

**Minutes of the June 22, 2006 General Meeting of the Florida Bar
Business Law Section and the Meeting of the Executive Council of the
Business Law Section of the Florida Bar**

On Thursday, June 22, 2006, at approximately 3:30 p.m., the Executive Council of the Business Law Section of The Florida Bar, as well as the Section as a whole, met during the Florida Bar Annual Meeting at the Boca Raton Resort and Spa in Boca Raton, Florida. The following members of the Executive Council were present:

David P. Ackerman	Thomas A. Lash
Alan H. Aronson	Maxine M. Long
Douglas Bates	Mindy Mora
Philip A. Bates	James B. Murphy, Jr.
Hans C. Beyer	Jason M. Murray
Russell M. Blain	John K. Olson
Michael B. Chesal	Karen J. Orlin
Roberta A. Colton	Mark S. Roher
Louis T.M. Conti	Joel B. Rothman
Melanie E. Damian	Marsha G. Rydberg
Kenneth F. Darrow	Thomas A. Sadaka
Ava K. Doppelt	Bradley M. Saxton
John D. Emmanuel	Lisa M. Schiller
Stephen M. Feidelman	Philip B. Schwartz
G. Steven Fender	Jeanne L. Seewald
J.C. Ferrer	Paul S. Singerman
Henry H. "Bucky" Fox	Mark E. Stein
Brian K. Gart	Gary I. Teblum
Merrick L. "Rick" Gross	Robert H. Thornburg
Michael J. Higer	William A. Van Nortwick, Jr.
Jeffrey A. Hirsch	Lori B. Vaughan
Paul G. Hyman	Diane N. Wells
Katherine C. Lake	Mark J. Wolfson
Edward C. LaRose	Donald A. Workman
	Gregory C. Yadley

Other members of the Section were also present, as well as Austin Newberry, the Section's Program Administrator. Chair, Mark Wolfson, opened the General Meeting of the Section and welcomed all Section members who were present.

Initially, Chair Wolfson requested a report from the Section's Nominating Committee which was presented by Robbie Colton. The proposal of the Nominating Committee was that the following individuals serve as officers in the following positions for the 2006-2007 Bar year:

Chair - Diane N. Wells
Chair Elect - Rick Gross
Treasurer/Secretary - Russ Blain

Robbie Colton made a motion on behalf of the Nominating Committee to have the Section elect these individuals as its officers, which motion was seconded. A vote was then taken and the motion was passed. That ended the General Meeting of the Section.

Thereafter, Chair, Mark Wolfson, opened the meeting of the Section Executive Council and welcomed all of the Executive Council members who were present.

I. Approval of Minutes

Upon motion, with a second, the minutes of the April 28, 2006 meeting of the Executive Council at its Retreat in Casa de Campo, La Romano, Dominican Republic were approved.

II. Treasurer's Report

Treasurer, Rick Gross, presented the current financial status of the Section reporting that the Section continues to be in good financial condition. The Section's May, 2006 Unaudited Statement of Operations, which was distributed to all Council members' present, was discussed.

III. Special Committee Reports

A. Chapter 517 Task Force. Greg Yadley gave the report for the Task Force. Greg explained that Chair Mark Wolfson had appointed the Task Force and given it a two-year mandate to try to revise Florida Statute § 517 if possible. Fourteen people comprised the Task Force which was broken down into four working groups. The Task Force's next meeting will take place at the Section's Annual Retreat.

IV. Committee Reports

A. Antitrust Franchise & Trade Regulations Committee. Steve Feidelman, the incoming Chair of the Committee, gave the report. Steve stated that a Lunch & Learn CLE Program was proposed to take place in Miami in the coming months and that the Committee was going to take actions to try to increase its membership.

