

**FLORIDA BAR  
TRIAL LAWYERS SECTION  
EXECUTIVE COUNCIL MEETING  
Friday, June 21, 2002**

**MINUTES**

Florida Bar Trial Lawyers Executive Council met at the Boca Raton Resort and Club in Boca Raton, Florida on Friday, June 21, 2002. Chairman Tom Scarritt opened the meeting and called it to order at 2:35 p.m. The Minutes were taken by Chair Elect, Kelly G. Hamer.

**Roll Call**

Jep Barbour  
Frank Bedell  
Glenn Burton  
Dominic Caparello  
Ed Cheffy  
Jim Clark  
Cynthia Everett  
Linnus Finney  
Bill Fuller  
David Goodwin  
Bill Hahn  
Kelly Hamer  
Cliff Higby  
Larry Hamilton

Buddy Jacobs  
John Kest  
Bob Palmer  
Brad Powers  
Roosevelt Randolph  
Sandy Sanborn  
Tom Scarritt  
Bob Spohrer  
Connie Stewart – Section  
Administrator  
Terry Vento (attempting to call in)

Guests:

David Goodwin  
Rich Gilbert – Board of Governors Liaison  
Gary Lesser – Guest Speaker

Members who were absent:

Mark Buell  
Woody Isom  
Tom Masterson  
Don Russo

**I. Minutes for the March 22, 2002 Meeting**

The minutes of the March 22, 2002 meeting of the Executive Council were read and approved.

## **II. Financial Report**

The financial statement was reviewed and approved with the current fund balance of \$152,628.00.

## **III. Nominating Committee and Election of Council Members**

Chairman Tom Scarritt announced to the Executive Council that the Nominating Committee had met and voted and that the new members who would be assuming office as of this meeting were Dom Caparello as Chair, Kelly G. Hamer as Chair Elect and Tom Masterson as Secretary. New members to the Council who will be serving 3 year terms are:

Bill Fuller  
Jim Clark  
Sandy Sanborne  
Bob Mansbach  
Ed Cheffy  
Jep Barbour

Linnus Finney will serve out the term vacated by Carolyn House Stewart and Terry Vento will serve out the term vacated by Manuel Morales. Following the announcement of the new officers and Executive Council members, Chairman Scarritt thanked the Council for the honor of serving with them and for them during the past years. He then turned the gavel over to the new Chairman, Dom Caparello who presided over the remainder of the meeting.

## **IV. Committee Reports**

### **a. CLE Committee:**

Brad Powers gave the report on the CLE Committee. He stated that the 2002-2003 CLE calendar was in place. He stated that when he went to the Florida Bar CLE Committee Meeting on behalf of the Trial Lawyers Section, he found out that all of the Sections with The Florida Bar are having the same problems with attendance at their CLE seminars. In fact, he was told that it was a nationwide problem. Brad explained that although he attempted to put together the Evidence Seminar on tape, the speakers were not comfortable in just recording their lectures so that Brad was unable to accomplish it, this year. He did state that he would continue looking into that type of seminar. He further stated that he believes the Section needs to get creative and come up with new ideas in order to entice people to attend seminars.

Bill Hahn suggested that perhaps the low turnout in our seminars is because of the method we use to notify Bar members about the seminar. He asked if we could e-mail all members of the Trial Lawyers Section about upcoming seminars. Rich Gilbert explained that The Florida Bar is putting together a new program which will involve a message board on The Florida Bar website where each section can post messages. Rich explained that each member of The Florida Bar would have access to this message board and that it would be easily accessible.

David Goodwin, a guest to the meeting, suggested that every group he has been involved with is having the same problem with their CLE participation. Goodwin suggested perhaps some new topics which would be timely will deal with the new jury handling issues because of the Supreme Court Jury Innovations Committee and the changes that will come about to jury handling as an outgrowth of that committee. John Kest suggested that we continue exploring options of partnering with other groups and vendors to put on timely seminars. Because this issue seems to be one of great importance to the Council, Chairman Caparello appointed a task force to look at the issues and bring before the Council some ideas on what to do in the future. That task force consists of Brad Powers, Glenn Burton, Roosevelt Randolph, Bob Palmer, Ed Cheffy and Bill Fuller.

