

Minutes of the Meeting of the Trial Lawyers' Executive Council

Friday, August 27, 2011, 9:00 a.m. – 12:00 p.m.

Ritz Carlton, Mira Mar Room

Sarasota, Florida

The Florida Bar Trial Lawyers' Section Executive Council met on Friday, August 27, 2011, at the Ritz Carlton, Mira Mar Room, Sarasota, Florida. Chairman Craig Gibbs called the meeting to order at approximately 9:00 a.m. The minutes were taken by Secretary Ted Eastmoore.

- 1. Roll Call:** The following members of the Council were present: Craig Gibbs, Chair; Wayne Helsby, Chair-Elect; Ted Eastmoore, Secretary/Treasurer and Clifford Higby, Immediate Past Chair. Charles Bartlett, Thomas Bishop, Kimberly Cook, Thomas Edwards, Courtney Grimm, Katherine Hunter, Bradley Johnson, Philip King (by phone), Joseph Kinman, Christopher Knight (by phone), Darryl Lewis (by phone), Patricia Lowry, Sidney Matthew (by phone), Mindy McLaughlin, Hector More`, Terrence O'Connor (by phone), William Partridge, John Williams, Robert Palmer.

Also present: Norman Vaughan-Birch, Board of Governors Liaison, Paige Graham, Section Administrator, Scott Hawkins, President of The Florida Bar, Gwynne Young, President-Elect of The Florida Bar, and Jeff Garvin, FLABOTA representative.

Not Present: Kim Ashby, Linnes Finney, Jr., Stuart Ratzan, Frank Bedell, and Sandy Sanborn.

- 2. Minutes:** The minutes of the Friday, June 24, 2011 meeting which was held at The Gaylord Palms Resort and Convention Center, Kissimmee, Florida were unanimously approved, the reading of same having been waived.
- 3. Address by President and President-Elect of the Florida Bar:** President Hawkins gave an overview of the Bar's legislative efforts last session. He stated his belief that there has been a paradigm shift in the attitude of the legislature and its regard for the courts and lawyers in general. He expressed the need for the Bar to be ready to quickly address issues as they arise. He has scheduled a meeting for September 21, 2011, between Bar leadership, Section leadership and all Bar lobbyists in Tallahassee. This is in direct response to a meeting with TLS leadership and the great need for better communication between the Bar and its Sections and members. Bar leadership is looking forward to working with the TLS as the session approaches.

President-Elect Young addressed the Council. She anticipates that the challenges to the courts and legal system to become the norm. She will continue President Hawkins' initiatives. She also looks forward to working with the TLS.

4. **Financial Report:** Secretary Eastmoore reported that the Section is in sound financial condition. He advised of a total current fund balance of \$682,067.

5. **Committee Reports:**

- A. **By-Laws:** Bob Palmer reported that the final draft of the by-laws will be available soon and will be posted to the TLS website after receiving Board of Governors' approval.
- B. **Board Certification:** Bob Palmer advised that he is no longer a member of the Board Certification Committee. Mindy McLaughlin and Tom Bishop volunteered to apply for membership on that committee. Bob Palmer reported that the certification committee is reviewing requirements for certification and re-certification.
- C. **Civil Procedure Rules:** Joe Kinman reported that Rules 1.200 and 1.201 were being amended to prevent the filing of discovery materials in court files unless required by another rule or order of court. He also reported that a new privacy rule was being promulgated so that private information such as social security numbers and bank accounts be redacted before documents are filed with the court. He also advised the BOG has recently approved a rule on the discovery of electronic evidence.
- D. **CLE:** Tom Bishop reported as follows:
 - 1. **Advanced Trial Advocacy Seminar Statement (Trial Ad 2011).** The seminar was a great success both from number of participants and the quality of the programs, including presentations by London barristers. Next year's seminar will be held May 8 - 12, 2011 again at the University of Florida Levin School of Law.
 - 2. **Vanishing Jury Trial Study Committee.** Statistically, jury trials are down. This will almost certainly be detrimental to administration of justice. Specifically relevant to the TLS is that lawyer proficiency will decrease as trials decrease. Also problematic for section members will be maintaining numbers of trials for board certification and re-certification. The committee will be issuing a report with findings and recommendations after its next meeting in October, 2011.
 - 3. **Joint Sponsorship CLE with Aviation Law Committee.** The committee will be exploring opportunities for working with the Aviation Law Committee. The CLE committee will be inviting the Aviation Law members to the Summit.

