

**Minutes of the Meeting of the Trial Lawyers' Executive Council**  
Water Color Inn & Resort, Santa Rosa Beach, FL  
Saturday, November 6, 2010

The Florida Bar Trial Lawyers' Section Executive Council met on Saturday, November 6, 2010 at the Water Color Inn & Resort, Santa Rosa Beach, FL. Chairman Cliff Higby called the meeting to order at approximately 9:00 a.m. The minutes were taken by Secretary Wayne Helsby.

1. **Roll Call:** The following members of the Council were present: Cliff Higby, Craig Gibbs, Hector Moré, John Williams, Bob Palmer, Courtney Grimm, Ted Eastmoore, Charles Bartlett, Bradley Johnson, Terry O'Connor, Joseph Kinman, Sidney Matthew, Tom Bishop, Sandy Sanborn, Philip King, Patricia Lowry, Kimberly Cook, Linnes Finney, Jr., and Wayne Helsby. Also present was the Bar's liaison, Paige Graham and the Section's lobbyist, Bob Harris.
  
2. **Minutes:** The minutes of the Saturday, August 28, 2010 meeting which was held at the Ponte Vedra Lodge & Club, Ponte Vedra, FL were unanimously approved, the reading of same having been waived.
  
3. **Financial Report:**
  - A. September Statement of Operations  
Secretary Helsby reported that the Section is in favorable financial condition.
  
  - B. Approval of 2011 – 12 Section Budget  
The Section budget for 2011-12 was unanimously approved. The Section's budget for the January retreat was also approved unanimously.
  
4. **Committee Reports:**
  - A. By-Laws: Kim Ashby: No report.
  
  - B. Board Certification: Bob Palmer reported that the number of applicants for certification have increased this year. In the past few years the number of applicants had declined, so this is good news. Efforts are being made to contact local trial lawyers association groups to encourage attorneys to sign up for certification.
  
  - C. Civil Procedure Rules: Joseph Kinman was asked to become the Council member representative for the Florida Bar's Civil Procedure Rules Committee, and he agreed to do so.
  
  - D. CLE Report: Chairman Higby reported that the Trial Advocacy Seminar is set for May 10-18 in Gainesville and is coming together very nicely. Chairman Higby urged Council members to attend and participate. Dennis Wall, an attorney in Orlando, requested that the Section put on a CLE Seminar on Presenting and Defending

Business Interruption Claims and Catastrophic Damages Claims. Chairman Higby will forward Wall's request to Paige Graham for consideration and discussion.

- E. Discovery Handbook: John Williams reported that the Discovery Handbook is now complete. There is a new Chapter on E-Discovery. The Handbook is available on our Section's website. John complimented a number of judges who assisted in preparing the Handbook. A motion was made and approved to use the Bar's Print Shop to make copies of the Handbook and distribute them to all County and Circuit court judges in the State. The cover letters will be co-signed from the Chair and the various members of the Council from each circuit.
- F. Evidence Committee: Joseph Kinman reported that the committee is going to be investigating the sequestration rule. The Committee wants to put on a seminar with the Young Lawyers Section. Apparently there has been complaints that some young lawyers don't know the rules of evidence.
- G. Legislative: No report other than comments about upcoming legislative initiatives by Bob Harris.
- H. Med-Mal Handbook: Mindy McLaughlin is working on a Medical Malpractice seminar. The Bar has approved the seminar and it will be held at the Section's Seminar in January.
- I. Membership: Courtney Grimm reported that there are about 100 more members as of this October than October of last year. Historically, Section membership in the Bar has been declining. The letter writing campaign seems to have been successful in attracting new members. Our Section membership is a little over six thousand members.
- J. Mock Trial: Kim Cook reported that the proposed problem sent to the law schools was not received favorably. The Committee decided on a new problem that will be sent out to the law schools next week. Judges for the competition have been lined up. Judge Charles Wilson from the 11<sup>th</sup> Circuit will preside over the final competition.
- K. Nominating: No report.
- L. Website: Ted Eastmoore reported on improvements to the Section's website that he and Courtney Grimm have been working on. Efforts are being made with our website maintenance server group to interface our website with Facebook and Twitter at a cost of \$1,800 per year. This is within our budget. A motion was made to do so and unanimously approved.
- M. Rules of Judicial Administration: Craig Gibbs reported that the Committee passed the Rules on e-service of documents and sensitive information filing. Both Rules have been forwarded to the Florida Supreme Court for approval. Craig encouraged all

members to view the Bar's new DVD on Rule 2.420 of the Florida Rules of Civil Procedure relating to confidentiality of documents.