Bill Hahn updated the Council on the Board Certification Review Course and stated that he thought 6 lawyers out of about 38 participants passed the exam this year. Bob Spohrer spoke up and stated that he did not believe there should be any coordination between the Board Certification Committee and the lawyers putting on their review course. He stated that Board Certification is rigorous, although he does believe we are entitled to know what general areas are being tested. Bob explained that the Florida Bar Journal will devote an entire issue to the 25<sup>th</sup> year anniversary of certification and suggested that we should appoint someone to write an article to be published in that issue.

b. Mock Trial Committee:

Terry Vento was unable to join the meeting by telephone. Cynthia Everett gave the report in her stead. Cynthia reported that because of Judge Parker's illness, Judge Morris Silberman from the 2<sup>nd</sup> DCA has agreed to draft the problem for us. She stated that we donated \$1,000 to Stetson in Judge Parker's name for his help last year.

c. Website Committee:

Tom Scarritt and Glenn Burton reported on the website. The Section has a new webmaster and the website will be entirely revamped. It will be done on a data base which will allow easier changes and access will be

easier in the future. Any suggestions about additions to the website should be given to Glenn Burton so that he can pass them along to the new webmaster.

d. 2002 Discovery Handbook Committee:

In Mark Buell's absence, Dom Caparello gave the report. He stated that the 2002 discovery handbook has just gone out and has been well received.

e. Legislative Committee:

Buddy Jacobs gave the legislative report. He stated that six bills passed the legislature that pertained to trial lawyers. He complimented the Section on the extraordinary action we took during the year to counteract some of the legislation which would have affected Trial Lawyers. Buddy thought that the upcoming year would be a good time for us to continue to become involved with our individual legislators because this is a re-election year and everyone will be campaigning. Buddy suggested we start again in early August on conference calls. He pointed out that the judiciary did very well this year with the JQC bill being killed and the judicial compensation being increased. He stated that the upcoming issues will involve funding of Article V and that we should consider this an important issue. Rich Gilbert stated that an issue that will come up in the future will be the division between trial lawyers and transactional lawyers. He stated that the transactional lawyers are not so sure we need to be so closely regulated by the Supreme Court and this will be something that will become a hot topic.

## V. **Old Business**

a. Standardized Release Form:

Tom Scarritt reported for Tom Masterson in his absence. Tom stated that the standardized release form was published in the Advocate and that we received many comments. The standardized release was revised pursuant to some of those comments. He stated that this release provides a framework for lawyers to use. Bill Hahn moved to adopt the standardized release form and Frank Bedell seconded the motion. The motion was approved as made. It will be published in the next Advocate and posted on our website. John Kest recommended that we contact other entities about the standardized release and Bill Fuller stated that we should contact the FDLA. It was also suggested that we should include the standardized release form in our discovery handbook mailing. Dom will do a letter to the President of the FDLA, the Academy of Florida Trial Lawyers and each Flabota chapter about the adoption of the standardized release form.

b. Expert Witness Cost Committee:

John Kest reported on the results of the Expert Witness Cost Committee. Please see details in their report attached to the agenda for the June 21, 2002 meeting. Basically John explained that the counsel needs to decide how far we want to go with this issue. He stated that there is not really anything we can do as far as actual legislation or rule making is concerned. Glenn Burton agreed that it is a daunting task but one that probably will require some type of rule change. John Kest suggested that the issue needs a wider look and an additional committee was appointed:

Glenn Burton, Chair  
Bob Mansbach  
Jep Barbour  
Don Russo  
Cliff Higby  
Scott Feder  
John Kest

c. Uniform Guidelines:

Tom Scarritt brought forth a suggestion from Bill Wagner on including location for depositions in the uniform guidelines. Tom Scarritt made a recommendation to appoint a committee to review the professional guidelines for updating and accuracy. Tom stated that Joe Milton told him the guidelines are even being used in New York. Dom appointed a committee of Tom Scarritt, Frank Bedell and Cynthia Everett to review the professional guidelines. Connie will send the current guidelines to each of the subcommittee members electronically.