B. Bankruptcy/UCC Committee. Lisa Schiller gave the report of the Committee. During the Committee Meeting at the Annual Meeting, there were discussions of who the new officers of the Committee would be. There were also reports from the Regional Bar Presidents. The meeting also contained a CLE Program which was presented by three Bankruptcy Court judges, Judges Laurel Isicoff, Katherine McKwen and John Olson, during which they gave their observations as new bankruptcy judges of how their courts were run. There was also discussion about the Committee's annual View from the Bench CLE program which would be put on in Tampa and Miami on October 19, 2006 and October 20, 2006.

There was then discussion about the work of the Committee's various study groups. One study group had looked into the proposed revisions to Article I of Florida's version of the Uniform Commercial Code. At the Executive Council's January 19, 2006 meeting, a triple motion had been made that the Section adopt the NCCUSL Amendments to Article I of the UCC

subject to the rejection of proposed Section 1-301 with an effective date the date that the bill became a law. That triple motion had been passed by the Executive Council. Lisa Schiller remade the motion as all of the Section's legislative positions were to be sunset, and this was a proposed piece of legislation that the Section wanted to move forward with. The motion was duly seconded and after discussion, the motion was passed.

There was then discussion about the work of the Committee's working group studying certain revisions to Article IX of Florida's version of the Uniform Commercial Code. There had been impetus to privatize certain of the filing needs prescribed by Article IX. The Committee's working group studying that issue would continue to look at it and report at the Committee's next meeting.

There was then discussion regarding an opinion of the Florida Third District Court of Appeal in which Court had initially held that homestead rights granted under the Florida Constitution could be waived via contract, but then had withdrawn that opinion and overruled itself and certified the question as one of public importance to be reviewed by the Florida Supreme Court. At the Executive Council's April meeting, Russ Blain, on behalf of the Bankruptcy/UCC Committee had made a triple motion to the Executive Council requesting that the Section support the drafting and filing of an amicus brief opposing contractual waivers of homestead rights under the Florida Constitution and the possible argument of such a position if necessary. That triple motion had been passed by the Executive Council. Based on that and certain additional issues that had arisen in connection with other opinions rendered by the Third District Court of Appeal, Lisa Schiller made a triple motion requesting that the Executive Council allow the Bankruptcy/UCC Committee to seek leave to file an amicus brief on behalf of the Section, to be written by Berger Singerman, to oppose overruling current precedent which does not allow contractual waivers of homestead rights granted under the Florida Constitution by general creditors. John Emmanuel seconded this motion. After discussion, the motion was passed with one abstention by Karen Orlin.

Finally, there was discussion concerning a study group to be chaired by Mindy Mora to look at revisions to Florida's Assignment for the Benefit of Creditors Statute.

C. Bankruptcy Judicial Liaison Committee. Judge Paul Hyman stated that there was no report to be given by the Committee. The Committee's next meeting will take place on August 10, 2006 as part of the Section's Annual Retreat at the Ritz Carlton in Key Biscayne.

D. Business Litigation Committee. Kacy Lake gave the report of the Committee. It was reported that Melanie Damian and Peter Valori gave a case law update and handed out materials to each of the Committee's members who attended its meeting. Bill Wiley gave a legislative update during the meeting. There were discussions concerning the Committee's various CLE programs. Kacy reported that the Federal Practice and Procedures CLE Program that had been scheduled to take place in May, 2006 had been cancelled due to low attendance figures, and that a subcommittee had been formed to review why this had taken place. It was also reported that the Computer Law Committee and the Business Litigation Committee were working together to put on an e-filing CLE program. It was also reported that Judge Robert Rosenberg and former Judge Howard Tescher put on an informational program regarding the uses of private judging, arbitration, and mediation for which CLE credit had been obtained.

E. Certification Committee. No report was given.

F. CLE Committee. Mike Higer gave the report of the Committee. Mike stated that many of the Section's substantive Committees were looking at methods for getting CLE credit for presentations made at their Committee meetings. He also reported about the success of the Lunch & Learn CLE seminars that had been instituted by the Section, noting that ten had been put on so far during the Bar's calendar year. Finally, he discussed the metadata seminar which was to be put on on June 23, 2006 by the Computer Law Committee and the Business Litigation Committee.

