

AGENDA

APPELLATE PRACTICE SECTION

EXECUTIVE COUNCIL & ANNUAL MEETING

June 21, 2012

10:30 AM

Gaylord Palms Resort and Convention Center

6000 W Osceola Parkway

Kissimmee, Florida 34746

Emerald 6

*Judicial Representatives And Executive Council Members With The Chair's Permission May Attend
The Meeting Via Teleconference*

Call in #: 1-888-376-5050

Password: 1953840310

- I. Call to Order — Matt Conigliaro, Chair
- II. Introductions
- III. Approval of Minutes (**Exhibit A**)
- IV. Chair's Report
 - A. How To Get Involved In The Section
 - B. The Day's Events
 - C. Overview of Key Events Since Last Meeting
- V. Treasurer's Report — Ceci Berman
 - A. Financial Statements (**Exhibit B**)
 - B. Budget Amendments (**Exhibit C**)
- VI. Old Business
 - A. DCA Judges Conference — Jack Reiter/Caryn Bellus
 - B. High School Moot Court Competition — Jack Aeillo
- VII. New Business
 - A. History Committee — Matt Conigliaro
- VIII. Reports & Discussion
 - A. Council of Sections — Matt Conigliaro & John Hamilton, Representatives

- B. The Florida Bar CLE Committee — Barbara Eagan, Representative
- C. Continuing Legal Education – Chris Carlyle, Chair
- D. Outreach Committee –Robin Bresky, Chair
- E. Pro Bono — Sarah Lahlou-Amine, Chair
- F. Pro Se Handbook — Kimberly Jones, Editor
- G. Programs — June Hoffman, Chair
- H. Public Advocacy/Legislation — Dorothy Easley, Chair
- I. Publications — Kristin Norse for Tracy Raffles Gunn, Chair
 - 1. The Record — Anne Sullivan, Editor
 - 2. The Guide — Rebecca Creed, Editor
 - 3. Florida Bar Journal Articles — Kristin Norse
- J. Website — Jonathan Streisfeld, Chair
- IX. Elections & Recognitions
- X. Announce Next Meeting — September 11, 2012
- XI. Adjournment

EXHIBIT A

MEETING MINUTES

APPELLATE PRACTICE SECTION

EXECUTIVE COUNCIL MEETING

THURSDAY, JANUARY 26, 2012

Held at Each District Court of Appeal Via Videoconference

12:15 p.m. – 1:45 p.m.

I. Call to Order – Matthew Conigliaro, Chair

Chair Matt Conigliaro called the meeting to order by welcoming everyone and thanking them for their attendance. He noted the time as being a little past 12:15 p.m. He stated that he hoped that everyone had settled in and taken advantage of the food and drink.

II. Introductions

Chair Conigliaro introduced himself as Chair of the Section. He then said that he would like to do quick introductions for a record of attendees for Secretary-Treasurer Ceci Berman, beginning in Tampa. Before that, though, Chair Conigliaro thanked each liaison for each District Court of Appeal for his or her efforts in coordinating attendance, food, and such. The liaisons are Secretary-Treasurer Berman in Tampa, Siobhan Shea in West Palm Beach, Vice-Chair Caryn Bellus in Miami, Christopher Carlyle in Daytona Beach, and Bryan Gowdy in Tallahassee. Chair Conigliaro thanked them all.

In attendance in Tampa at the Second District Court of Appeal were:

Secretary-Treasurer Ceci Berman
Steve Brannock
Chair Matt Conigliaro
Tracy Gunn
Henry Gyden
John Hamilton
Kimberly Jones
Sarah Lahlou-Amine
Kristin Norse

In attendance in Tallahassee at the First District Court of Appeal were:

Bryan Gowdy
Mary Ann Obos
Honorable Stephanie Ray
Robert Rivas

Todd Sanders

In attendance in Miami at the Third District Court of Appeal were:

Vice-Chair Caryn Bellus
Dorothy Easley
Calianne Lantz
Tony Musto
Honorable Richard Suarez
Anne Sullivan
Kristin Tajak

In attendance in West Palm Beach at the Fourth District Court of Appeal were:

Manny Farach
Honorable Spencer Levine
Siobhan Shea
Jonathan Streisfeld

In attendance in Daytona Beach at the Fifth District Court of Appeal were:

Christopher Carlyle
Nick Shannin

Chair Conigliaro noted that Executive Council meetings are open to all. The best way to get active is to come to meetings and see what is done and participate.

III. Approval of Minutes

Attendees reviewed the minutes, presented by Secretary-Treasurer Berman. John Hamilton moved to approve the minutes. Chair Conigliaro noted that there had been a couple of typos, which have been fixed. Chair Conigliaro called for a vote, and the minutes were approved by acclamation.

IV. Chair's Report – Matthew Conigliaro

Chair Conigliaro asked attendees at the First District Court of Appeal whether they had heard from Neal Roth, who was scheduled to appear later on the meeting's agenda.

Chair Conigliaro then initiated a discussion on how to become involved in the Appellate Section. He stated that Executive Council meeting, the annual committee meeting in June, and committee meetings are ways for folks to get active in the Section. In Chair Conigliaro's view, it is an easy section in which to participate. There are plenty of opportunities available, no matter what interest one has, such as CLEs and Publications. To those on the Executive Council, Chair Conigliaro thanked them for their attendance, and for those not on the Executive Council, Chair Conigliaro thanked them even more for their attendance.

