

AGENDA

APPELLATE PRACTICE SECTION
EXECUTIVE COUNCIL MEETING

September 16, 2016 – 4:30 p.m.
The Westin Key West Resort & Marina
Key West, Florida

Call-In: 1-888-376-5050 / Participant Pin: 1953840310#

- I. Call to Order – Duane Daiker
- II. Introductions – Duane Daiker
 - Kristin Norse, Chair-Elect
 - Sarah Lahlou-Amine, Vice-Chair
 - Nick Shannin, Secretary/Treasurer
 - Chris Carlyle, Immediate Past Chair
- III. Approval of Minutes (Exhibit A)
- IV. Chair’s Report – Duane Daiker
 - A. Annual Meeting 2016
 - B. Retreat and Long Range Planning Meeting 2016
 - C. DCA Judges Conference 2017: Sept. 4-6, Orlando
- V. Treasurer’s Report – Nick Shannin
 - A. Financial Statements (Exhibit B)
- VI. Old Business
 - A. Renewal of Legislative Positions (Exhibit C) – Duane Daiker
 - B. Section Leadership Conference 2016 – Kristin Norse
 - C. Retreat Committee – Tom Hall/Nick Shannin

VII. New Business

- A. By-Law Revision Committee – Duane Daiker
- B. 2017-18 Budget Approval – Nick Shannin

VIII. Bar & Section Committee Reports

- A. Council of Sections – Chris Carlyle
- B. Continuing Legal Education – Chris Donovan
- C. Outreach – Tom Ward
- D. Pro Bono – Carrie Ann Wozniak
- E. Programs – Kimberly Kanoff Berman
- F. Legislation – Courtney Brewer
- G. Publications – Kimberly Jones
 - 1. Pro Se Handbook – Bretton Albrecht
 - 2. The Record – June Hoffman
 - 3. The Guide – Rebecca Creed
 - 4. Florida Bar Journal Articles – Brandon Christian
- H. Website – Jonathan Streisfeld
- I. History – V. Hendricks

IX. Local Announcements

X. Schedule of Events

- A. Friday: Reception – 6:15pm-7:15pm
- B. Friday: Dinner – 7:15pm-9pm

C. Saturday: Long Range Planning Meeting – 9am-3pm

D. Sunday: Wrap-up Meeting and CLE – 9am-11am

XI. Closing Remarks – Duane Daiker

XII. Announce Next Meeting

January 26, 2017 – Executive Council Meeting:
Gaylord Palms Resort and Convention Center, Orlando

XIII. Adjournment

EXHIBIT A

Executive Council Meeting
Florida Bar Appellate Practice Section
June 16, 2016, 10:30 a.m.
Meeting Minutes

Attendance and Introductions

In person: Christopher V. Carlyle, Duane A. Daiker, Kristin Norse, Sarah Lahlou-Amine, Ceci Culpepper Berman, JoAnn Shearer, Michelle Suskauer, Cameron Carlyle, Lance Scriven, Kenneth B. Bell, Judge Stephanie W. Ray, Judge Alan O. Forst, Victoria Oguntoye, Hala Sandridge, Christopher Donovan, Valeria Hendricks, Kansas Gooden, William Van Nortwick, Kimberly Jones, Bretton Albrecht, John Crabtree, Jessie Harrell, Tom Seider, David Knapp, June Hoffman, Laura Triplett, Benedict P. Kuehne, Brandon Christian, Chief Judge Rick Suarez, Calianne Lantz, Nick Shannin, Jonathan Streisfeld, Matthew Conigliaro, Courtney Rebecca Brewer, Jack Reiter, Carrie Ann Wozniak, Kelly Hallssey, Steven Stark, Wendy Loquasto, Donna Greenspan, Craig Lee, Jerry Cope, Joe Legalton, Michael Labbee, Alexis Fields, Mary Beth Kuenzel, Judge Wendy Williams Berger, Caryn Lynn Bellus, Kimberly Kanoff Berman, Anthony Musto, Loreyn P. Raab, Jared Krukar.

On the phone: Jack Aiello, Siobhan H. Shea.

