larry Kunin (lhk@mmmlaw.com), incoming Vice-Chair
Joel Rothman (jrothman@arenstein.com)
Doug Cherry (dcherry@slk-law.com)
Joel McTague (jmctague@fwblaw.net)
Darren Spielman (dsielman@complexip.com)
Robert Thornburg (rthornburg@addmg.com)
Stephen Nagin (snagin@naginlaw.com)
Manny Farach (mfarach@richmangreer.com)
Don Conwell (dconwell@ckbusinesslaw.com)
Dineen Wasylik (dwasylik@ckbusinesslaw.com)
Sam Lewis (SLewis@FeldmanGale.com)

Minutes: There were no minutes present from the midyear meeting.

Introduction of New Leadership: Kevin Levy presided over the meeting for Stephen Milbrath, who served as Committee chair for the past two years. Kevin will officially become the Chair at the Business Law Section Retreat in Naples in September 2011. Larry Kunin will become Vice Chair.

Introductory Statement: In response to inquiries about the Committee, the Section inquired as to the status of the Committee and the interest of members in continuing the Committee. To address this issue, Kevin set forth a plan to reinvigorate the Committee, including the establishment of a new Mission statement, as well as clear annual Goals and topics of interest for the Committee to discuss. Kevin and members attending the meeting agreed that it is important to re-energize the Committee by not doing the same things we have done in the past. For example, with the rise of interest in e-discovery, it was natural for this Committee to address such issues, but the Committee essentially became known as the e-discovery committee. Kevin named a number of other topics for the committee to discuss, and members attending the meeting added to the list.

Introduction of Attendees: Each attendee gave an introduction and background, and many offered recommendations for the future of the Committee.

Joel Rothman: The Committee needs to refocus.

Steph Nagin: The Committee has lost direction, it has become place for IP lawyers to come in the afternoon.

Kevin Levy: There has been confusion over name. People think we are the Computer and Cyber Law Committee, but we are the Computer and Technology Law Committee, which includes a broader range of substantive technology (software and hardware) issues. There are a number of new, cutting-edge and interesting substantive areas of the law that this Committee can address.

Bob Thornburg: We can be a substantive law committee. There are also criminal aspects and civil aspects.

Invitation to Participate in Clinical Program

Joel met Professor Linda Rohrbaugh of Full Sail University in Orlando. She wants to start clinical program at Full Sail that will concentrate on digital rights, digital media, and computer related issues. Joel suggests creating a network using our committee to provide support to startup businesses, which will then use student support.

For example, a client may not be able to afford a legal opinion. The issue is high dynamic range (“HDR”) photography, which is an art form that combines different photo exposures to create vibrant photos in Adobe Photoshop. There is also a program called Gigapan Robot that takes hundreds of photos of single photo and combines them. Client combines HDR with Gigapan to create super photo. The legal issue is that some photos are of graffiti, and portions of the graffiti photos are then imprinted on fabric such as bathing suits. What rights does the graffiti artist have, keeping in mind artist acted illegally by creating the graffiti? The clinical program would provide a student to help answer this question.

Ideas for the Committee

Cross notice our meetings with the Criminal Law section to invite their participation.

Cloud computing.

The current mission statement of the Committee published on the Committee’s webpage on the Business Law Section website does not make sense and needs to be updated. Kevin is going to work on a proposed revised Mission Statement to be added to the Committee’s webpage, along with topics from this meeting. The Committee will discuss and vote on the new Mission Statement during the meeting at the BLS Retreat in Naples.

Ethics opinions. For example, can an attorney use cloud storage and keep privilege.

CLE for next annual meeting.

Technology recommendations: For example, look at report by Steph created for the Supreme Court.

Interdisciplinary topics or subcommittees.

Have more than one listserve – Use one for committee communication, and another one to communicate to leaders of other sections and committees.

Broaden reach

Visit by Business Law Section Leadership:

Chair Michael Higer introduced Chair-elect Mindy Mora. The Business Law Section is aware that there are identity issues with committee, and that this is part of what will be resolved at the current meeting.

Tracey Eller was introduced as the Business Law Section Webmaster. The Committee can use her to advertise then committee's activities. She can also set up a two way listserve, Twitter account, and Linked In page for the Committee.

Bill Wiley, the Section's lobbyist, gave a legislative update. The big recent issue is that creditors rights was clarified in a new homestead law thanks to the efforts of the Business Law Section. Bill said that over time legislative bills may be sent to the Committee, and that it is important to get back with him quickly if there are any comments.

Listserve:

Notices to the Committee have been poor, and everyone agreed that a listserve could address this issue, while also providing the opportunity to discuss "hot" topics.

There was confusion over whether there is an active listserve because many people on the Committee have not received emails. It was not clear who runs the listserve. People do not know how to get in the listserve. Sam Lewis joined the meeting and stated that the listserve is alive and well, that he runs it, and that he can add any person to the listserve. Sam was provided with the emails of attendees at the meeting. The Committee will do a better job using the listserve to communicate.

Mission Statement: Kevin will take first stab at drafting a new Mission Statement.

Goals.

- CLE presentation at June 2012 BLS meeting
- Ethics opinion on computer or technology law
- Develop and refine new Committee infrastructure
 - Increased communication (emails and listserve)
 - Meeting Agenda
- Increase Committee membership

Substantive Topics than Can be Addressed by Committee:

Ethics

Licensing

Certification

E-discovery

Cloud computing

Open source

Technology implementation projects

Outsourcing services by clients; often lacks a proper contract. There are often data and privacy issues. For example, banks do a lot of outsourcing.

Internet long arm jurisdiction

ABA announced a rule on outsourcing, although the opinion is about lawyers outsourcing legal work.

Creating civil cause of action in computer fraud statute.

Social media

Meeting Close: Kevin closed the meeting with his commitment to re-energize the Committee, including greatly increasing communication with members of the Committee through the listserve, adding members to the Committee and delivering a proposed new Mission Statement and updated webpage for review.