Chair Conigliaro stated that the only key event since the last meeting that would not have been covered in committee meetings would be the budget situation. Chair Conigliaro learned after the September meeting that the Section could not deal with the 2012-13 budget in January 2012; rather, a budget had to be approved in 2011. Thus, by an email vote in early December, the budget was approved. It is attached to the agenda as exhibit B. Chair Conigliaro noted that meetings between the regular Executive Council meetings are not a good mechanism for discussing the budget.

V. Treasurer's Report – Ceci Berman

Secretary-Treasurer Ceci Berman then gave the Treasurer's report. She reported that dues were down a bit, and that CLE courses were doing a bit better than budgeted. The investment allocation is way done, and she noted that credit card fees are higher than expected and have been changed in the budget. Secretary-Treasurer Berman also noted that Internet charges were much lower than expected, as were other administrative costs, such as photocopying. The website was also much lower. She reported that, all in all, the numbers tracked the budget fairly closely, and everything remained on track.

Chair Conigliaro requested comments. Dorothy Easley commented on the CLE courses, stating that she may have a question for CLE Chair Chris Carlyle. Specifically, she noted that CLEs are doing well. She asked how much of that is related to aftersales. She said that she was asking the question because she saw statistics from the RPTL Section, and its aftersales consistently have been going up dramatically. Chair Conigliaro asked for Ms. Easley to indulge him by waiting a few moments for an answer to her question because CLE Chair Carlyle would be giving a full report soon, and Chair Conigliaro would like Mr. Carlyle to wrap that answer into his report. Mr. Carlyle said that he would address the question in a few minutes, but he said he does not have the answer as to this year specifically. As a follow-up, Ms. Easley asked whether Ms. Obos would know the percentage related to aftersales. Ms. Obos said that this is first year that aftermarket sales for the Bar as a whole has exceeded live presentations. She then said that Mr. Carlyle would have more information on that. Ms. Easley said that would send the RPTL information over to Mr. Carlyle and copy Ms. Obos regarding aftersales.

Chair Conigliaro mentioned that he was happy as budget numbers became finalized, and pointed out that the Section made some money with respect to the District Court of Appeal Judges Conference back in September. The Section hit the right mark regarding how it charged attendees, the number of attendees, and costs involved, which is very positive. As we go forward next year, he hopes that continues. We will hear from Vice-Chair Caryn Bellus in that regard.

VI. Old Business

A. DCA Judges Conference, Future Options (Vice-Chair Caryn Bellus)

Chair Conigliaro stated that Chair-Elect Jack Reiter was unable to make the meeting, so he asked Vice-Chair Bellus for an update on this year's planning. Ms. Easley noted that Vice-Chair Bellus had stepped away for a moment, but if Chair Conigliaro would move on for a moment, Ms. Easley would grab Vice-Chair Bellus.

Following the report on high school moot court (below), Vice-Chair Bellus returned to talk about the District Courts of Appeal Judges Conference (“DCAJC”). Chair-Elect Reiter and Vice-Chair Bellus continue to attend monthly telephone calls with those members of decision-making board of the DCAJC. The judges have been very gracious. This year, the conference will be September 9-13, 2012. The plan is for the Section to participate in a joint Monday/Tuesday session and then split Tuesday for lunch. Vice-Chair Bellus reported that there will be another call this upcoming Monday, which would provide her more information. All of the speakers have been selected, but the committee is still working on the curriculum and location. They are talking with a number of hotels in the Amelia Island area. The Section wants the same rate as the judges. Again, all of this is up in air as of the last call, but Vice-Chair Bellus will learn more on Monday.

Chair Conigliaro asked whether the Section can identify the Executive Council meeting date. Vice-Chair Bellus said that September 9 is a Sunday, so the meeting would be Tuesday, September 11, 2012. The Executive Council meeting would follow lunch on September 11. Chair Conigliaro stated that everyone should make a note of the Executive Council meeting, location to-be-determined depending on where the judges hold the conference. Judge Suarez said there is no decision yet, and the judges are looking at a couple of venues.

Chair Conigliaro’s only minor concern is whether the meeting will happen and whether the Section is invited. If “yes” to both, the Section will plan on being wherever it is. Judge Suarez said he thinks the conference will be on. Vice-Chair Bellus agreed. Chair Conigliaro asked whether it will be finalized before the June Bar meeting. Vice-Chair Bellus would think so as the judges have to sign contracts. Judge Suarez did not know; he would think it would be final, but he is not involved. He will try to find out. Vice-Chair Bellus pointed out that more solid information would come out of her upcoming Monday telephone call. Chair Conigliaro’s concern is that if the meeting does not go forward, the Section needs to arrange its traditional September meeting, so Ms. Obos might want to keep that in mind and have a backup plan. Chair Conigliaro thanked Vice-Chair Bellus and Chair-Elect Reiter for helping out this year.

B. High School Moot Court Committee (Nick Shannin)

Nick Shannin reported about high school moot court. Jack Aiello sends his regrets, and gave Mr. Shannin to the news to report. There has been good work so far. Mr. Sepler, Mr. Greenberg, Ms. Easley, and Mr. Aiello had a number of telephone conferences and emails to respond to Annette Boyd Pitts regarding her desire to do a better job of getting scoresheets to judges that are more easily understood. The committee has done that. The scoresheets will now be easier for future judges. The committee also prepared a primer for teachers and coaches that does nice job regarding the goal and how to do it. Ms. Pitts has requested three volunteers to coach teams. Two of the teams are in Miami, and one is in St. Lucie County. If anyone is interested, please get in touch with Mr. Aiello or Ms. Pitts. They will help out volunteers, and Mr. Shannin noted that it is fun to volunteer. It takes one or two afternoons, and it is a great thing to do.

