

**Minutes of the Annual Meeting of the
Business Law Section of The Florida Bar and
Annual Meeting of the Business Law Section Executive Council**

June 23, 2005

Chair, Maxine Long, called to order the Annual Meeting of the Business Law Section of The Florida Bar at approximately 3:57 p.m. on June 23, 2005. The Chair announced that the only order of business was the election of officers for a new term. The Chair recognized Philip Schwartz, a member of the Nominating Committee. He noted that Roberta Colton, Judge Michael Williamson and Greg Yadley were other members of that Committee. The Nominating Committee recognized Mark Wolfson as the incoming Chair and recommended Diane Noller Wells as Chair Elect and Merrick “Rick” Gross as Secretary/Treasurer. The Chair asked whether any other nominations had been received by the Secretary, pursuant to the Bylaws. The Secretary responded in the negative. Bucky Fox moved that the officers be approved by acclamation, with a second. The vote was unanimous. The Chair congratulated the new officers. The Annual Meeting was concluded. The following members were in attendance:

David Ackerman	Henry Fox	Mark Roher
Stuart Ames	Merrick Gross	Joel Rothman
Scott Austin	Michael Higer	Stefan Rubin
David Baker	Jeffrey Hirsch	Marsha Rydberg
Philip Bates	Glen Howard	Lisa Schiller
Howard Berlin	Faye Jones	Philip Schwartz
David Beyer	Jonathan Koch	Jeanne Seewald
Russell Blain	Katherine Lake	Scott Shuker
Michael Chesal	Edward LaRose	Thomas Smith
Stuart Cohn	Maxine Long	Gary Teblum
Louis Conti	John Macdonald	William VanNortwick
Melanie Damian	Stephen Mahle	Diane Noller Wells
Kenneth Darrow	Thomas M. Messana	Michael Williamson
Jeffrey Davis	James Murphy	Mark Wolfson
Ava Doppelt	Stephen Nagin	Donald Workman
John Emmanuel	John Olson	Gregory Yadley
George Fender	Karen J. Orlin	

I. Annual Meeting of the Business Law Section

Immediately following the Annual Meeting of the Business Law Section, the Chair, Maxine Long, called to order the Annual Meeting of the Executive Council of the Business Law Section of The Florida Bar (the “Section”).

II. Approval of Minutes

Upon motion, with a second, the minutes of the April 7-10, 2005 Spring Retreat of the Executive Council were approved, with certain date corrections.

III. Treasurer's Report

A. **Midyear Statement.** Treasurer Diane Noller Wells presented the current financial status of the Section and reported that the Section continues to be in good financial condition. The Unaudited Statement of Operations for the Section, including with revenue and expenses for the Summer Retreats, dated May 11, 2005 was distributed to members and a brief discussion was held. It was noted that the net operations for fiscal year 2004-2005 to date was \$55,331, leaving a total current fund balance of \$266,051. A brief discussion was then held regarding the Section's reimbursement policy for judges and professors. Upon motion, with a second, the Treasurer's report was approved.

B. **Budget Task Force Memo.** Marsha Rydberg, Chair of the Council of Sections, reported on the status of the Budget Committee of the Board of Governors ("BOG"). Starting with Bar year 2006-2007, changes to dues split, Section support and CLE will be implemented. The BOG will increase the dues split by \$5.00, to \$17.50 per member. The BOG expects each Section to increase its dues by that amount to adjust to this increase in revenue to the Bar. Simultaneously, the Bar will institute a program that provides minimum support of \$10,000 to a section, plus an additional \$5.00 per member for each member over 1,000. G&A will be apportioned to the Section based on expenses, but the allocation will be based on 80% of G&A, not 100% of G&A to address concerns about items that should be eliminated from the G&A calculation. Further, the printing rebate will be eliminated entirely. The Bar will rebate back to the sections up to \$5.00 per member, but limited to the actual surplus remaining for that section after comparing the due split and actual section support by the Bar. A section may receive all or part of the rebate up-front if it had a positive surplus in the preceding three years. If the section maintains a reserve of not less than \$2.00 per member, the section may receive 100% of the rebate upfront, subject to a true-up at year end. Any further changes in dues will be implemented with not less than one year's notice. The changes to CLE revenue and net revenue split outlined in Jerry Beer's letter of March 22, 2005 will be implemented beginning with the 2006-2007 Bar year, with a two-year implementation phase. Sections will receive 90% in year 1, 85% in year 2, and then 80% thereafter, of net revenues, with the remainder paid to the Bar. As presently operating, it is anticipated that the Section should feel little impact from these changes, assuming the Section increases its member dues by \$5.00 per member beginning Bar year 2006-2007.