VI. **New Business**

a. **Special Committee on Unbundled Legal Services:**

**Gary Lesser, a committee member of the Unbundled Legal Services issue was a guest at the meeting and spoke on the topic in order to get the Trial Lawyers response and be able to report it to his committee. Mr. Lesser explained that unbundled legal services is a hot topic in Florida because the Florida Supreme Court wants to make it an issue. Mr. Lesser presented the history of the Unbundled Legal Services Committee and stated in February, 2000 the Supreme Court said they wanted a committee on “unbundled legal services” which would deal with lawyers who handle family law matters. In March of 2002 a second committee on unbundled legal services was formed to look at out of court limited representation by counsel. Mr. Lesser stated that the Florida Supreme Court says that we have a need for unbundled legal services in the family law arena**

particularly. His committee is proposing an amendment to the ethics rules and to the family law rules. His committee has proposed an amendment to Rule 4-1.2 of the rules regulating The Florida Bar which would allow limited representation where allowed by law or rule. He then stated that the family law rule specifically would allow for attorneys to be attorneys of record for limited purposes. The court would then grant permission for counsel to withdraw after the limited basis had been completed. The counsel would file with the court "termination of limited appearance". Lesser explained that an attorney representing someone in a limited capacity would need to note that limited representation on each and every pleading and that every pleading should go to the court, the other lawyer and the client.

Discussion among the Council members centered around the fear of allowing an amendment to the ethics rules which could possibly create problems in the future in other areas. Although Lesser explained that his committee did not believe this would "open the floodgates", this was exactly the fear of all Council members during their discussion.

Rich Gilbert stated that problems will be created with regard to communication with someone represented by counsel. He stated that the Board of Governors would be in a difficult position to judge the competency of lawyers. A lawyer of limited representation does not necessarily have all of the knowledge of the entire file and therefore the Board of Governors could not regulate the competency of that representation. Glenn Burton pointed out that the recommendations from the Unbundled Legal Services Committee makes no safeguards to prevent abuse. While he stated that it was a noble goal to provide legal services to those who cannot afford it, especially in a family law arena, the unbundled legal services would not be limited to those type of clients. He pointed out that it could become a situation of lawyer shopping where a client of means would go to lawyers of different specialties for particular things within one case. Burton was afraid that the recommendations as stated could not curb abuses. Bill Hahn asked why the ethics rule could not carve out something just for family law, since this is the area that the Supreme Court was most concerned with. He pointed out that a similar narrowing had been done in the criminal law arena. He stated that this would help keep the "floodgates" closed and that the Trial Lawyers Section would then have a greater comfort level about the changes to the rules.

Dom Caparello stated that these issues cause a great deal of concern to the Executive Council and that we do not want to take a

position in favor of something without knowing the consequences and how the family lawyers feel about it. John Kest suggested that we need to write a letter on our letterhead that we are not in favor of the recommendations, otherwise it will be assumed or reported that we have no objections. He suggested that we put our concerns in writing to the Board of Governors. Linnus Finney moved that we oppose the proposal in its present form. An amendment was made to that motion to write a letter to the Board of Governors outlining our concerns. The motion as amended was seconded and passed by the Executive Council. Dom will write a letter to the Board and the committee outlining our concerns and our opposition to the proposal in its present form. The Board of Governors meeting will be in August.

b. **Accounting Seminar:**

With regard to the accountant liability seminar discussed at the March meeting, it was decided by consensus of the Committee that it was perhaps too narrow a topic for a stand alone seminar. It was suggested that it be included as a sub-topic in another seminar.

c. **Arthur I. Jacobs 2002/2003 Contract:**

Dom Caparello stated as is our usual practice at the annual meeting, Buddy Jacobs contract as the section lobbyist comes up for renewal. Buddy has been our lobbyist for 25 years. A motion was made, seconded and approved to renew Buddy Jacobs' contract for another year.

d. **2002/2003 Executive Council Meeting Schedule:**

Dom and Connie discussed the meeting schedule for the upcoming year. There will be a meeting at the Tampa Airport on September 13<sup>th</sup> in conjunction with a Bar meeting, there will also be a meeting in January in Miami in conjunction with the mid-year meeting and next June in Orlando in conjunction with the annual meeting. Dom is also looking at one out of country trip to Italy which will be sometime in April or May of 2003. He also questioned whether a trip to the Bahamas or Key West would be desirable, probably in the fall. We will receive updates on the Italy and Bahamas/Key West trip at a later date.

VI. **Adjournment**

**There being no further business the meeting was adjourned by Chairman Dom Caparello at 5:05 p.m.**