Chair Conigliaro asked for Mr. Shannin or Mr. Aiello or the committee for a short blurb to put in an email blast to help with those teams. It might be something those who do not

regularly come to Executive Council meetings might want to be involved in. Mr. Shannin assented.

VII. New Business

Chair Conigliaro said that there were three items of new business. Mr. Roth's issue is one of them. The second is Mr. Carlyle's report regarding CLEs. The third is Ms. Easley's report regarding public policy and advocacy issue. Ms. Easley's issues relate to what Mr. Roth is here for. Mr. Roth has reached out to various sections of the Bar to educate people and asked to have an opportunity to address the Executive Council. His organization is Democracy at Stake. He wants to educate people in 2012 going into merit retention. He is looking to solicit involvement from those interested in helping a worthwhile cause. Chair Conigliaro mentioned that the two fliers at back of the agenda packet reference what Mr. Roth will talk about.

A. Democracy at Stake (Neal Roth)

Mr. Roth thanked Chair Conigliaro and thanked him for the opportunity to talk to the Executive Council and provide more detailed information. Mr. Roth was accompanied by Tricia "CK" Hoffler, who works with him at Democracy at Stake. Mr. Roth noted the evening's dinner thrown by the Florida Supreme Court's Historical Society and that a former Iowa justice is the keynote speaker regarding the merit retention issue. Mr. Roth is now trying to give everyone an overview of how Democracy at Stake came into existence and what it is trying to do now.

Mr. Roth stated that some attending the Executive Council meeting may have been involved in work done back in 2010. At that time, a very loose group of people came together when issues arose between then-Governor Crist and the JNCs regarding the selection process, and more specifically, the "ping-ponging" of names between the JNCs and the Governor's office. At that time, great editorials were done by Bob Graham and Sandy D'Alemberte regarding what it was like in Florida before then-Governor Askew put the JNCs into effect. That 2010 group did great things, and it wound up in litigation with an opinion from the Florida Supreme Court on that process.

Everyone thought everything was over until mid-September 2010, when word came about that activists from the middle of the state were going to target Justices Labarga and Perry, both of whom were up for merit retention. That group in central Florida calls itself Citizens Then/Now. That group waged a largely unfunded internet campaign, to which the same people involved with JNC issues organized themselves to handle their own unfunded internet campaign. For Mr. Roth, he described himself waking up after a general election in November 2010 with two disturbing things: (1) three justices had been removed in Iowa, and (2) he looked at the numbers, because he was interested in the campaign against Justices Labarga and Perry, and saw that the numbers of approval for Justice Labarga were under 60% and for justice Perry, they were just over 60%. Untargeted justices had an approval rating near 70%, which is the norm, so it seemed that the campaign had had some success. That told Mr. Roth that work needed to be done. He decided that Florida needed to get prepared in the event that whatever occurred in Iowa in 2010 expanded. This caused Mr. Roth to organize a small group of people to start looking at the issue. The important thing early on is that the amount of money going into judicial elections had doubled in an eighteen year period. That told him that special interest

groups were getting involved, and going after courts with no concept of checks and balances and instead, looking for people that would rubberstamp whatever legislative action came down.

Democracy at Stake is a 501(c)(3) with the mission and objective to educate people of Florida about merit retention, how it came about, why it is in place, and what it was like before JNCs in Florida. The JNCs in Florida evolved out of political scandals at the Florida Supreme Court. Then-Governor Askew was a visionary at that point, and he saw a better way to deal with judicial appointments. The JNCs have worked well since that time. What is interesting is that people, when they think about elections, do not think about judges hardly at all. When they do, it is usually very late in the process. Ten years ago, Mr. Roth's firm studied this in Miami and learned that people make these judicial electoral decisions around 24 hours before the election based on word-of-mouth and newspaper endorsement. It concerned Mr. Roth regarding how to educate people to begin thinking about things rather than later so that they would understand the merit retention process. Now, flashing forward twelve years, with everyone understanding that the single greatest change in communication among people has occurred with the internet, social media and Twitter, it is now much easier to communicate in both a negative and positive manner.

The president of Democracy at Stake is former State Senator Alex Villalobos. He was a Republican who, when he was in office, supported court funding and understood these issues. Mr. Roth is the treasurer of Democracy At Stake.

The key thing that Democracy at Stake is trying to do is educate the people on merit retention. People are needed all over the state talking about this to not just family and friends. People need to give talks to the community on the merit retention process. A "down ballot" issue exists because the merit retention judges will not be at the head of the ticket. There will be a large turnout because it is a presidential election year. Democracy at Stake is studying voter patterns this year – who votes, who forgets to vote, and who drops off. People just do not know what merit retention means, and voters need to learn. There is much confusion bringing up the topic to voters. Some people think that judges would not be on the ballot at all for merit retention unless the judges did something wrong. Obviously, that is not the case, and there is a move to educate the voters that this is a constitutional process. Democracy at Stake is building out all of these education pieces.

Because Democracy at Stake is a 501(c)(3), it cannot engage in specific political activity and will not. That is not its mission. The mission is to educate and get people aware that this is coming. Democracy at Stake believes that if it is able to get people talking about these issues over the course of the next several months and understand those issues, then if the other side comes out as expected, then there will be other vehicles in place to deal with it. At this point, it is public knowledge that the justices themselves have filed their campaign papers. They have announced that there is opposition. The same people attacking the judges in 2010 have intensified their efforts. Mr. Roth does not remember whether he put it in any materials or not, but everyone should look at the Citizen2Citizen website. In the flyer Mr. Roth passed around, there is also Restore Justice 2012, which is a new organization that did not exist in 2010. Also, look at floridajudicialreview.com.