- E. Discovery Handbook: John Williams reported that the Lexis/Nexis' index to the handbook is almost complete. Lexis/Nexis is requesting an acknowledgment of its contribution at the end of the index. The Council unanimously approved this.
- F. Evidence Committee: No Report.
- G. Judicial Ethics Advisory Committee: Patricia Lowry reported that the Committee is busy and has had many requests for opinions. The Committee is looking into social media issues such as Facebook and whether judges are allowed to use and/or "friend" lawyers who appear before them. Pat sought the Council's input. Some thoughts were: the appearance of impropriety is a huge concern; judges should not be socially isolated; Facebook is more public than other more traditional relationships and friendships with judges; the YLD should be consulted; judges should be allowed to have informational pages on Facebook.

Chair Gibbs reported that the RJA committee is working on a social media rule and the use of electronics by jurors in the courthouse in a related issue.

- H. Legislative Committee: Bill Partridge reported that he is getting mixed signals from legislative sources regarding whether attacks on the judicial system will be raised again this year. The committee will be monitoring and working with Bar leadership, FLABOTA and others. Anticipated topics of concern are attacks on the JNC process and splitting of the Supreme Court. Bill also reported that he had been requested to urge Bar leadership to encourage state officials to conduct a comprehensive review of the death penalty process.
- I. Membership: Courtney Grimm reported that current membership is 5,800. She anticipates it will be 6,300 and will send letters to those that failed to renew their memberships.
- J. Mock Trial: Kim Cook/Wayne Helsby/Charlie Bartlett gave an overview of the upcoming competition. They stated that juror attendance by qualified lawyers was a persistent issue. Hector More' advised that he will request members of his firm's Orlando office to volunteer.

MOTION: Wayne Helsby moved that the TLS pay for 1 night's room for participating jurors, and that the budget be amended to add a \$10,000 line item for this purpose. The motion was seconded by Mr. Bartlett. The motion unanimously carried.

The committee will be sending a letter to both the Hillsborough and Orange County Bar Associations to solicit jurors.

- K. Website: No report.

L. Rules of Judicial Administration: Craig Gibbs reported that RJA is working on a notice form for submitting confidential information to a court and other changes as part of a glitch bill per RJA Rule 2.420.

M. 2nd Annual TLS Summit, January 24-29, JW Marriott Orlando: Bob Palmer reported as follows:

Publicity: One ad has been purchased in the Hillsborough Bar magazine. All members are encouraged to ask their local bars to publish the Summit ad in local bar publications. The publication sub-committee will be working on email blasts.

Fund raising: Fund raising is ongoing. The committee has commitments from some vendors and sponsors. Cliff Higby asked council members to suggest potential sponsors so we have a master list. Cliff and Paige will have a sponsor form with Bar tracking numbers out by September 2, 2011.

Speakers and band: The main speaker and band will be on Thursday this year. The committee is working on speakers. Potentials include Steve Zack, former Justice Raoul Cantero and Attorney General Eric Holder.

MOTION: Bob Palmer moved that the budget be amended to add a \$2,500 line item to pay for the winning mock trial team's room for 1 night so they can stay for the Thursday speaker and banquet. The motion was seconded and carried unanimously.

MOTION: Bob Palmer moved that the budget be amended to add a \$25,000 line item for Summit expenses. The motion was seconded and carried unanimously.

N. Board of Governors: Norman Vaughan-Birch circulated a Wall Street Journal article on the deregulation of lawyers. He also reported that The Florida Bar Foundation income is down which is impacting legal aid.

O. Council of Sections: Ted Eastmoore reported that the Council's first meeting is September 25, 2011.

P. ADR Committee: Phil King reported that the committee's first meeting is September 23, 2011.

6. **Old Business:** None.

7. New Business:

- A. Wayne Helsby suggested the Council look into spending some of its reserves on access to justice issues. Potential areas in need are: The Bar Foundation, Legal Aid sponsorships, additional scholarships to the Trial Ad Seminar, a “teacher educational conference” to better inform teachers and the public regarding the third branch of government. Tom Edwards suggested that the need may arise in the near future for reserves to be spent on studies or education regarding judicial independence. Wayne stated that he will focus on these topics and report back to the Council.

- B. Chair Gibbs reported that upcoming Council meetings are as follows:
 - 1. November 3-5, 2011 - TLS EC Meeting, The Breakers, West Palm Beach.
 - 2. January 28, 2012 - TLS EC Meeting, JW Marriott Orlando.
 - 3. April- 26-29, 2012, TLS EC Meeting, Hilton Barbados

- C. Chair Gibbs offered new committee assignments. The assignments will be published on the TLS website.

Upon motion, the meeting was adjourned at approximately 11:30 a.m.