

Minutes of the Meeting of the Trial Lawyers' Executive Council
Trial Lawyers Section Executive Council
Saturday, January 15, 2011

The Florida Bar Trial Lawyers' Section Executive Council met on Saturday, January 15, 2011 at the Omni Orlando at ChampionsGate, ChampionsGate, FL. Chairman Cliff Higby called the meeting to order at approximately 9:00 a.m. The minutes were taken by Ted Eastmoore.

1. **Roll Call:** The following members of the Council were present: Cliff Higby, Craig Gibbs, Wayne Helsby, Kim Ashby (by phone), Charles Bartlett, Tom Bishop, Kimberly Cook, Ted Eastmoore, Tom Edwards, Linnes Finney, Jr., Courtney Grimm, Brad Johnson, Phil King, Joe Kinman, Chris Knight, Pat Lowry, Sid Matthew, Mindy McLaughlin, Hector Moré, Terry O'Connor, Bob Palmer, Stuart Ratzan, Sandy Sanborn, Norman Vaughn-Birch and John Williams,. Also present were the Bar's liaison, Paige Graham, and the Section's lobbyist, Bob Harris (by phone).
2. **Minutes:** The minutes of the Saturday, November 6, 2010, meeting which was held at the Water Color Inn & Resort, Santa Rosa Beach, FL, were unanimously approved, the reading of same having been waived.
3. **Financial Report:** Secretary Helsby reported that the Section is in a favorable financial condition.
4. **Committee Reports:**
 - A. **By-Laws:** Kim Ashby reported that the By-Laws committee would be making recommendations at the Council's next meeting. Chair Higby requested that Secretary Helsby replace Bob Mansbach on the Nominating Committee. Terry O'Connor made the motion which was passed unanimously. Kim Ashby stated that the By-Laws Committee would address this issue so that the Nominating Committee would always consist of three members given the event of a vacancy.

Items Taken Out of Order (New Business):

Chair Higby recognized guest Rich Newsome, president of the Florida Justice Association, who addressed the Council. Mr. Newsome suggested that there is great animosity between the current Florida Legislature and the Judiciary. He encouraged the Section to take an active role as the 2011 legislative session begins. Of specific note are the issues of court funding and rule making by the Florida Supreme Court. The Chair thanked Mr. Newsome for his comments.

Chair Higby next recognized guests Lou Conti, immediate Past Chair of the Business Law Section, and Lauren Detzel, former Chair of the Tax Law Section, who both addressed the Council. They stated that the Business Law, Tax Law and Real Property, Probate and Trust Law Sections are supporting legislation to limit the way in which LLC assets can be accessed by a judgment creditor. This is a reaction to the "Olmstead" case. The Florida Banker's Association

is proposing contrary legislation. They both asked that the Trial Lawyers Section take no position in the matter. Chair-Elect Gibbs moved that the Section remain neutral on the issue as not within the province of the TLS. The motion passed unanimously.

Committee Reports (continued):

- B. Board Certification: Bob Palmer reported that the certification seminar went well and that approximately 40 persons are registered for the board certification exam. He also reported that Ed Cheffy did yeoman's work putting on the seminar.
- C. Civil Procedure Rules: Joseph Kinman reported that mandatory email filing is coming. He also stated that the committee will be recommending that rule 1.442 be amended to reflect that proposals for settlements dealing with vicarious liability will not have to specify an amount.
- D. CLE Report: Kim Ashby/Tom Bishop (Trial Ad – Spring 2011). Kim Ashby suggested that attendance at our seminars might increase if we co-sponsored a seminar with the Business Law Section and if the Section reminds bar members that the Trial Lawyers Section is not just a plaintiff's personal injury bar. Tom Bishop reported that Trial Ad seminar is on track with attendees and judges.

The Chair recommended that the Council name another Trial Ad Seminar scholarship in memory of Bob Mansbach as the Council did for Glenn Burton. Chair-Elect Gibbs moved that a \$2,500 scholarship be named for Bob. The motion was seconded and passed unanimously.

- E. Discovery Handbook: John Williams reported that the finished Handbook is in the process of being distributed.
- F. Evidence Committee: Joseph Kinman reported that the rule on inadvertent disclosure of privileged material as proposed by the committee was rejected by the Supreme Court. The committee also is suggesting that section 90.404 be amended so that evidence of other crimes is admissible in child molestation and computer acts cases.
- G. Legislative: Bob Harris gave an update and overview of the upcoming legislative session. He reported that the TLS white paper on the proposed crash worthiness bill had been re-circulated among the Legislature. He also noted that bills have been introduced to increase from 5 to 10 the number of years of practice before a lawyer is eligible to serve as a circuit judge and raising mandatory retirement age of judges from 70 to 75. He reported that another bill has been introduced which limits liability of design professionals. A similar bill passed the Legislature last year but was vetoed. Tom Edwards stated that other sections are opposing the bill, including the Real Property, Probate and Trust Law Section. Kim Ashby stated that the Construction Law Section is taking no position as the issue is most divisive in that section. Tom Bishop suggested that the TLS remain neutral on this issue as other issues are more pressing. Bob Palmer suggested that former council member Lou

Pratt be consulted as this is his area of expertise. After discussion, Kim Ashby volunteered to work on a white paper on this issue which is informative but does not take a position.

Bob Harris reported that the Business Law Section is proposing a bill which allows the ability to collect attorneys fees for pursuing a judgment for attorneys fees. He anticipates that the BLS will be requesting the Council to take a position.

Bob and his office are following other bills and issues which affect the judicial system and will keep the Council advised.

Weekly legislative conference calls will begin week of February 7.

- H. Med-Mal Handbook: Mindy McLaughlin reported that extra copies of the Med Mal Handbook are available.
- I. Membership: No report.
- J. Mock Trial: Kim Cook/Wayne Helsby/Charlie Bartlett. Secretary Helsby reported that the competition went smoothly with both great participants and judges. The Council thanked Wayne and Kim Cook for job well done.
- K. Nominating: Cliff Higby solicited suggestions for nominations to the Council, keeping geographical representation in mind.
- L. Website: Ted Eastmoore reported that the TLS website now has links to both Facebook and Twitter. Ted and Courtney Grimm recommended and Ted moved that the Council spend \$2,600 to update the website. The motion passed unanimously. Linnes Finny asked that the committee provide web access numbers.
- M. Rules of Judicial Administration: Chari-Elect Gibbs reported that the committee is working on a glitch amendment to rule 4.240 on confidentiality of sealed court records. The amendment will address the issue of how to file confidential materials without drawing attention to these materials before an order sealing them is entered.
- N. First Annual TLS/Burton Summit: Bob Palmer reported that the first Summit went as smoothly as possible. All agreed that the Summit was a great success. The Chair and Council enthusiastically thanked Bob for his hard work.
- O. Board of Governors: No report.
- P. Lobbyist: See Legislative report above.
- Q. Council of Sections: Craig Gibbs reported that the Council of Sections has met and will again soon.

R. ADR Committee: Phil King reported that he has been in contact with several members of the section and will keep us advised.

5. **Old Business:** None.

6. **New Business:** Chair Higby

A. May 4-8, 2011 – Executive Council Meeting (The Homestead, Virginia). The Chair encouraged members to make reservations as soon as possible.

B. June 24, 2011 – FL Bar Annual Convention, Gaylord Palms Resort, Orlando.

1. Chester Bedell Luncheon will be held on Friday. Barry Richards will be the speaker.
2. Executive Council Meeting will be held on Friday afternoon, following the luncheon.

The meeting upon motion was adjourned at approximately 11:30 a.m.