Democracy at Stake knows that the public wants courts to be fair and impartial. So, if anyone has seen communications going around regarding the Bar's activities regarding

legislation, they will see information about Floridians for Fair and Impartial Courts, a 501(c)(3) headed by former justice Raoul Cantero. People want fair and impartial courts, and they do not want politics influencing courtrooms. People want judges and justices to rule on law and the constitution and to protect what those laws provide. That's what Democracy at Stake is in the process of ensuring right now and is continuing to build out those efforts.

Mr. Roth suggested that his contact information be sent to Executive Council members. Mr. Roth can get members engaged and in touch with the right people. Everyone is sensitive to limitations on the Florida Bar itself as an association engaging in political activity. Anything done would be done as individuals and volunteers. The Bar would not be asked as an entity to actively engage in the political side. However, their leaders can be helpful – Mr. Roth had a meeting with Bar President Hawkins and Bar leadership, and there are things the Bar can do to help. To the extent the Bar can be encouraged to do that, it would be helpful. For example, at one point there was talk about putting together a video regarding merit retention. Mr. Roth did not know whether that has been done. Mr. Roth has also asked for profiles of justices who opt for merit retention to be disseminated. Those profiles can be incorporated into campaign literature done by someone else. A push in that regard would be helpful.

Mr. Roth turned over his talk to Ms. Hoffler who discussed the current state of where Democracy at Stake is. Ms. Hoffler thanked Mr. Roth for the opportunity and promised to be brief. She stated that Mr. Roth did a good job of explaining Democracy at Stake. Democracy at Stake is about educating people and going into the community. Everyone wants courts to be fair – churches and community organizations. It does not matter whether an individual is a Democrat or Republican. Ms. Hoffler asserted that it is in everyone's interest that courts be fair and impartial. Grassroots movements are important. It is about educating people, not just the lawyers. Once lawyers understand the merit retention issue, they, too, will be passionate about it. As members of the Bar, everyone has a vested interest, regardless of party affiliation.

Mr. Roth added that if opposition is successful in this instance, then a big concern is that every single judge at every single layer of the court system is constantly looking over his or her shoulder wondering whether he or she is angering someone at every stage of the game. This is a merit retention battle. There is no one else running against these justices. It has long-term implications for the system as a whole, not just for the Florida Supreme Court. That's why Democracy at Stake has taken these issues so seriously and why it has been at this issue for more than one year and will keep at it until the completion of the general election. Mr. Roth then asked whether there were any questions.

A question was posed by Mr. Hamilton. Mr. Hamilton stated that he was trying to get a better feel for what Democracy at Stake perceives its mission to be. Is the organization involving itself at, and if so, how, the pending bill at the legislature to change the way JNC members are chosen and retained and a pending judicial-related constitutional amendment that would be on the November ballot? Mr. Roth responded that as it relates to anything legislative, as a 501(c)(3) Democracy at Stake cannot engage because it would be political. Mr. Roth suggested that if an individual wants to help or find out what is going on, or who is doing what, that they get in touch with the PR firm of Salter Mitchell and ask for April Salter or Lisa Hall. They are actively monitoring everything in the legislature and coordinating everything in the legislature involving ballot initiatives, which deal with rulemaking and proceedings before JQCs

and confirmation of Supreme Court justices. At this point, Democracy at Stake can engage in educational efforts.

Ms. Shea, appearing at the Fourth DCA, posed a question. She stated that those who know her well know that she is passionate about the Fourth District Court of Appeal and the impartiality of the judiciary. She stated that she is dealing with the fact that she cannot get judges to take a free sandwich at this Appellate Section meeting, so maybe some of these issues can be dealt with on the telephone and not on videoconference at the courts. That would allow a frank discussion regarding what the Section wants to do as a section without in any way involving judges in anything that could be misconstrued as lobbying.

Ms. Easley commented that she wanted to dovetail onto what Mr. Roth discussed previously, which she would discuss in more detail when getting into the report for the public advocacy committee, but that the Section had a long history of supporting judicial independence. She noted that this was talking about the protection of the third branch of the government. The Section is uncertain as to what positions it can take and should take as a section of the Bar. However, courts are looking to the Bar and the Appellate Practice Section to take stronger positions on the process and when she gets to her report, she will note that she has spoken with Paul Hill, General Counsel of the Bar, and Francine Walker, who handles public education with the Bar. Ms. Easley stated that the Bar's position on this is that it is an advocate on process, not persons. Within those contours and the First Amendment, even the sections can support the process. The Section cannot politicize the issue, and it cannot espouse certain justices. However, it can provide the public education that Mr. Roth referred to. As to merit retention, Ms. Easley had a question for Mr. Roth, specifically, how much information is currently available so that members could educate themselves and become fluent through an education standpoint? Mr. Roth responded that Democracy at Stake has the information, If anyone wants to get in touch with him directly, he will circulate the information around.

Chair Conigliaro then turned the issue over to Mr. Gowdy for comment. Mr. Gowdy already personally started working with Democracy at Stake. At the June meeting, he noted that the Section talked about concerns as appellate lawyers regarding attacks on the court. It means it is time to take the initiative to get involved in Mr. Roth's or Mr. Cantero's groups. As appellate lawyers, Mr. Gowdy argued that there are special roles to be played because appellate lawyers know the Florida Supreme Court better than anyone else, and everyone has relationships with lawyers and people in their respective communities where we can explain that process with authority. So as many as possible at the meeting should begin to get involved in Democracy at Stake. Mr. Roth thanked Mr. Gowdy as did Chair Conigliaro.

