

THE FLORIDA BAR
TRIAL LAWYERS SECTION
EXECUTIVE COUNCIL MEETING
March 27, 2004

MINUTES

The Florida Bar Trial Lawyers Executive Council met at the Mills House in Charleston, South Carolina on Saturday, March 27, 2004. Chairperson, Kelly Hamer, opened the meeting and called it to order at 9:11 a.m. The Minutes were taken by Secretary, Mark P. Buell.

ROLL CALL

Mark A. Avera
Jeptha F. Barbour
Mark P. Buell
Glenn M. Burton
Dominic M. Caparello
James D. Clark
S. William Fuller
William E. Hahn
Kelly G. Hamer

Clifford C. Higby
Buddy Jacobs
Jonathan P. Lynn
Robert E. Mansbach, Jr.
Thomas D. Masterson
Bradley E. Powers
Clifford W. Sanborn, III
M. Therese Vento

Members who were absent:

A. Woodson Isom, Jr.
Linnes Finney, Jr.
Frank M. Bedell
Edward K. Cheffey

Robert C. Palmer
Roosevelt Randolph
Eileen L. Tilghman
L Norman Vaughan-Birch

I. Minutes from the January 16, 2004 Meeting

The minutes of the January 16, 2004 meeting of the Executive Council were read and approved with the exception of the typographical error in the word "in" in the second full paragraph on page 2.

II. Financial Report

The financial report was reviewed and approved. The current balance is \$182,590. A copy of the financial report is attached.

III. CLE Committee

Brad Powers reported on behalf of the CLE Committee. One problem which has recently occurred relates to the Listserve. It has not been possible for approximately a month to send e-mails using the Listserve which has made it more difficult to give notice regarding upcoming courses. Connie is working with the consultants to fix the problem.

Mr. Powers advised the Board Certification Review Course went flawlessly and that the Advanced Trial and Damage Seminars are on track with all materials having been submitted.

Mrs. Hamer advised the problem for the Advanced Trial Advocacy Seminar has been reworked which should facilitate smooth running of the seminar. It is scheduled for May 11 to 14, 2004. The brochure has been completed and will be mailed.

IV. Mock Trial

Terry Vento reported regarding the Mock Trial committee. After nine years of hard work putting on the Mock Trial Competition, she is turning the project over to Eileen Tilghman and Jon Lynn. The Board noted her nine years of hard work and faithful attendance. She will be missed.

The *Bar News* ran an article after the Mock Trial Competition in January which will be utilized to recruit judges and lawyers in the future. Judge Coat prepared the problem pursuant to contract last year and has been paid. We will need a new problem for next year. It is hoped we will be able to use one of Judge Parker's old problems which will need to be reworked.

V. 2004 Discovery Handbook

Mark Buell reported all chapters of the 2004 Discovery Handbook are complete. Final editing is underway and it will be sent to the printer shortly. Connie suggested that we print 8,000, rather than 10,000 copies since more people are utilizing the website to obtain copies of the Discovery Handbook. Sandy Sanborn will be taking over the Discovery Practice Handbook beginning with the 2005 edition.

VI. Website Committee

Connie Stewart reported regarding problems with the website. As noted above, the listserv has not been working. She left a message with Elliott and he has been unable to determine exactly what the problem is. He has tried twice to fix it without success. They will keep trying

VII. Legislative Committee

Buddy Jacobs reported regarding upcoming legislation and the present legislative session. Although a medical malpractice bill similar to the Constitutional Amendment being pushed by the Florida Medical Association was filed, there appears to be no support for it, particularly from the Senate.

Mr. Jacobs estimated that approximately twenty to twenty-five new judges will be funded by the Legislature. The Supreme Court certified approximately eighty new judges. The Senate has funded none in its proposed budget, but it is anticipated a compromise will result in approximately twenty to twenty-five new judgeships. Article V funding is going well and it is anticipated the courts will be well funded.

The Legislature is also attempting to limit constitutional initiatives since the Florida Constitution has been amended 90 times since 1970. The Section is on record as supporting making it more difficult to get Constitutional initiatives on the ballot with the proposal a note of more than 60% of the electorate be required to pass a Constitutional Amendment.

The State of Florida's revenues have increased by approximately 1.2 billion dollars due to the economy improving. Accordingly, from a budget standpoint funding of various programs should be easier.