IV. Special Committee Reports

A. **Multi-Jurisdictional Practice.** Chair Maxine Long thanks her partner, Steve Maher for his efforts in presenting the position of the Section to the Florida Supreme Court. While the Supreme Court adopted the position of the Florida Bar and not the Section, the work was worthwhile, with the issues being revisited in two years after enactment. At that time the Supreme Court will review statistical data that shows how the new rules have impacted the domestic arbitration practice in Florida. The multi-jurisdiction practice rules are published at 13 Fla. L. Weekly Supp. 1. (5/12/05).

Maxine Long also reported that the Florida Supreme Court has not yet issued their ruling on changes to the ethics rules regarding the extension of Ethics Rule 4-1-10(a), Rules of Professional Conduct, to prospective clients. A subcommittee chaired by Judge William Van Nortwick reviewed the proposed change versus the rule change adopted by the ABA. The rule change concerns whether a firm, or the particular lawyers involved, in a “beauty contest” with a potential client and who learn confidential information are disqualified from representing another person in the matter. The Section promoted disqualification of the lawyers only through a screening of them from the matter. The Florida Bar is promoting a rule change that disqualifies the entire firm. At this time, 13 of the 15 states that have extended their corresponding ethics rule have adopted a screening requirement and have not disqualified the entire law firm from future representation.

B. Intellectual Property Certification and BLSE status: Steph Nagin reported on the meeting of the BLSE held in April and the follow up requested by them for their June 24th meeting. A discussion took place regarding the changes requested by the BLSE to the certification proposal, whether such changes were substantive in nature and required further approval by the Intellectual Property Committee, and the approach to be taken by the Section at the June 24th meeting. The BLSE suggested that, similar to the practices of other substantive law certifications, a single certification with sub-qualification standards was appropriate and they saw no need for separate certifications by sub-qualification. The suggestions and questions of the BLSE will be vetted by the Intellectual Law Committee at its August meeting.

C. Awards and Recognition: Michael Higer was awarded the *Outstanding Executive Council Member of the Year Award*, recognizing him for his years of incredible service to the Section, including for his hours of work and travel for our Business Courts project, the creation of the State and Federal Judicial Liaison Committee, the creation of the first Judicial Institute for Business Leaders by the Florida Supreme Court, service on the Business Litigation committee and much, much more.

Retiring members were recognized and thanked for their excellent work, including, Judge David Baker, Robert Duckworth, Judith McCaffrey, Jon Koch, Steve Peretz, Ronald Roman, and David Saliwanchik. Manny Farach, Scott Shuker, and Jim Gale were thanked for their work as chair for their substantive law committees and commended for remaining on the Executive Council to promote other work of the Section. Each other member of the Executive Council was recognized for their terrific service and given an atomic clock as a small token of appreciation for their work this last Bar year.

V. Committee Reports

A. Antitrust, Franchise & Trade Regulations. David Beyer gave the Committee report. The Committee is considering whether to embark on seeking certification for franchise law lawyers. They are looking to streamline the franchisee exemption process and may prepare a franchise law handbook for trial judges.

B. Bankruptcy/UCC. Scott Shuker gave the Committee report. 50 plus members attended. The Committee is looking forward to a great seminar in June addressing the Bankruptcy Reform Act. The Committee will also review a report on UCC Article 1 in August.

C. Bankruptcy Judicial Liaison Committee. No report.

D. Business Litigation. Jon Koch gave the Committee report. The February seminar held at Stetson was a huge success, distributed via webcast. The Committee is updating its certification course materials. The Committee is looking at seminars for the fall and spring, including a joint venture with the Computer Law Committee on electronic discovery topics. David Ackerman, as editor, is finalizing the updates to the Business Litigation Manual, and Melanie Damian and Peter Valori, are working on case law updates that will be posted to the Section's website.