Chair Conigliaro and Mr. Roth thanked everyone for allowing Mr. Roth to speak. Chair Conigliaro offered a quick comment regarding the judges. Chair Conigliaro stated that there are judicial representatives on the Executive Council as part of the by-laws of the Section. The Section tremendously values those judges participating in what the Section does. He emphasized that the efforts of the judicial representatives are sincerely appreciated and he wanted to make sure that the judges were aware that they are never meant to be put into an awkward position and that they are trusted to exercise their discretion in how to participate.

B. CLE Research and Recommendations (Chris Carlyle)

Chair Conigliaro stated that he asked CLE Chair Chris Carlyle to take a look at what is going on in the world of CLEs in terms of webinars and DVDs. Mr. Carlyle stated that he would touch on the Bar's perspective and then what the Section has been doing over the last few years. Mr. Carlyle traveled to Tallahassee in December and met with Ms. Obos and Terry Hill, the Bar's CLE director, and went over numbers, both the Section's and the Bar's. He picked their brains as to what to do. The sands have been shifting under our feet over the last few years. The Appellate Practice Section is not the only section with problems. Some of the issues are going on Bar-wide. For the first time, last year, aftermarket sales exceeded sales of live presentations. It is extremely dramatic how that happened. From 2007 to 2010, live sales Bar-wide were very stable at about \$2.8 million dollars each year. For each of those years, aftermarket sales went from \$1 million to \$1.7 million to \$2.7 million. Meanwhile, last year, the \$2.8 million in sales dropped to \$1.9 million in sales in live presentations. That is a massive change in the scope of one year. In 2007, the aftermarket sales were \$900,000 below live sales and the next year \$800,000 below and the next year \$500,000 below and the following year exceeded live sales by \$800,000. That is a \$1.3 million dollar swing in one year, which is not a gradual change.

The Bar is looking at some of the ways the product is being put out. Going back to 2006-07, the Bar sold \$800,000 worth of cassette tapes, which dropped to \$150,000 the next year and zero dollars the year after that. People want to access on demand, and that need has grown remarkably. Those types of sales went from \$350,000 in 2008 to \$650,000 in 2010 to \$1.5 million last year. The shift is there. There is tremendous pressure on the Bar to access the material 24/7. For every section, the good news is that there is a market for it. The question is to how to develop content reasonably and not go broke putting it out there. What is happening is a paradox – content is needed, so there is a lot of production, but the trend is that live presentations are dropping, so there is a money loss year each that there is a production with the expectation that there will be money made in succeeding years. The challenge is to obtain and produce content at a reasonable cost with the expectation that it will be used and purchased down the line via CD and on-demand.

As to the Appellate Section in particular, Mr. Carlyle reported that revenues have been dropping for the last few years because of this trend. A lot of that deals with the expense of live productions. The good news is that the DCA seminars over the last few years are very successful. With respect to the 2008 First DCA seminar, in 2009 it made \$9,000 in aftermarket sales, and in 2010 it made \$1,700 in aftermarket sales. The Fifth DCA seminar in 2010 was also wildly successful. The year it was put on it made \$10,000. In 2011 it made almost \$5,000. The negative component in 2011 was the Second DCA seminar, which lost \$4,000 the year it was put on. The most tremendous expense was advertising, locating, food, etc. The First DCA seminar is coming up again this year.

There are other programs as well. The Art of Objecting seminar was put on by the section in 2007. In 2009, aftermarket sales were \$14,400, which is a tremendous return. If it is a program people want, whether for certification or some other reason, it works. Hot Topics made money as well. Those trending down are live attendance. The takeaway is that broader-appeal programs seem to be those who are looking for CLE that they might pick up in a given year. The challenge is how to reduce the money spent in the year the CLE was put on. When

experimenting, there is no track record, and there is no concept of the “next year” potential. Mr. Carlyle suggested that perhaps the Section should start thinking long and hard in coming up with new concepts or maybe starting new concepts in a webinar format. Certification review has been troublesome over the last few years, which is a seminar that is put on every year. The nature of that is that is that, as a smaller section, there are 171 board certified lawyers in the state and there are not tons of people sitting every year. The core market is very small. The committee cross-marketed and changed to Advanced Appellate Practice/Certification Review a few years ago, but it did not help that much. The materials did not change that much. In 2009, the course lost \$3,600, and in 2010 it made \$550. Certification review is something to take a long, hard look at.

In terms of ideas, Mr. Carlyle stated that webinars are good, but we need the speakers all in one place. Perhaps that can be done for certification review. There is a thought that certification review can be done every other year, but there is a question as whether it is fair to the people taking the exam. Maybe the Section can use telephone CLEs to focus on things in the program for ones sitting for the certification review exam. In terms of big picture, there are big seminars with a track record, which is good. If seminars are experimental, Mr. Carlyle suggested not taking the risk by doing it live. Certification review needs a long, hard look. To close, he sees a trend of people sitting at desks accessing CLEs 24/7, but there is a need to reduce the expense at the front end. And again, he reiterated looking at certification review.

Chair Conigliaro thanked Mr. Carlyle. He asked if anyone had any suggestions before moving on. Ms. Easley stated that, as it relates to certification review, she thought many appellate lawyers would love to take that review, whether by webinar or aftermarket sales. Many board certified lawyers want to take it every year to make sure that they are up to date on the rule changes, and certification is very, very helpful. It is one of those course seen as being one of the benefits of being a member of the Appellate Practice Section. So, Ms. Easley wondered that if the Section were to take the certification by aftermarket or webinars, would the same advanced CLE credits be received? Mr. Carlyle responded that he did not see why not, and that perhaps they just needed to find a different way to do it and put it on. Ms. Easley that she wanted to go back in history. She noted that Mr. Carlyle, Secretary/Treasurer Berman, and Chair-Elect Reiter suggested CLEs be held at DCAs to keep costs at a minimum. She asked if that is helping with expenses. The Art of Objecting program held two years ago did great aftermarket sales the next year and was very heavy in judicial participation. Mr. Carlyle did not know whether there was a correlation there, but there is a good argument that judicial participation spikes attendance.

