

# MEETING MINUTES

## APPELLATE PRACTICE SECTION EXECUTIVE COUNCIL MEETING

June 26, 2014

Gaylord Palms Resort – Orlando, Florida

### I. Call to Order

Chair Caryn Bellus welcomed everyone to the meeting.

Chair Bellus introduced the new judicial representatives (Judge Alan Forst, Fourth DCA, and Judge Wendy Berger, Fifth DCA) and our new Section Program Administrator (JoAnn Shearer).

### II. Attendance

Caryn Bellus	Judge Richard Suarez	Kimberly Jones
Ceci Berman	Bretton Albrecht	Nick Shannin
Chris Carlyle	Calianne Lantz	David Knapp
Duane Daiker	Jonathan Streisfeld	Tyler Pitchford
Tony Musto	Angela Flowers	James Nutt
Steve Brannock	Jack Aiello	Yosve Ochoa
Sarah Lahlou-Amine	Dorothy Easley	Wendy Loquasto
Ken Bell	Tom Ward	Mike Giel
Judge Alan Forst	Kimberly Kanoff Berman	Kansas Gooden
Judge Wendy Berger	Carrie Ann Wozniak	David Knapp
Jessie Harrell	June Hoffman	Michael Korn
Rebecca Creed	Valeria Hendricks	Judge Stephanie Ray
Judge Morris Silberman	Brandon Christian	Susan Fox
Mike Richmond	Jared Krukar	

Due to technical issues, the telephonic attendees (Jonathan Streisfeld and Angela Flowers) joined the meeting late.

### III. Approval of Minutes

The minutes for the prior Executive Council meeting on January 23, 2014, in Orlando, Florida (attached to the Agenda as Exhibit A) were approved by unanimous vote with two changes: the date of the meeting was 2014 (not 2013), and Jack Aiello's name was misspelled. The Motion was made by Nick Shannin, and seconded by Dorothy Easley.

#### **IV. Chair's Report – Caryn Bellus**

Chair Caryn Bellus gave an overview of key events since the last meeting, including two major CLE programs that went very well: Practicing Before the Second DCA and Practicing Before the Florida Supreme Court.

#### **V. Treasurer's Report – Duane Daiker**

Treasurer Duane Daiker noted that the most recent financial statement (dated May 2014) is attached to the agenda as Exhibit B. As we approach the Bar's fiscal year end, revenue has exceeded expenses by approximately \$70,000. Neither the expenses nor the sponsorships for the annual meeting are reflected yet, but we expect to continue to improve on our net income. Overall, the Section is doing well, operating within budget, and continuing to add to our total fund balance.

Dorothy Easley asked whether judges are aware that the Section may reimburse travel expenses for meetings. We will make sure they know through our judicial representatives. We have \$1,500 currently budgeted, subject to adjustment if additional funds are needed. We want to insure judges can attend the annual meeting.

#### **VI. Old Business**

##### **1. Appellate Advocacy Intensive Skills Workshop**

This is an intensive 3-day workshop in which you write briefs and prepare oral arguments with primarily a judicial faculty. This workshop is designed for limited attendance, and aimed at younger lawyers.

Chair Bellus gave some background on the history and content of this program. Jessie Harrell stated the need to form a committee to plan this event. Ms. Harrell is looking for names of people who would be willing to help. There has been some turnover in the faculty, and we need a year or so lead time to find new faculty, update the course materials, etc.

Chair Bellus noted that we need strong judicial involvement to make this program a success. One of our judicial representatives, Judge Berger of the Fifth DCA, volunteered to help. Possible locations are Stetson University College of Law or St. Thomas. Tony Musto will check with St. Thomas, and Wendy Loquasto will check with Stetson.

##### **2. Website Updates – Jonathan Streisfeld**

Jonathan Streisfeld continues to coordinate updates for the Section website with Lisa Graham. Each committee has its own page, and he welcomes additional submissions from any committees for new content. Changes will be made soon to

reflect the newly elected officers and committee leadership.