G. Communications Committee. Melanie Damian, the incoming Vice Chair of the Committee, gave the report for the Committee. Melanie stated that the Section's Quarterly would be coming out within the next week. She also stated that new software had been procured which would allow each of the Committees to give monthly update reports about what they were doing. She further stated that there had been significant discussions about the use of Blogs on the web pages for the various Committees, and that a training session would be given at the Annual Retreat to the Legislative Committee. With regard to the website, it was reported that changes were coming and new sponsorship opportunities were being explored. Finally, it was reported that Peter Valori and Steve Fender of the Business Litigation Committee would be working with law students to prepare the case law updates which were given out at each of the Business Litigation Committee's meetings.

H. Computer Law Committee. Tom Sadaka gave the report of the Committee. At the Committee's meeting, there had been a significant amount of discussion on the Metadata CLE Program that was to be put on on June 23, 2006 with the Business Litigation Committee as part of The Florida Bar Annual Meeting. Tom also reported that the Committee would be working with the E-filing Task Force which was being created by The Florida Bar. Finally, it was reported that the Committee was looking to create three formal CLE programs to be put on during the coming year as well as five Lunch & Learn CLE presentations.

I. Corporations/Securities Committee. Karen Orlin gave the report of the Committee. Karen stated that the work of the Chapter 617 Subcommittee was moving forward. The various study groups of that Subcommittee gave reports to the Committee during its meeting. There was also a report on the work of the Chapter 517 Special Committee. Phil Schwartz then reported about the work of his Opinions Subcommittee. Alan Aronson then led a discussion of possible CLE programs, including one revolving around issues concerning choosing which type of corporate entity should be used when starting a business. There was also discussion of the use of land trusts.

J. Council of Sections. Marsha Rydberg gave the report for this group. She stated that: "All was quiet on the Western Front." The Council of Sections was to meet on Saturday, June 24, 2006.

K. Intellectual Property Committee. Jeanne Seewald gave the report for the Committee. During the Committee's meeting, IP Certification was heavily discussed. There were also discussions regarding the proposed revisions to Chapter 495, Florida's Trademark Law, which had been passed by the legislature and signed into law on June 12, 2006 with an

effective date of January 1, 2007. There was also discussion about putting on a number of Lunch & Learn CLE programs during the upcoming year. It was also discussed that a subcommittee had been set up to review a request from the Southern District of Florida Ad Hoc Rules Committee seeking help to create local rules involving patent cases. Finally, it was reported that two CLE presentations were made during the Committee's meeting.

L. Legislation Committee. Russ Blain gave the Committee's Report. A review of the 2006 legislation watch list created by the Committee was made. It was reported that there were three major initiatives followed by the Section during the year. These were the passage of a bill revising Chapter 495, Florida's trademark law which had been successful; the creation and funding of additional judges which had been successful; and the passage of the Stealing Equity Bill which had been successful. Russ further reported that there were lots of initiatives to be followed during the next year, and that it was the Committee's advice that the Section readopt its current legislative positions for the upcoming year. As this had to be done by triple motion, Russ then explained exactly what a triple motion was, including the three components contained in triple motion. Russ then made a motion that the Section re-adopt its previous legislative positions so that they could be approved by the The Florida Bar Board of Governors. These were:

- a. opposition to re-enactment of any Bulk Sales Law;
- b. opposition to any imposition of an income tax on LLC's;
- c. supporting adequate funding for the Court System;
- d. supporting legislation to create and fund any future certification by the Florida Supreme Court for additional new judges; and
- e. supporting the adoption of the NCCUSAL Amendment to Article I of Florida's version of the Uniform Commercial Coda, as amended.

Russ then requested that Bill. Wiley's proposed contract for 2006-2007 be approved and that Bill be given a round of congratulations for his work on behalf of the Section. Mr. Wiley's contract was approved and a resolution was passed by the Executive Council commending him on his work on behalf of the Section. Russ also requested that the Section commend Michael Chesal on his work on the revisions to Florida's trademark law.