Mr. Musto stated that he had a couple of points. First, he thought that it was very important, especially when comparing two or three or four presentations in a program, to not assume the only point of comparison is the program. It could be the day of the week, the location, or judicial participation. His second point is that Ms. Easley mentioned holding CLEs at DCAs. He though law schools might be good options too. St. Thomas would be interested in hosting CLEs between the Miami/Ft. Lauderdale area. Third, Mr. Musto stated that the certification review course began under the old CLE splits so that sections got 100% of revenue, so there is an incentive to do it even if not a lot of people were taking the exam. It may be time to go to the CLE committee at the Florida Bar or to the council of sections and say people deserve a review course, but it is so small and we do not get 100% of the revenues, so maybe the Bar should underwrite it to some extent.

Ms. Easley related that there had been some talk about having the CLEs at the law schools. What she found, referring back to Secretary-Treasurer Berman and Chair-Elect Reiter is that there were no savings because of how much money the law schools wanted. Maybe that should be revisited as maybe now it would be less or free. Mr. Musto stated that St. Thomas would hold the CLE at no charge. Ms. Lantz stated that she was on the Bar CLE committee as was Mr. Musto and Secretary-Treasurer Berman. The large Bar CLE committee is looking at fee waiver issues. It is looking at restricting fee waivers and finding out what will come of that. There appears to be a remembrance that CLE has a mission to educate the Bar, but also should not become a way to do away with certain live interactions. It is a way for section members to meet their constituency. Maybe that is what Ms. Easley is referring to, in that, right now the CLE Committee and the Board of Governors have set a cost per credit hour, so that it will not reduce the cost more, but might be able to reduce costs if a university holding a CLE is in agreement.

Mr. Streisfeld stated that Ms. Easley had made comments regarding the utility of the certification review course for people already certified. He questioned whether, if the numbers are that low for attendance, there really is an interest for those certified for all of the items in the program versus what Chair Conigliaro gives at the end of the certification review course regarding the case law and, if not, perhaps there is no utility for putting on the certification review course for that purpose. Mr. Streisfeld mentioned that this year, the certification was live and a webcast. He said that it would be interesting to know whether that is causing more attendance at the webcast or the live event. Ms. Obos responded that she did not know the current numbers. With the numbers dwindling every year, Mr. Carlyle feels that the solution is not a live presentation. If you are putting on a seminar for ten people in a room, that is a pretty easy call to make. He wanted to thank Ms. Obos for all of her work on the CLE report with respect to seminars and numbers over the last few years.

Ms. Obos stated that she came from the certification side of the Bar when she transferred sections. With respect to the certification review course specifically, she said that people were receiving letters stating that they could sit for the exam a mere week or so before the scheduled review course. She stated that going forward that should be reviewed. Even if a live presentation is not available, or is really close to the certification exam date, then there should be an earlier schedule available so that CDs and DVDs are available to people who want to take the exam because that takes four to six weeks from the date of the live presentation to put together. Ms. Norse commented that if the Section is really interested in obtaining a larger audience, other than people sitting for certification, the length of the program might be making people shy away from that. She suggested breaking the topics into separate topics for aftermarket sales, in order to help sales and for people seeking the CLE credits to sit through a two hour portion instead of the full eight hours. Chair Conigliaro thanked Mr. Carlyle for his efforts and for all participating.

VIII. Bar & Section Committee Reports

A. Council of Sections (Chair Matt Conigliaro)

In the interest of time, Chair Conigliaro passed on giving a report.

B. The Florida Bar CLE Committee (Barbara Eagan)

The bar's CLE Committee did not meet in January.

C. Continuing Legal Education (Chris Carlyle)

Mr. Carlyle stated that if everyone on videoconference showed up in Tampa, there would be great live numbers. He stated that the certification review course is scheduled for February 2, 2012. He asked members to please get the word out to young associates to attend. It will be a great program as always. The Inside the First DCA CLE is coming along. John Mills and Judge Ray have been working very hard. Mr. Carlyle is aware that they have a committee that has been meeting, sending emails, and focusing on a program. It will be a tremendous program on March 2, 2012, so if anyone can make it to Tallahassee, please do so. The Art of Objecting CLE is also upcoming. Mr. Carlyle asked Ms. Obos if she had locked in a May 11 date. Ms. Obos replied that has not yet seen the contract, but she is 95% sure that May 11 is the date. Mr. Carlyle reported that Jessie Harrell is heading up the program, which is a few months away. Finally, the telephone calls are doing very well. Duane Daiker is doing a wonderful job with that.

D. Outreach Committee (Robin Bresky)

Ms. Bresky could not attend the meeting due to an emergency.

