

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

Friday, June 22, 2012 at 2:30 p.m.

Gaylord Palms Hotel

Kissimmee, FL

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The Florida Bar Trial Lawyers' Section Executive Council met on Friday, June 22, 2012, at the Gaylord Palms Hotel in Kissimmee, Florida. Chairman Craig Gibbs called the meeting to order at approximately 2:30 p.m. The minutes were taken by Hector A. More'.

- 1. Roll Call:** Council members present: Craig Gibbs, Wayne Helsby, Ted Eastmoore (by phone), Tom Bishop, Courtney Grimm, Katherine Hunter, Darryl Lewis, John Williams, Latasha Garrison-Fullwood (by phone), Cliff Higby, Charles Bartlett, Joe Kinman, Chris Knight, Pat Lowry, Mindy McLaughlin, Bill Partridge, Norman Vaughan-Birch, and Clifford "Sandy" Sanborn.

**Council members absent:** Tom Edwards, Terry O'Conner, Kim Ashby, Phil King, Sid Matthew, Stuart Ratzman, Bob Palmer (special advisor).

**Others present:** Bob Harris, Angela Pico, Harvey Sepler, Mike Tanner, Richard Tanner, and Paige Graham

- 2. Minutes:** The minutes of the Saturday, April 28, 2012, meeting held at the Hilton Barbados were approved.
- 3. Financial Report:** Secretary Eastmoore reported that Section revenues were up and the Section's fund balance is ahead of last years figures.

Summit Expenses: Expenses for the 2012 Summit were \$7,000.00 over budget. The Council expressed general agreement that in the beginning years the Summit is likely to be over budget.

Approval of the budget attachments: All of the budget amendments outlined in Exhibit No. Four (4), were approved.

- 4. Legislative/Legislator of the Year Award:** Trial Lawyers Section announced David Simmons as Legislator of the Year for the Senate.

Trial Lawyers Section announced Darren Soto as Legislator of the Year for the House.

Mr. Simmons and Mr. Soto were presented with plaques at the meeting.

- 5. Young Lawyers Division:** Chairman Gibbs reported that the liaison of the Young Lawyers

Division had been extended an invitation to attend the Executive Council June 22, 2012 meeting, but he was unable to attend. Chairman Gibbs also reported that the YLD has expressed a desire to become more involved with the Section's projects.

6. **Southern Legal Counsel's Annual Partnership Campaign:** A presentation was made by the Representative of the SLC regarding their work on behalf of the citizens of the State of Florida. SLC made a request to the Section for a \$75,000.00 grant which SLC would use to hire an attorney. The action taken by the Section is outlined in the minutes concerning the budget allocation chair's report.
7. **Committee Reports:**
  - A. **By-Laws:** No report.
  - B. **Board Certification:** No report.
  - C. **Civil Procedure Rules:** Joe Kinman reported that the Civil Procedure Rules Committee is proposing some E-discovery items may be taxable costs under the Uniform Guidelines of Taxation. Another proposed rule is 1.020, which would state all filings are to comply with Rule 2.425 of the Florida Rules of Judicial Administration concerning redaction of confidential information. There is also a proposal for an amendment to Rule 1.442 (Proposal for Settlement), that a PFS must resolve all damages.
  - D. **CLE:** Tom Bishop reported that the Trial Advocacy Course was a great success with fifty-six (56) students. There was participation by barristers from England and we hope to get barristers and judges from Barbados for the 2013 program. There was a mix of young to very experienced lawyers as students and Mr. Bishop thanked those members of the Executive Council who participated as faculty. Mr. Bishop has received several proposals for co-sponsoring CLE programs but no proposals have been accepted. Mr. Bishop will continue to explore future proposals and hopefully select one as a pilot program for co-sponsorship. Chair Elect Wayne Helsby reported that he will ask the incoming CLE Committee Chair, Tom Edwards, to explore a medical malpractice CLE program for the 2012-2013 term.
  - E. **Discovery Handbook:** John Williams reported he would like to update all Chapters within the next sixty (60) days. His goal is to provide the updated discovery handbook to judges by the next Judicial Conference for their vetting and proposed changes.
  - F. **Evidence Committee:** Joe Kinman reported that three (3) evidentiary matters are being sent to the Supreme Court for a determination of whether they are procedural or substantive. The three are: first, the hearsay rule concerning that the party causing the unavailability of the decedent cannot then claim hearsay; second: the expert witness certificate for medical malpractice experts, and third: fiduciary/lawyer client

privilege.