E. CLE Committee. Michael Higer gave the Committee report. In the 04/05 Bar year, the Section produced 3 brick and mortar seminars, 7 lunch seminars and 1 webcast. Michael requested that all vice chairs attend the CLE meetings, which will be held by conference call. He also urged the Committees to better market their seminars, add substantive programs to their meetings in order to provide CLE credit to attendees, and to include the substantive program on the Committee's agenda for the meeting.

F. Communications Committee. Alan Howard gave the Committee report. He announced the launch of the Section's new website. A burst email will be sent to all Section members around July 1st inviting them to the website. He also recommended each chair and vice chair to talk with Tracey Eller regarding how they can self-edit the website for their Committee.

G. Computer/Cyber Law. Manny Farach gave the Committee report. He reported that 70 people had registered for the Committee's CLE: "The Cyber-Law Tool Kit: What Every Practitioner Needs to Know" scheduled for June 24th. The Committee is also discussing starting a BLOG in the coming year to discuss topics, including the Supreme Court's Report on privacy and which of the 178,000 exemptions apply to internet records.

H. Corporations, Securities & Financial Services. Karen J. Orlin provided the Committee report. Florida State Representative J. Dudley Goodlette, Commissioner of the Florida Department of Financial Services Don B. Saxon, Director of the Division of Securities and Finance of the Department Richard White, and representatives of Enterprise Florida, and students of two law schools attended and participated in the meeting. The Committee discussed the passage and signing of the Florida Revised Uniform Limited Partnership Act (2005) and amendments to other business entity statutes, Chapters 517 and 617 issues, the Florida Supreme Court's recent decision in

Cowan Liebowitz & Latman, P.C. v. Kaplan (Fla. March 17, 2005), new CLE programs and the legal opinions project

I. Council of Sections. Marsha Rydberg further reported on budget issues. The Council continued its review and discussion of the issues raised in Ms. Rydberg's status report. See III.B. above.

J. Intellectual Property Committee. Jim Gale gave the Committee's report. The Committee's task force reviewing malpractice insurance issues presented their report at the meeting and considered partnering with the AIPLA or the ABA to achieve better rates for practitioners. The Committee's task force to monitor the model state trademark bill filed in the Fla. Legislature and to provide a technical input memo reported that the bill was no longer moving forward. However, the Committee would review revisions to Florida's trademark law.

K. Legislative Committee. Rick Gross gave the report. All Section sponsored legislation passed and he referred the Council to the report included in the package for the meeting. Russ Blain further reported that legislation regarding the use and scope of arbitration clauses in a check cashing agreements will be reviewed. Upon motion made, with a second, the contract to employ Bill Wiley was approved with the correction that the total dollar amount is \$60,000.

L. Long Range Planning Committee. No report.

M. Membership & Law School Relations Committee. David Ackerman reported for the Committee. The Law School Program was a success this last year. In August, the Committee's main agenda issue is new membership ideas.

N. Opinions Committee. Phil Schwartz reported for the Committee and requested volunteers for the opinions project. A substantive drafting meeting will be held in August.

O. State/Federal Court Liaison Committee. Judge VanNortwick and Michael Higer presented the report for the Committee. The Florida Supreme Court has requested the Section's help to sponsor another institute in January for business leaders. The Committee will begin work on the project via telephone conference before the August meeting.

VI. Chair's Report: Maxine M. Long

Maxine Long thanked everyone for "real great" year with a "really great group." She thanked the participants who attended the Costa Rica trip. She thanked Alina Cooper for her work with the Section and presented her with a gift.

VII. Chair-Elect's Report: Mark J. Wolfson

Mark Wolfson recognized Maxine Long, as the out-going chair and presented her with a plaque, a CD of pictures from Costa Rica and a gift of an iPod she has been wanting for some time! Mark invited everyone to the Section's August Retreat in Manalpan and asked for input on the best dates for the Spring 2006 Executive Council meeting.

Thereupon, the Council adjourned at 6:05 p.m.

Respectfully submitted,

Diane Noller Wells
Secretary/Treasurer