E. Pro Bono (Sarah Lahlou-Amine)

Ms. Lahlou-Amine reported that the committee is doing well. The committee had established some new policies and procedures. Chair Conigliaro has reviewed and approved them. Ms. Lahlou-Amine reported that they are available if anyone would like to review them for further guidance. These policies and procedures regarding the handling of pro bono matters are also helpful for the courts and legal aid so that they can see how the Section and this committee operate. The committee is still continuing to work with the DCAs. Mr. Gowdy has been working hard with the First DCA. The judges have been very gracious in making an effort to work with the committee more often. As a result, the committee has gotten referrals from the First DCA – one certain and possibly two. Finally, the committee has a mentoring program under way. Many Executive Council members are familiar with it because Mr. Hamilton contacted a number of members who have agreed to serve as mentors. It is a good way to get senior, board certified folks a chance to handle appellate pro bono work because they can take on a small part of appeal.

Chair Conigliaro thanked Ms. Lahlou-Amine and noted in particular the committee's work on the IOPs. Chair Conigliaro remarked that when a committee generates that type of work, it is extraordinary. Chair Conigliaro inquired as to whether the IOPs should be on the Section's website. Ms. Lahlou-Amine did not know whether the Section would want to do so and whether it would be appropriate. She does not necessarily see any harm in doing so. The policies are somewhat detailed, so it could be easier to be able to refer people to the web.

F. Pro Se Handbook (Kimberly Jones)

Ms. Jones reported that there has been great feedback from the community regarding the handbook. Ms. Eagan received note from a litigant who said it was very helpful, even better than Judge Padovano's treatise. Ms. Jones wanted to thank the authors and editors who are working on handbook. Everyone is still working on updating the handbook. She offered praise to Harvey Sepler as liaison to the prison administration fielding calls from inmates regarding how to obtain handbooks. Ms. Jones gave special thanks to Mr. Sepler, Ms. Loquasto, Ms. Easley, and Chair Conigliaro.

G. Programs (June Hoffman)

Ms. Hoffman had a quick update. She is looking forward to the annual dessert reception on Thursday, June 21. It will have a Casino Royale theme. Ms. Hoffman is focusing on fundraising efforts in the spring, closer to event. If anyone is interested in participating or discussing ideas, please call Ms. Hoffman.

H. Public Advocacy/Legislation (Dorothy Easley)

Ms. Easley stated that since she has been appointed chair of the committee, the committee has met, and there are some particular issues of concern.

The first concern is a constitutional amendment regarding the legislature's ability to overrule the court rules. Currently, a 2/3 vote of both houses is required to overrule the court rules. The new rule would simply permit overruling court rules by majority.

The second concern is the JQC and accessibility to records during JQC proceedings. Historically, JQC records have been released only if the Florida House initiates impeachment proceedings. There are some issues brewing regarding an amendment to that or accessing the JQC during proceedings.

The third concern deals with the Florida Supreme Court, as Mr. Roth addressed.

The fourth concern has to do with the Section drafting a resolution that no judge should be opposed based on a particular decision. That has to do with the merit retention issue. Obviously, politicizing of this issue, as in Iowa, is expected in Florida. Ms. Easley encouraged everyone to go to some of the websites dealing with these issues. Ms. Easley noted the movement in Florida to politicize merit retention.

Ms. Easley discussed these points with Chair Conigliaro. They have been brought to the attention of Paul Hill because there is uncertainty. Various sections are looking to the Bar and Bar leadership regarding what is and is not appropriate to do from an action standpoint. Based on discussions with Mr. Hill, Ms. Easley's conclusion is that sections can espouse a process – sanctity of process or objectivity of process – but not particular people or issues. One of things committee members suggest, which Ms. Easley brought to the attention of Chair Conigliaro and Mr. Hill, is that the committee or Section members serve as volunteers for op-ed pieces or to be resources for reporters so that high visibility issues have Section members as experts. Paul Hill was very receptive and appreciative, and he encouraged Ms. Easley to follow up with Francine

Walker. Ms. Easley did so, and Ms. Walker was very excited about the prospect. There are four volunteers on the committee who have agreed to serve as experts. They would be a resource for news reporters who contact Ms. Walker to learn about recent decisions and who could help avoid bad headlines. Following up on that, Ms. Walker was informed that the Bar had a project in place regarding merit retention and elections and has hired a consultant. As part of that, she wants to list this committee's volunteers as resources for newspapers. To that end, to stay abreast of the issues, the committee has started to reach out to clerks of the DCA and Tom Hall of the Florida Supreme Court regarding high profile cases. The Florida Supreme Court can screen its cases and has webpages available to the general public regarding high profile cases. The DCAs don't have those resources. As a result, the DCAs do not know what will happen until cases are assigned, and cases are not assigned until the briefs are assigned. So, the committee has avoided reaching out to the Chief Justice or Chiefs of the DCAs to avoid looking like it is in contact regarding high profile cases. Instead, volunteers will stay abreast on their own and reach out to clerks. Ms. Walker will be informed of which attorney is tracking which decision, and that attorney will be available to talk with reporters. Ms. Easley has assured Ms. Walker that these are very professional attorneys returning calls within hours, not within a week. They will not be self-promoting or promoting their firms. They will be there simply to make sure decisions are accurate in the press.

Ms. Easley stated that she wanted to open up the discussion because the one thing to talk about is that the court system is looking to the Bar to help protect the integrity of the third branch, much like the ABA has advocated.

Mr. Hamilton posed the same question he asked Mr. Roth – why wouldn't the Section want to weigh in on the proposed legislation to change the JNC structure? Ms. Easley responded that any resolution the Section promotes needs to be run through Paul Hill. She said that this Section is being looked to to be more active in that process. Mr. Hamilton asked whether he should write a resolution and present it to Chair Conigliaro. Chair Conigliaro said that it is difficult to pass resolutions that speak for sections between meetings because the discussions are lengthy and it is hard to have them. Having said that, Chair Conigliaro encouraged interested persons to join Ms. Easley's committee and start the process. Chair Conigliaro asked whether there were any further comments. Hearing none, he thanked Ms. Easley, commenting on the gigantic nature of the project. He thanked Ms. Easley for all that she has done and encouraged those interested in joining Ms. Easley to offer her their assistance.