V. Hendricks noted that certain historical updates she submitted have not appeared on the website yet. Mr. Streisfeld said he was not aware of those updates, but would follow-up. The delay may be related to our change in Section Program Administrator.

Dorothy Easley noted that Mr. Streisfeld is doing a great job and has produced a model website for Florida Bar sections.

Mr. Streisfeld noted that there may be some additional expenses associated with the translation of the Pro Se Handbook for website access to those handbooks in other languages. Chair Bellus noted that these are important issues that will be addressed with the Publications Committee report.

### **3. Bylaw Amendments – Nick Shannin**

The Executive Council previously discussed an amendment to change the Outreach, Pro Bono, and Self-Represented Litigant Committees to standing committees. We have given 30 days notice to the Florida Bar, so we can vote. The Self-Represented Litigant Committee has also requested a name change to the Pro Se Committee.

Nick Shannin moved to change the Outreach, Pro Bono, and Self-Represented Litigant Committees to standing committees, and to change the name of the Self-Represented Litigant Committee to the Pro Se Committee. Dorothy Easley seconded. The vote was unanimously in favor. Mr. Shannin will submit the change to the Florida Bar Board of Governors.

## **VII. New Business**

### **1. Sunset of Section’s Legislative Positions – Nick Shannin**

Our three 2012 legislative positions are sun setting. The Bar prefers for us to have positions that are specific to the concerns of our Section.

Our prior legislative positions were:

1. Opposition to changes to Art. 5, Sec. 2 of the Florida constitution
2. Support for an independent judiciary
3. Support for pay increases for appellate judges and court personnel

The Florida Bar believes that #1 is moot, plus the Florida Bar already has a position. The Florida Bar has suggested we limit our #2 position to appellate courts only, so it is specific to our Section.

Nick Shannin moved that we allow our position #1 to sunset, that we narrow our position #2 to appellate courts, and retain our position #3. Dorothy Easley seconded. The vote was unanimously in favor.

## **2. New/Additional DCA CLEs – Jessie Harrell**

Chief Judge Shepherd of the 3d DCA is very enthusiastic about a Practicing Before the Third DCA seminar. He is already planning the line-up for February 2015. However, the Miami-Dade Bar Association also does a similar seminar that they use to fund the coffee breaks at the courthouse. We are not permitted to do a revenue share with a local bar association.

One idea is for this Section to do a full day seminar, but allow the Miami-Dade bar to host a reception and seek sponsorships to generate revenue. Judge Richard Suarez said he doesn't think this is a conflict, and supports having a "Practicing" seminar in the Third DCA. Tony Musto believes this Section can do a revenue split with a local bar. He will assist with working this out.

Practicing Before the First DCA is scheduled for April 10, 2015. Judge Stephanie Ray and the court are excited. The First DCA's Inn of Court wants to be involved too. The biggest concern of the court was that the CLE be affordable for government lawyers.

Jessie Harrell is suggesting a one-time exception for discounts for government lawyers—in part because of the court and the Inn's request, and in part because of the unique nature of the "practicing" type CLEs with such direct access to the courts. If we allow a discount, we won't be taking spots from any paying participants because there is no requirement to cap attendance. The expenses of the CLE are low, consisting of only the Florida Bar expenses and lunch expenses.

Ms. Harrell made a motion for a one-time exception to the Section's policy to allow a discount for CLE/registration fees for government lawyers attending the First DCA seminar. Dorothy Easley seconded.

Ms. Easley asked how much of a discount was being considered. Ms. Harrell was open to suggestions. Our "break even" cost per attendee has not yet been determined. The full price will be \$230-\$250, per the Florida Bar's CLE pricing guidelines. Ms. Easley suggested approving a discount in principal, but we can't decide on the specifics until we have concrete numbers. Ms. Easley made a modified motion to approve in principal the concept of a discount for government lawyers, with approval of the hard numbers later. The modified motion was seconded by V. Hendricks. The vote was unanimously in favor.

Mr. Musto also suggested there may be a way, by partnering with the Inn of Court, to bypass some of the Florida Bar procedures and fees to make this more profitable.

