

THE FLORIDA BAR—BUSINESS LAW SECTION—EXECUTIVE COUNCIL
Minutes of Meeting
NOVEMBER 11–12, 2006—PARADISE ISLAND, BAHAMAS

The regular meeting of the Executive Council of the Business Law Section of The Florida Bar was held on November 11 and 12, 2006, at Atlantis on Paradise Island in the Bahamas, in conjunction with the annual retreat of the Executive Council. Chair Diane Noller Wells called the first day of the meeting on November 11 to order at 9:16 a.m.

Members Present: Diane called on the members of the Council to introduce themselves and to comment on their experiences as members of the Council. Members made brief statements and were recorded as being present at the meeting as follows:

Former section chairs and present members of Long-Range Planning Committee:

John D. Emmanuel
Hon. John K. Olson
Gregory C. Yadley
Hon. Michael G. Williamson
Roberta A. Colton
James B. Murphy, Jr.
Maxine Master Long

Council members for eight or more years:

Kenneth Darrow
Mindy A. Mora
Michael G. Higer
Hon. Paul G. Hyman
Hon. William A. Van Nortwick, Jr.
Michael B. Chesal
Marilyn B. Cane
Hans Christian Beyer
G. Alan Howard
Prof. Jeffrey Davis
Merrick L. “Rick” Gross
Russell M. Blain
Diane Noller Wells

Council members for three or more years:

G. Steven Fender
Gary I. Teblum
Stefan A. Rubin

Council members for one to two years and new members:

Peter F. Valori
Hon. Catherine Peek McEwen
Thomas A. Lash
Alan H. Aronson
Manuel Farach
Jason B. Burnett
Robert W. Barron
Mark E. Stein
Melanie Emmons Damian

Also present:

Austin Newberry, Program Administrator
William B. Wiley, Section Lobbyist

Approval of Minutes: The minutes of the previous meeting held on August 13, 2006, at the Ritz Carlton/Key Biscayne on Key Biscayne, Florida, in conjunction with the annual retreat of the section, were read and approved as read.

Treasurer's Report: Secretary/Treasurer Russ Blain presented the treasurer's report. The motion was made to amend the budget to increase the allocations for retreat luncheon expenses from \$5,000 to \$7,900 and retreat dinner expenses from \$25,000 to \$46,500. The motion was seconded, discussed, and passed.

Special Committee on Alternative Dispute Resolution Rules and Policy: The motion was made, seconded, discussed, and passed to table this matter until the January meeting of the council.

Bankruptcy/UCC Committee—Assignment for Benefit of Creditors Special Subcommittee. Mindy Mora gave the report of the subcommittee. Mindy reported that the subcommittee has continued to work on proposed revisions to Chapter 727 of the Florida Statutes. Mindy noted that the statute was devised for the purpose of doing less expensive, less complex liquidations under state law. Reacting in part to state court judges reluctant to decide matters not specifically covered by the statute, the subcommittee set out to make the statute more exact and parallel to the federal Bankruptcy Code. The Bankruptcy/UCC Committee approved the proposed revisions at its August meeting. The proposed revisions were presented and discussed extensively at the August meeting of the council. Consideration of the revisions was deferred in order to provide council members with the opportunity to review the latest redrafts of the revised statute and the sponsor's notes. The final version of the proposed statute with all revisions was circulated to council members prior to the meeting. The triple motion to approve and support the revised statute was made by Mindy Mora, seconded by John Emmanuel, and passed unanimously.

Communications Committee: Melanie Damian gave the report of the committee. Melanie reported that e-mails have gone to all of the writers for the new section journal for 2006. December 5 is the deadline for submitting summaries for the period ending in October and January 5 for the period ending in December. Melanie asked members to submit their materials to Sam Lewis. Diane Wells commented that this volume will provide case law updates for Florida business law in a small volume, to be sent to every lawyer in the section, as a service to section members. Austin Newberry provided a projection of the proposed cost in the range of \$15,000 to \$20,000. Lexis/Nexis has agreed to publish the volume at no cost to the section and has requested advertising space and third-party sale rights. Diane stated that, in selling to third parties and dividing any profits, the section will follow protocol and procedures implemented by The Florida Bar.

Membership and Law School Student Relations Committee: Diane Wells reported that the Black Law Students Association convention will be held in Miami on January 18, 2007, on the same day as the council's next meeting. The association comprises students from throughout the southeastern United States. The association has offered the section an hour and one-half block of time within which to make a presentation on what's it like to be a lawyer.

Bankruptcy/UCC Committee: Russ Blain reported on the upcoming International Bankruptcy Symposium sponsored by Stetson University College of Law. Stetson has requested the section to serve as a nonfinancial co-sponsor. The motion was made and seconded for the section to sign on as a nonfinancial co-sponsor for the program and to include it on the master list of section-sponsored CLE programs. The motion was unanimously approved. The program and followup matters relating to the sponsorship will be considered by the Bankruptcy/UCC Committee at its January meeting. Russ also reported on the status of the *amicus curiae* appearance of the section in the *DeMayo* case pending before the Florida Supreme Court. Russ reported that the Business Law Section and the Real Property, Probate and Trust Law Section will be coordinating their *amicus* appearances and briefs. There will also be a *DeMayo* watch placed onto the section website.