N. First Annual TLS/Burton Summit: Bob Palmer reported on the January Summit. Bob distributed a flyer on the Summit for all to review. Bob asked the Council members to make attempts to have the flyer included in local Bar publications. The Summit will have various components to it. The Mock Trial Competition will be held Wednesday through Thursday, with a reception for participants on Thursday night. The Trial Certification course will be held Thursday through Friday. On Saturday morning, there will be both Medical Malpractice and Jury Instruction CLE seminars. Neil Sonnett will be the Friday luncheon speaker. Jeffrey Toobin speaks Friday night and Ted Eastmore's band will be performing that night. The Council's meeting would likely be Saturday morning. If participants at the Summit paid on an "ala carte" basis, and did all of the events (other than Mock Trial), the cost would be \$700. The Section is contemplating a package deal which would be \$600 for everything (other than the mock trial competition). Fund raising was discussed and the goal is to try and obtain about \$25K in sponsorship money.

O. Board of Governors: No report.

P. Lobbyist:

1. Legislative Contact Guide

Bob Harris had previously prepared a Legislative Contact Guide for all Council members. The LCG has been amended to reflect the newly elected members of the Florida Legislature. The LCG has been emailed to all Council members and a hard copy for everyone was provided at the meeting. Bob urged Council members to begin contacting legislators in advance of next year's session.

2. Post-election Wrap Up/November Elections

Bob Harris reported on various post-election matters. All Supreme Court Justices and all DCA Judges were retained in the election. Bob circulated voting results for all Justices and Judges. Newly elected Governor Scott has created a transition advisory team which will be based in Ft. Lauderdale. The names of the transition advisory team members were circulated. The Republicans now have a "veto proof" majority in both the House (81-39) and the Senate (28-12). Bob also circulated financial reports of the various candidates. The House has developed a new committee structure. The Judiciary Committee will now be divided into two committees: the Civil Justice Committee and Criminal Justice Committee. The Civil Justice Committee has announced that it will apparently be involved in "court rulemaking" which is of obvious concern. Bob believes that re-districting will become a very significant issue for the Legislature, as will tort reform and insurance reform.

Q. Council of Sections: Craig Gibbs reported on a recent teleconference. Membership issues were discussed.

R. ADR Committee: Phil King reported on the formation of a new Alternative Dispute Committee. A letter was passed around summarizing the committee and its formation. The letter is attached to the minutes.

5. **Old Business:**

A. Ervin v. Crist Court Funding Case – Sid Matthew/Cliff Higby

Chairman Higby recognized Kim Ashby Sid Matthew for their efforts in the Ervin v. Crist court funding case. The Florida Supreme Court, despite earlier proclamations this year that Florida's court system is underfunded, unanimously reversed Judge Sheffield's decision granting summary judgment, and held that there was no per se constitutional access to court violation when the Legislature diverted a portion of court filing fees to the General Revenue fund, as long as the Legislature appropriates an amount to "adequately fund the courts". Sid believes that he now has the right to a remand trial before Judge Sheffield to present evidence of court underfunding. There is also a United States Constitution First Amendment right to access to the courts, so Sid has alternatively prepared a Section 1983 case to file in Federal Court to pursue this matter.

6. **New Business:** Chair Higby

A. May 2-7, 2011 – Executive Council Meeting (Edinburgh, Scotland)

Chairman Higby reported that he has decided not to hold the Section's May meeting in Scotland. He has decided to instead hold the meeting at the Homestead in Virginia or the Greenbriar in West Virginia. Chairman Higby is leaning toward the Homestead. The dates will be May 4th through May 8th. The actual meeting will be that Friday morning.

B. Annual Florida Bar Convention – President's Showcase

The Bar wants to have the Annual Convention Committee choose a CLE seminar to pick as a "showcase" seminar, and has asked the Council to participate. The Council unanimously voted to not participate.

C. Judicial Luncheon at Annual Convention

A request was made to have the Section sponsor the Judicial Luncheon at the Convention. The Council unanimously approved this expenditure.

The meeting upon motion was adjourned at approximately 11:15 a.m.