- G. Judicial Ethics Advisory:** Pat Lowry reported she will no longer be Chair as of July 1, 2012, but will remain on the committee for another two (2) years. The Committee conducted Judicial Campaign Ethics forums statewide. They are exploring making the forums mandatory for all judicial candidates. Ms. Lowry reported their committee receives judicial campaign ethics questions on a daily basis and the written responses are e-mailed to all judicial candidates within one week. They have prepared almost twenty (20) written opinions in 2012.
- H. Legislative:** Tom Bishop was appointed as the new Legislative Chair. Bob Harris provided the Council with a handout outlining his legislative report for 2012.
- I. Membership and Budget Allocations:** Courtney Grimm reported she is updating the Executive Council Directory and asked the members to update their information on the website. Ms. Grimm reported that in addition to the SLC's \$75,000.00 grant request, she had received a request from the Legal Aid Society of the Orange County Bar Association for a \$250-\$2,500 grant. Ms. Grimm reported she had spoken with the chairs of the Family Law Section and the RPPTL section regarding how those sections handle fund solicitation. She was told they are considered on an ad hoc basis. Ms. Grimm also reported the Florida Bar leaves it to the individual Sections on how to allocate solicited funds. Chair Gibbs requested Ms. Grimm's committee formulate a policy for the Executive Council to consider at the August 2012 meeting regarding solicitation of funds. Until such time as the Executive Council adopts a policy, it will decline any present requests for solicitation of funds.
- J. Mock Trial:** Kim Cook reported the coaches from the eleven (11) law schools (22 total teams) have requested an additional elimination round. A contract with the JW Marriott in Orlando for the 2013 competition has now been agreed upon and a request will be made to the hotel for additional rooms. This would be to accommodate the additional elimination round. There was general agreement in the Council that an additional round is warranted. Whether this can be implemented in 2013 or 2014 will be dependent upon space availability at the 2013 competition. Mr. Helsby pointed out that the rules of the competition will require amending if an additional round is added.
- K. Website:** Ted Eastmoore reported that the website has been changed to reflect the new members.
- L. Rules of Judicial Administration:** Joe Kinman reported that e-service is mandatory as of July 1, 2012 per Florida Supreme Court opinion of June 21, 2012. An issue concerning e-service is "when does the time start running?" The RJA adopted the same time frame as if the service was by U.S. Mail. All Clerks of Court are expected to be able to accept e-filing. Mr. Kinman also reported that by Florida Supreme Court Opinion, the Chief Justice (as well as Chief Judges of Circuits) can serve consecutive

four (4) year terms but no more than eight (8) years. Mr. Kinman rotated off the Evidence Code Committee and RJA. Chair Gibbs will remain on RJA, and Mr. Kinman has agreed to serve as a liaison on the Evidence Code Committee.

- M. 3<sup>rd</sup> Annual TLS Summit Jan. 17-19, 2013, JW Marriott Orlando:** Wayne Helsby reported we now have a contract with the JW Marriott. He requested the Executive Council members attend the Summit since the Section will be conducting three programs. The Summit will now include the Teachers Law School program. Contact was made with the Orange County Public Schools and they hope to send forty plus attendees. A contact will also be made with the Osceola County Public Schools for their participation. Barry Richards has agreed to participate and make a presentation. Bob Harris asked whether the Teacher Law School Program may be filmed for presentation to teachers statewide. There was general agreement this should be explored and Mr. Harris will do so. A substitute teacher fund will be considered to compensate the schools for substitutes required for their attendees.
- N. Board of Governors:** Norman Vaughan-Birch reported that incoming Bar President Young wants to continue with many of the Florida Bar Programs in place. One of the Bar's focuses will be on the issue of court funding and merit retention for judges. An ongoing theme will be professionalism for Bar members. Lawyer referral services will continue to be studied. There will be a continued emphasis by the Bar and its leaders to communicate to the membership on all issues. Chair Gibbs then thanked Mr. Vaughan-Birch for his service to the Council as Board of Governors liaison.
- O. Council of Sections:** No Report.
- P. ADR Committee:** No Report.
- 8. Nomination of Executive Council Members:** Members More', Bishop, Eastmoore, Ratzan, and Lowry were ratified for the 2010-2011 term.

Members Bartlett, Johnson, King, Matthew, Partridge were ratified for the 2011-2012 term.

Bradley Johnson resigned and was replaced by Latasha Garrison-Fullwood. Linnes Finney, Jr. resigned and was replaced by Clifford (Sandy) Sanborn. Phil King resigned.

Hector A. More' was installed as Secretary Treasurer for the 2012-2013 term.

Basil Bain of Naples, Vicki Sprout of Fort Meyers, and Will Murphy of Vero Beach were nominated for membership in the Executive Council. All three were unanimously elected.

Mike Tanner of Jacksonville was welcomed as the new liaison to the Board of Governors.

Kim Ashby rotated off the Council but has agreed to remain as our Section's Editor to the Florida Bar Journal.

The legislative committee will be chaired by Tom Bishop and include Tom Edwards and Sandy Sanborn as members.

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Wayne Helsby was installed as Chair for 2012-2013.

The Executive Committee of the Council will be the 4 officers (Gibbs, Helsby, Eastmoore, and More'), along with the chairs of the CLE committee (Edwards), Legislative (Bishop) and budget (Grimm).

Wayne Helsby recognized Craig Gibbs for his great work and leadership as the Chair in 2011-2012.

**9. Old Business:**

- 10. New Business:** The Executive Council approved the Trial Lawyers Section lobbyist, Bob Harris' contract for the term of July 1, 2012- June 30, 2013.

**11. Future Meetings:**

August 23 – 25, 2012 in Naples, FL

November 15-17, 2012 in Key West, FL

January 16-19, 2013 in Orlando, FL

April (early to mid) 2013, California

June 22-24, 2013, Boca Raton, FL, Florida Annual Bar Convention

No further business appearing, the meeting upon motion was adjourned at approximately 4:30 p.m.