Bankruptcy Judicial Liaison Committee: Judge Hyman reported that the committee is adopting forms and monitoring the adoption of forms on a national level.

Continuing Legal Education Committee: Mike Chesal gave the report of the committee. Mike encouraged committees to schedule substantive CLE presentations at the midyear meetings in January as an opportunity to obtain CLE hours. Diane Wells encouraged communication with other groups, including law schools. Rick Gross encouraged committee chairs and vice chairs to use the section's sponsors as speakers. Alan Aronson requested committees to provide ethics presentations. Mike Chesal reminded committees that the deadline to propose CLE programs for the June 2007 annual meeting is December 15.

Corporations, Securities, and Financial Services Committee: Stef Rubin gave the report of the committee. Stef reported that proposed Chapter 617 legislation has encountered opposition from the Real Property, Probate and Trust Law Section.

Intellectual Property Committee: Mark Stein gave the report of the committee. Mark commented that the certification process has been started and that the first certification examination will be held in May or September. Mark also reported that a CLE program will be held for those interested in obtaining certification.

Retreat Planning Committee: Tom Lash reported that plans are underway for the September 2007 section retreat to be held at the Ritz Carlton/Naples. Tom also reported on the committee meeting scheduled for the next morning during the Executive Council retreat.

Chair's Report: Diane Wells presented the chair's report. As part of her report, Diane presented a resolution in memoriam for United States Magistrate Judge Theodore Klein. Diane reported on the funding of a scholarship at the University of Miami School of Law in memory of Judge Klein. Rick Gross requested Mike Higer to obtain information on the scholarship and asked council members to consider making contributions. The motion was made and unanimously passed to adopt the resolution as proposed, substituting "stood in silence" for "sat in silence." A moment of silence was observed in memory of Judge Klein. Mike Higer then paid tribute to Judge Klein in comments on his qualities and his commitment and contributions to lawyers and the legal profession.

Diane and Judge Bill Van Nortwick commented on a current reachout effort to the sections to assist in providing pro bono opportunities for business lawyers. Diane suggested this effort be taken up by the State/Federal Judicial Liaison Committee chaired by Judge Van Nortwick. Diane also reported on an international contracting practices survey project being conducted by Stetson University College of Law, which is seeking to obtain survey information from Florida lawyers. Diane asked volunteers to complete and submit the survey. Diane also commented on the "Kids Deserve Justice" license plate and asked interested members to pass along this information. Diane then requested materials for a followup advertisement by the section to be placed in *The Florida Bar News*. Diane also mentioned the need to communicate information to section members. In response, Melanie Damian asked council members to send information of interest to Traci Eller so that the information can be communicated to section members by "blast e-mails."

Chair-Elect's Report: Rick Gross gave the chair-elect's report. Rick reported that on the section retreat scheduled for the Labor Day weekend in 2007 and 2008 at the Ritz Carlton/Naples. The retreat will be shifted from a Thursday-to-Sunday format to a Friday-to-Monday schedule. Rick requested input from the council on the scheduling of the Bankruptcy Judicial Liaison Committee meeting during the retreat. The consensus appears to be to schedule that meeting for Saturday of the retreat. Rick raised the issue of adding a third meeting of the Bankruptcy Judicial Liaison Committee to the annual calendar. The matter will be considered by that committee at its January meeting.

Rick reported on the retreat of the council for the 2007-2008 year. Rick reported on the possibility of scheduling the retreat in Park City, Utah, in March 2008. If that occurs, the schedule would be to start on Thursday morning and to conclude on Sunday.

A backup location is Scottsdale, Arizona. Rick commented that more information will be available at the January meeting of the council.

Rick also reported that on the new “Teaching Justice” program initiated by Chief Supreme Court Justice Fred Lewis. The idea for the program is to link a lawyer to every school in the state, with the purpose of teaching civics to students, in part to deal with a prevalent lack of understanding of the branches of government and the system of checks and balances. Lawyers who sign up to teach in the program will be linked to a particular school. Lawyers, judges, professors, and others with legal backgrounds are being sought for the program. State court administrators will conduct the training for the program.

Adjournment: Chair Diane Wells adjourned the meeting at 10:57 a.m., to be reconvened the following morning.

Reconvened Meeting. Chair Diane Wells reconvened the council meeting at approximately 9:10 a.m. the following morning, November 12, 2006.

State/Local Judicial Liaison Committee: Judge Bill Van Nortwick reported that a business court to handle business litigation issues in January. Judge Gill Freeman will be the first business court judge.

Discussion. Diane Wells invited members to discuss issues of concern to the section and the council. A lively discussion ensued.

Adjournment: There being no further business to come before the council, the second and final day of the meeting was adjourned at 10:30 a.m. At the conclusion of the meeting, a meeting of the Retreat Committee was held.

Respectfully submitted,

Russell M. Blain
Secretary/Treasurer