### **3. 2015 Appellate Judges Conference**

Many of us have attended the annual Appellate Judges Conference in the past, at invitation of the judges. We traditionally host a reception on Sunday night, and then attend the conference on Monday and Tuesday morning. Judge Melanie May has informed us that they prefer for us to attend every other year. We won't be participating in 2014, but we hope to do so in 2015.

Judge Alan Forst noted that Judge May believed it may have been an imposition on this Section to attend every year. Chair Bellus said it is not, and we will come whenever they will have us. Judge Richard Suarez confirmed that the DCA Judges believed it was too much to ask of us, and appreciated our involvement.

### **4. Reducing the Number of Editions of The Record**

It has become more and more difficult to produce The Record in a timely fashion due to constraints with the Florida Bar publications department. We have only been able to get 2-3 issues out per year, rather than the official 4 issues.

June Hoffman reported a general consensus of the Publications Committee to produce two larger editions in the winter and summer, plus a lighter edition in September to report on annual meeting events.

Tony Musto suggested leaving the number of issues to the discretion of the Chair and the Publications Committee. Susan Fox stated her belief that it is important to have certain basic things in The Record, including the Chair's message, calendar updates, etc. She believes we need at least 3 issues to keep members informed.

Dorothy Easley suggested that we may want to revisit our decision about The Record being available only to members of this Section. The Record gets us more exposure, and we may have more people writing, if the publication has a larger audience. Chair Bellus agrees. Calianne Lantz thinks we need a quicker turnaround with new technology.

Kristin Norse stated that The Guide and The Record won't get the recognition they deserve by being behind our password wall.

Chair Bellus stated that the number should be flexible, and doesn't think a vote is required. Three issues per year may be ideal. She stated there seems to be a consensus among the Executive Council. Everyone agrees that The Record should not be password protected, nor The Guide. This is better for our Section, and better for the authors.

In response to a question from Tom Ward, Ms. Norse confirmed that we have not limited authors to Section members, but Section members may get preference.

## **5. Date and Location for Next EC Meeting**

The Florida Bar's fall meeting is set for Tampa from October 16-18, but is limited to a small meeting. We will try to get space at that meeting, but if we cannot, we will try to meet by video conference from the DCAs. Judge Richard Sanchez says that should not be a problem.

## **VIII. Committee Reports**

### **1. Council of Sections – John Hamilton**

There has been no meeting since our last meeting, so there is nothing to report. There will be a bar leadership conference in Tallahassee at the end of July. Ceci Berman and Duane Daiker will attend for the Section. Chris Carlyle will attend the upcoming BLSE leadership meeting.

### **2. Florida Bar CLE Committee – Tony Musto**

Questions have been raised about CLE expenses. The old way was based on 12-20% of gross revenues. The Florida Bar then changed to 80% of net revenues (but lots of backcharges in that number for Bar overhead expenses, etc.), which was not better. There are many concerns being raised by the various sections, and this issue is expected to be addressed by the Council of Sections.

### **3. CLE Committee – Jessie Harrell**

Jessie Harrell emailed a CLE report with the year in review, which is also attached to the minutes as Exhibit C. Our various CLE programs are not always earning out at time of the seminar, but they do with continued sales over time.

Hot Topics in Appellate Practice is scheduled for March 2015. That seminar has not historically been very popular. Ms. Harrell inquired about replacing Hot Topics with a criminal appellate CLE. Dorothy Easley and Calianne Lantz expressed their support. Chair Bellus stated that change is within Ms. Harrell's discretion, and no vote is required.

### **4. Outreach Committee – Tom Ward**

Tom Ward spoke in place of Siobhan Shea. There are still some vacancies on the Outreach Committee to be filled. Chair Bellus said the officers will be working on appointments to fill the remaining slots.

### **5. Pro Bono Committee – Sarah Lahlou-Amine**

Sarah Lahlou-Amine stated that the committee has many new volunteers with new ideas. The committee is considering providing CLE to legal aid

organizations, and working with law school appellate clinics. The committee is also investigating ways to help meet veterans' appellate needs.