I. Publications (Tracy Gunn)

Ms. Gunn reported that publications are going well. All three editors are here to give a report. The committee has lots of articles, but more are needed. She asked that people in firms with folks not present get those people to write.

Anne Sullivan reported as editor of The Record. The Record is in layout. It will be coming out later than she would have liked. She thanked Amy Miles and Diana Wolf for their invaluable work and Ms. Obos's assistance. She thanked everyone for articles, and said that she needed articles for the upcoming issues. Please email her at Cole Scott or Ms. Obos. The articles can be about anything – rule changes, recent decisions, etc. Individuals can also call for ideas.

Rebecca Creed reported as editor of The Guide. The Guide is functioning well. There is nothing new to report. She needs writers for Inside the Court on the Fourth DCA and the Florida Supreme Court. She asked people to let her know if they know anyone, particularly recent judicial clerks.

Kristin Norse reported as editor of the Bar Journal. She reported that everything is on track. The committee has been able to consistently publish an article in every edition of the Journal. There are two articles being edited currently, and two more at the Bar. She received another last week. So, the committee is on track, but it always likes more articles, too. If anyone is interested, please let her know.

J. Website (Jonathan Streisfeld)

Mr. Streisfeld reported that the website is going well in that he has not received any complaints about the website or blast. In terms of content for the site or blasts, the committee is always looking for new things to put on the home page of the site. For example, if the publications committee needs articles, he encourages it to put together something to publicize that need, either on the web or in an email blast or both. If folks will tell him a deadline and what they need and how to get in touch with them, it will be in the February blast.

IX. Announce Next Meeting

Chair Conigliaro thanked all for coming and staying. A few people were lost as the hours went by. The annual meeting will be June 21, 2012, at the Gaylord Palms Orlando.

X. Adjournment

Chair Conigliaro thanked everyone for coming and adjourned the meeting.

EXHIBIT B

	May 2012 Actuals	YTD 11-12 Actuals	Budget	Percent Budget
Total Appellate/Advocacy Law =====				
31431 Section Dues	80	55,400	60,000	92.33
31432 Affiliate Dues	0	25	200	12.50
31433 Admin Fee to TFB	-35	-24,277	-26,250	92.48

Total Dues Income-Net	45	31,148	33,950	91.75

32191 CLE Courses	3,904	18,669	10,000	186.69
32196 Cosponsor Share	0	17,584	10,000	175.84
32293 Section Differential	1,585	5,875	6,000	97.92
35202 Sponsor Reception	0	750	12,500	6.00
35700 Member Service Progr	170	13,920	10,850	128.29
36991 Allowances	0	0	96	0.00
38499 Investment Allocatio	-5,753	-5,469	8,178	-66.87

Other Income	-94	51,329	57,624	89.08

Total Revenues	-49	82,477	91,574	90.07

36998 Credit Card Fees	-8	534	150	356.00
51101 Employee Travel	0	692	844	81.99
71001 Telephone/Direct	0	1,044	745	140.13
71005 Internet Charges	0	177	120	147.50
84001 Postage	9	33	500	6.60
84002 Printing	1	5	75	6.67
84007 Membership	0	0	50	0.00
84009 Supplies	0	36	25	144.00
84010 Photocopying	0	25	75	33.33
84051 Officers Travel Expe	0	0	600	0.00
84101 Committee Expenses	0	2,104	1,200	175.33
84200 General Meeting	0	507	0	*
84201 Board Or Council Mee	0	10	0	*
84202 Annual Meeting	0	0	15,000	0.00
84204 Midyear Meeting	0	3,059	3,000	101.97
84205 Section Service Prog	0	+2104 2,213	7,000	31.61
84301 Awards	190	190	1,000	19.00
84422 Website	900	4,089	11,000	37.17
84701 Council Of Sections	0	0	300	0.00
84998 Operating Reserve	0	0	4,808	0.00
84999 Miscellaneous	0	0	300	0.00
85032 CoSponsor Expenses	0	14,938	10,000	149.38
85081 Conf-Chief Justices	0	2,500	0	*

Total Operating Expenses	1,092	32,156	56,792	56.62

86431 Meetings Administrat	0	165	85	194.12
86543 Graphics & Art	15	974	6,136	15.87

	May 2012 Actuals	YTD 11-12 Actuals	Budget	Percent Budget
Total Appellate/Advocacy Law =====				
Total TFB Support Services	15	1,139	6,221	18.31
Total Expenses	1,107	33,295	63,013	52.84
Net Operations	-1,156	49,182	28,561	172.20
21001 Fund Balance	0	186,454	163,550	114.00
Total Current Fund Balance	-1,156	235,636	192,111	122.66

EXHIBIT C

Appellate Practice Section

June 21, 2012

Proposed Budget Amendments:

Line Item: 36998/Credit Card Fees
Amount to be amended: \$400
Source of Funds: Operating Reserve
Reason for overage: Additional credit card transactions for telephonic CLE program and Judicial Conference CLE Program resulted in additional credit card fees.

Line Item: 71001/Telephone Direct
Amount to be amended: \$400
Source of Funds: Operating Reserve
Reason for overage: Staff change resulted in additional equipment and administration fees.

Line Item: 71005
Amount to be amended: \$140
Source of Funds: Operating Reserve
Reason for overage: Not enough fees allocated in original budget. Charge is \$30/month to section.