Mr. Jacobs also presented a draft of a Supreme Court brief regarding the Medical Liability Claimants' Compensation Amendment, Case SC04-310. The final brief is due March 31, 2004. A conference call was scheduled for 3:00 p.m. on March 29, 2004 to discuss and approve the brief for filing on behalf of the Trial Lawyers Section.

VIII. Old Business

A. Law-related education:

A request has been made to provide additional funds for the competition in Orlando which was previously funded up to \$4,000 to pay for trophies. After discussion it was moved, seconded, and resolved to provide a total of \$10,000 for the competition.

B. Lawyers Challenge for Children:

The Section has provided \$1,000 at the request of the President of The Florida Bar for the Lawyers Challenge for Children project.

IX. New Business

A. Medical Malpractice Joint Committee:

Bill Hahn reported on behalf of the Medical Malpractice Joint Committee. He has had multiple discussions with Dr. Dennis Agliano, the incoming President of the Florida Medical Association. A meeting was scheduled between our committee and FMA leadership. Unfortunately, conditions insisted upon by counsel for the FMA caused the discussions to break down. The FMA is totally unwilling to even discuss whether their Constitutional Amendment seeking to limit attorneys fees in medical malpractice cases should be removed from the ballot and whether other alternatives to assist the medical profession could be discussed. Mr. Hahn and Dr. Agliano were both disappointed the meeting could not take place.

Mr. Burton advised that he had spoken to a meeting of more than one hundred physicians in Pinellas County last week, and that only two out of this large group were even aware of the various Constitutional Amendments which have been set forth by the Academy of Florida Trial Lawyers as well as the FMA. Most physicians do not belong to the Florida Medical Association and are apparently not seriously backing its present position.

The Committee discussed the possibility of using the services of Ron Sachs to help get our message to many of the M.D.s who do not agree with and/or belong to the FMA. Both the public and the physicians need to be educated regarding the potential effect of the various amendments so that reasonable consensus can be sought and achieved. This will be further discussed on the conference call at 3:00 p.m. on April 2, 2004. It was moved by Bill Fuller and seconded by Tom Masterson to retain Mr. Sachs to prepare a position paper and disseminate it using the \$15,000 previously allocated in June, 2003. The motion passed unanimously.

Motion was moved and seconded by the same members to make the Medical Malpractice Joint Committee into a standing committee to assist with the above efforts. The Medical Malpractice Joint Committee is made up of both plaintiffs and defense lawyers including Chairman Bill Hahn, Tom Masterson, Bill Fuller, Jon Lynn, Mark Avera, and Dominic Capparello.

B. Discussion with Supreme Court:

The Supreme Court will be available for discussion at the Annual Meeting at 3:30 p.m. on Thursday, June 24, 2004. It is anticipated all seven Justices will appear and we are encouraging attendance at that date and time.

C. Chester Bedell Memorial Annual Luncheon:

Arthur Miller will be the speaker for the Trial Lawyers Section Annual Luncheon on June 25, 2004 at the Boca Raton Resort & Club in Boca Raton, Florida. All are encouraged to attend and bring a friend.

D. Nomination of Council Members:

It is anticipated there will be six seats open on the Committee when members rotate off at the end of this Bar year. A discussion ensued regarding the need to encourage diversity on the

Executive Council. The Executive Committee of the Council will meet and recommend new members and a new Secretary at the June 25, 2004 meeting.

X. Summer Meeting

Our next meeting will be Friday, June 25, 2004 at the Annual Meeting in Boca Raton, Florida.

XI. Adjournment

There being no further business, the meeting was adjourned by Chairperson, Kelly Hamer, at 11:30 a.m.

ADDENDUM

A special meeting (by telephone conference) of the Trial Lawyers Section Executive Council was called to order at 3:00 p.m. on March 29, 2004 by Chairperson, Kelly Hamer, to consider authorizing filing of a brief with the Florida Supreme Court in Case SC04-310 which was discussed at length at the Charleston meeting on March 27, 2004. Present by telephone were Chairperson, Kelly Hamer, Secretary, Mark Buell who took minutes, Bill Hahn, Mark Avera, Jim Clark, Bob Mansbach, and Cliff Higby. Also present were Connie Stewart, Buddy Jacobs, and Lisa Satcher. Bill Hahn moved to accept the brief with suggested editing changes to be sent to Mr. Jacobs, which was seconded by Jim Clark. The motion unanimously passed and will be filed before noon, March 31, 2004. Oral argument is anticipated on June 8, 2004. A draft copy of the brief was previously provided to The Florida Bar.