

## **Minutes of the Meeting of the Trial Lawyers' Executive Council**

Saturday, January 28, 2012, 7:30 a.m.

JW Marriott Orlando Grande Lakes

Orlando, FL 32837

The Florida Bar Trial Lawyers' Section Executive Council met on Saturday, January 28, 2012, at the JW Marriott Grande Lakes, Orlando, Florida. Chairman Craig Gibbs called the meeting to order at approximately 7:30 a.m. The minutes were taken by Secretary Ted Eastmoore.

1. **Roll Call:** Council members present: Craig Gibbs, Wayne Helsby, Ted Eastmoore, Cliff Higby, Kim Ashby, Charles Bartlett (by phone), Tom Bishop, Kimberly Cook, Thomas Edwards, Linnes Finney (by phone), Courtney Grimm, Katherine Hunter, Philip King, Joseph Kinman, Christopher Knight, Darryl Lewis, Sidney Matthew, Mindy McLaughlin, Hector Morè, Terry O'Connor (by phone), Bill Partridge, Stuart Ratzan, John Williams.

Council members absent: Pat Lowery, Brad Johnson.<sup>1</sup>

Others present: Paige Graham (TLS Liaison).

2. **Chairman's Report:** Chairman Gibbs reported that the Second Annual TLS Summit was a great success. He also stated that the Section was negotiating with the JW Marriott for next year's Summit as the facility perfectly accommodated the meeting in all respects. He thanked Council members for all the long hours it took to put all facets of the Summit together.
3. **Minutes:** The minutes of the Saturday, November 5, 2011, meeting held at The Breakers in Palm Beach, Florida were approved.
4. **Financial Report:** Deferred pending finalization of Summit expenses.
5. **Committee Reports:**
  - A. **By-Laws:** No report.
  - B. **Board Certification:** Bob Palmer reported that 57 lawyers are registered for the Civil Trial Exam. This is an increase from past years. He also stated that tapes are available from the Civil Trial Review Seminar.

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<sup>1</sup>The Board experienced technical difficulties with the call-in conference number which may have prevented members from participating by phone.

- C. **Civil Procedure Rules:** Joe Kinman reported that the rules committee is considering a rule change that would provide that only expert final reports are admissible as evidence, not interim reports. The committee is also considering changes to the rule on taxation of costs.
- D. **CLE:** Tom Bishop reported that plans for the Advanced Trial Advocacy Seminar are being finalized. He believes the Seminar is on track for another great session. He also reported that the Committee report on Vanishing Jury Trials is available, with many of the findings troublesome. He encouraged all Council members to read the report
- E. **Discovery Handbook:** John Williams reported Lexis/Nexis is moving at a snail's pace on indexing the handbook. In view of this, John is considering canceling the present version as the updated version should be available in the spring.
- F. **Evidence Committee:** Joe Kinman reported that the committee will take no position on the preference of Frye versus Daubert standards for expert testimony. The committee is considering a rule to codify new requirements for experts in medical malpractice cases. The committee is also considering changes to rule 90.608 (who may impeach) and rule 90.406 (adding "habit" to the rule on admissibility of a person's conduct and routine).
- G. **Judicial Ethics Advisory:** No report.
- H. **Legislative:** Bill Partridge reported that the Upchurch Watson Mediation Group had requested that the TLS consider taking a position on HB 963 concerning "Dispute Resolution." Bill distributed copies of the bill. The bill among other things, provides for private judges and empowers them with subpoena and other powers traditional held only by state court judges. Mr. Helsby suggested that the bill might not provide for adequate judicial/appellate review. Mr. Bishop cautioned that the bill might erode the power of the state court judiciary and inhibit access to courts. Ms. Ashby said that many of the bill's provisions are already contained in the statutes but suggested the bill needed to be studied further.

On Friday's legislative conference call, both Judge John Laurent and State Courts Administrator Lisa Goodner gave a status report on judicial funding proposals and reported on the Senate Budget Committee's "Unit Cost Development for State Courts."

**COMMITTEE APPOINTMENT: The Chair appointed the following committee to study the bill and report back with a recommendation: Kim Ashby, chair, Tom Bishop, Tom**

**Edwards and Bill Partridge, members.**

Bill Partridge further reported that bills have been filed affecting the age of majority in wrongful death/medical malpractice cases and providing for further immunity from liability for emergency doctors and podiatrists.

- I. Membership:** Courtney Grimm reported membership is up by 400 members.
- J. Mock Trial:** Kim Cook reported that the Mock Trial competition was a great success. She said the facilities at the JW Marriott were the best we have had and that the entire competition received many, many compliments from the participants, judges and jurors. Many rounds had 5-9 jurors and Judge Belvin Perry presided on the final round. Stetson University won the competition.

Both Kim Cook and Bob Palmer, Summit Chair, indicated that Kim Maxim, Mr. Helsby's assistant was invaluable in helping with scheduling and communicating with judges and jurors. She spent many, many hours on the competition.

**MOTION: Mr. Palmer moved that the Section show its thanks by purchasing Ms. Maxim a gift of approximately \$500. The motion was seconded and passed unanimously. Mr. Palmer will select the gift with section reimbursement.**

Mr. Helsby suggested that the TLS request the Young Lawyers Division to sponsor the competition in future years. Mr. Eastmoore will contact the YLD and request a \$10,000 sponsorship beginning in 2013.

Chairman Gibbs thanked Kim and Wayne for their hard work and job well done.

- K. Website:** No report.
- L. Rules of Judicial Administration:** Joe Kinman reported that the committee was suggesting changes in the application of pro hac vice admissions to include prior discipline initiations in the last 5 years and that the filing fee for pro bono cases be waived. He also reminded the Council that all clerks must accept e-filing by July 1, 2012 and that e-filing and e-service would become mandatory in 9 months.
- M. 2<sup>nd</sup> Annual TLS Summit, January 26-28, 2012, JW Marriott Orlando:** Bob Palmer echoed the Chair's comments that the Summit was a great success. But for tweaking of minor items and the addition of a Teachers' Law School, the schedule for next year is set. The Chair thanked Bob for all of his tireless work.
- N. Board of Governors:** No report.

- O. Council of Sections:** Chairman Gibbs reported that the Council of Sections had rejected the Government Lawyers Section's request for a permanent seat on the BOG.
- P. ADR Committee:** Phil King reported that Rule 1.730's amendment which provides that person's with "authority to settle" be present at mediation was perceived as harsh on the defense bar. Several members who do plaintiff's work disagreed. The Chair requested that Mr. King bring to the Section at the next meeting the pros and cons of the amendment. Mr. Helsby stated that the rule might be challenged as improperly enacted.
- 6. Legislative:** No report as Bob Harris had reported by conference call on Friday, January 27.
- 7. Old Business:** None.
- 8. New Business:**

  - A. Chairman Gibbs reminded members of the Section's meeting scheduled for April 26-28, 2012, at the Hilton Barbados. He encouraged those who had not made reservations to do so as soon as possible. He also reported that registration forms for spouses will be available soon.
  - B. Courtney Grimm reported that the TLS had been requested again to sponsor the Judicial Luncheon at The Florida Bar's annual meeting.

**MOTION: It was moved and seconded that TLS sponsor the Judicial Luncheon in the amount of \$1,000. The motion carried unanimously.**

No further business appearing, the meeting upon motion was adjourned at approximately