M. Long-Range Planning Committee. Robbie Colton gave the report of the Committee which consisted of offering congratulations to the Section's new officers.

N. Membership/Law School Relations Committee. David Ackerman gave the report of the Committee. David stated that during the Committee's meeting there were discussions regarding the programs put on by the Committee during the past year and programs to be put on next year. There was also discussion as to the change in leadership of the Committee. David then made a request for volunteers from the Executive Council to help the Committee throughout the year.

O. Opinions Committee. Phil Schwartz gave the report of the Committee. Phil stated that a lot needed to be done to complete new Opinions. He also introduced J. C. Ferrer

and Robert Baron as the new Vice-Chairs of the Committee. He stated that the revision project would be kicked off at the Annual Retreat in August.

A motion was then made by Paul Singerman that the Section sponsor the ABA's Legal Study Opinion Group with a financial sponsorship in the amount of \$2,500.00. This motion was duly seconded and after discussion approved.

P. State/Federal Court Judicial Liaison Committee. The Committee's report was given by Michael Higer. Michael reported that on June 21, 2006, six general counsel from corporations based in Florida had met and had an organizational meeting to set up a Florida General Counsel group. This had been an outgrowth of the program for General Counsel based in Florida which the Committee had put on with the Florida Supreme Court in February. At the organizational meeting of the Florida General Counsel group, Judge William Van Nortwick and Chief Justice Barbara Pariente had made remarks. Michael further reported that the new General Counsel group had four goals:

- a. maintain and grow a relationship with the Section;
- b. maintain and grow relationship with the Florida Supreme Court;
- c. help create legislation that would be good for business; and
- d. meet for social reasons and to discuss issues common to all general counsel.

Michael then reported that the Section's Committee has met and had discussed the work it had done throughout the year and projects that were proposed for the following year.

Q. Retreat & Sponsorships Committee. Tom Lash gave the report for the Committee. Tom reminded everyone that the Section's Annual Retreat would be held from August 10, 2006 through August 13, 2006 at the Ritz Carlton on Key Biscayne and that over \$64,000 in sponsorships had been pledged. Diane Wells then reviewed the brochure that had been prepared for the Retreat and discussed some of the CLE programs that would be presented at the Retreat.

Greg Yadley then raised an issue regarding sponsorships. He requested that the Section sponsor the Southeast M&A conference which was to take place on September 28 and 29 in Atlanta, Georgia, and was being put on by Thompson Publishing, by offering its name to the program. Greg explained that the Section would get some benefit out of its sponsorship by possibly attracting new members. Greg made a motion requesting a formal sponsorship by the Section of this conference. That motion was duly seconded and approved.

R. Board of Legal Specialization and Certification. Maxine Long, the Section's representative to the BLSE, stated that there were no ongoing issues at this time. Mark Wolfson then stated that a subcommittee was being created to study the issue of bankruptcy certification.

V. Chair's Report.

Chair, Mark Wolfson, gave this report. He stated that the Section had a great year and the Executive Council had an outstanding trip to Casa de Campo. He congratulated the Section

on the work it had done during his term as Chair and thanked all of the Executive Council members for their support of his year as Chair. He then awarded the Section's Outstanding Member Award to Michael Chesal for his work getting Chapter 495, Florida's Trademark Law, revised and approved by the legislature and signed into law by the governor. Mark then passed the gavel on to Chair-Elect, Diane Wells, who thereupon became Chair of the Section.

VI. Chair-Elect's Report

Diane Wells, formerly Chair-Elect and now Chair of the Section, gave this Report. She thanked Mark for all of his hard work as the Section's prior Chair and gave Mark a gift and a plaque in recognition of his services. She stated that she had great ideas for the coming year but due to the late hour, discussion of those would be held off until the Annual Retreat.

Thereupon, the meeting of the Executive Council was adjourned at approximately 6:15 p.m.

Respectfully submitted,

Merrick L. Gross
Secretary/Treasurer