**6. Publications Committee – Kristin Norse**

Kristin Norse reported great participation at the Publication Committee meetings. We need an assistant editor for The Record and an Assistant Editor for the Florida Bar Journal articles.

**a. Pro Se Handbook Committee – Bretton Albrecht / Kim Jones**

The committee is looking for volunteer to write a section on unemployment appeals.

The committee is also trying to determine what formats will be available going forward. We are working first to update PDFs for online delivery. We are also looking to get a budget to ultimately include translations and paper copies to prisons.

John Hamilton noted there are lots of changes to the appellate rules coming in this 3 year rules amendment cycle. There will be important changes for the Handbook, and lots of them.

Dorothy Easley noted that the translations have been paid for by the Florida Bar Foundation in the past, and came in under budget. The Foundation should be willing to fund translations again, and may fund paper copies too.

**b. The Record – June Hoffman**

The Summer edition is with the Florida Bar for publication now. August 1, 2014 will be the deadline for next issue. June expressed her thanks to Bretton Albrecht and Carrie Ann Wozniak.

**c. The Guide – Rebecca Creed**

Rebecca Creed stated her appreciation for the removal of passworded access for The Guide. Updates are in progress and will be getting to the website soon.

**d. Florida Bar Journal – Brandon Christian**

Brandon Christian reported that we have enough articles in pipeline to cover our needs well into next year.

**7. Programs Committee – Robin Bresky**

The annual dessert reception will be tonight from 9pm to 11:30pm. We have received \$21,000 in sponsorships. Everyone is invited.

**8. Public Advocacy/Litigation – Nick Shannin**

Nick Shannin reported that, unlike previous years, there is little in the way of legislation that presently requires active attention by the committee. There is an Amendment approved by the legislature for determination on the General Ballot titled “Amendment 3: Florida Prospective Judicial Vacancies.” The amendment raises the issue of whether we amend the Florida Constitution to clarify that, if a Governor and a member of the Florida Supreme Court are both destined to have their terms expire the same day, the outgoing governor, not the incoming, gets to make the appointment. Former Justice Harry Lee Anstead and several prominent Florida Bar members have opposed adoption, but no formal position has been raised by the Florida Bar at the time of the meeting. The Legislative Committee is presently following the Florida Bar’s lead on this, encouraging members with opinions to raise awareness, but not to otherwise advocate an official position at this time.

**9. Website – Jonathan Streisfeld**

We can put articles direct to web without going through The Record, if desired. We can also use blast e-mails to deliver substantive articles, or post articles in a different format rather than just as a magazine. We can consider this further at the October meeting.

**10. Historical Committee – V. Hendricks**

Thanks to Tony Russo for doing the 2009 history section for our website. We still need to complete the 2010-14 history sections.

**IX. Miscellaneous Announcements**

The Moot Court Competition (Stetson v. University of Miami) will be held from 2:30-5pm. All Section members are urged to attend. A discussion with the Florida Supreme Court will follow.

**IX. Elections**

Chair Bellus presented a slate of officers for the 2014-15 year. Bretton Albrecht moved to accept the slate by acclamation. Tyler Pitchford seconded. The vote was unanimously in favor.



The Section officers for 2014-15 will be: Chair Ceci Berman, Chair Elect Christopher Carlyle, Vice Chair Duane Daiker, Secretary-Treasurer Kristin Norse. Caryn Bellus will serve in the role of Immediate Past Chair.

**X. Closing Remarks**

In closing, Chair Caryn Bellus thanked everyone for a great year. Chair Bellus presented acknowledgements to the outgoing officers and committee leadership.

Incoming Chair CeCi Berman thanked Chair Bellus and presented her with a plaque and a thank you gift for her service to the Section.

**X. Announce Next Meeting**

The next meeting of the EC will be in October 2014 – details TBA.

**XI. Adjournment**

The meeting was adjourned at 12:45 pm.