Mr. Carlyle introduces himself and commences the meeting. Judge Forst introduces Michelle Suskauer, BOG for 15th Judicial Circuit, criminal defense attorney, candidate for Florida Bar President in contested election between Ms. Suskauer and Lance Scriven, also in attendance. Mr. Scriven is a commercial litigator at Trenam and past president of the Hillsborough County Bar Association. Both candidates made a brief presentation.

Minutes: Mr. Shannin moved to approve the minutes, Mr. Conigliaro seconded. All approved.

DCA Judges Conference: The event will be more centrally located next year. We will have about 50 spots, which are expected to be filled.

Judicial Term Limits: Mr. Carlyle reported we did not present a formal position because the Bar took its own consistent position, but we will be prepared should we need to take a position next year should the initiative continue.

Annual Meeting: Awards: Paul Regensdorf has been selected for the Pro Bono Award, and Jim Birkhold has been selected for the Adkins Award. Mr. Daiker

will be asking questions of the justices during the moot court competition. The Chair's Suite reception will follow.

Financials:

Ms. Lahlou-Amine reported on the financials attached to the Agenda as Exhibit B. The Section's YTD revenue is \$103,978, with \$141,374 in expenses. A lot of this is due to timing of when things come in, and the sponsors for the Dessert Reception are not yet reflected in the financials and are expected to be in the range of \$18,000, thanks to the hard work of those who made it happen.

Financial Reserves Committee: Ms. Berman reported on Section's initiative to determine what should be done with the Section's reserves. She referred to Exhibit C to the Agenda. With respect to what we charge for dues, we could reduce the costs; however, we are in the middle of the pack on what we charge, and administrative charges are going up, so the Committee does not recommend lowering dues. With respect to the revenue stream from CLEs, the Committee recommends conferring with the Florida Bar to determine whether CLE costs can be reduced. With respect to sponsorships, the Committee does not recommend changes there. Ms. Berman solicited other suggestions.

Mr. Musto provided recommendations pertaining to the CLE Committee and was invited to take the lead on those issues. Mr. Shannin confirmed that a vote is not needed to investigate these matters further. Mr. Donovan provided input that the CLE Committee will be taking a look at increasing costs.

Mr. Conigliaro provided a long-term perspective on the Section's efforts to become more financially conservative. He noted the losses in connection with the Bar's investments that occur periodically fortunately do not affect us because we have a great cushion. Mr. Conigliaro discussed various options that were considered, including the idea of creating a nonprofit. This was discussed with the Bar, which noted some concerns and costs that would result. Other Sections are facing this issue. One section created a PAC. The Committee floated another idea with the Bar to create another entity within the Bar, an affiliate, that could be governed by its own bylaws or another appropriate mechanism. The organization would have close ties to the Section and would be led by those who had been involved in Section leadership. The Committee's recommendation is a motion that the Committee continue and be tasked with working with the Bar to see whether an entity along these lines may be created to manage excess funds. Mr. Conigliaro moved, and Mr. Crabtree seconded.

Ms. Norse asked what the benefit would be of having a separate organization within the Bar that would still be bound by the Bar's strictures. Mr. Conigliaro responded that the organization would be autonomous, and there would be efforts to eliminate duplication. Ms. Loquasto opposed the idea that dues should be accumulated at a rate that there would be such an overflow. She also opposed the idea that there would be additional administrative fees incurred, which would not be necessary. Mr. Reiter stated he understood the concern was independence in decision making for spending money.

Mr. Conigliaro responded that if the Section keeps the money, it will be hard to manage. Mr. Musto stated this has been done before in different sections. He noted if we have the reserves, demands will be made. Mr. Musto suggested we maintain the status quo or create a foundation rather than keep it in the Bar's structure. Mr. Shannin moved to table the issue to the long-term planning meeting at the retreat. Mr. Carlyle suggested that because the motion would not involve any final action, the Section should proceed with the question on the floor. Mr. Shannin withdrew the motion to table prior to a second being made.

Mr. Conigliaro noted that the Bar will not sweep funds from reserves. He noted that the funds are largely CLE-based. Mr. Musto noted that while we make money through the CLEs, the Bar takes a large portion of it. Ms. Loquasto agreed, especially in connection with the Tallahassee program. Mr. Carlyle clarified the motion, as did Mr. Musto. Mr. Conigliaro put recommendation number 5 from the exhibit in a motion to work with the Bar to create an entity. Mr. Shannin, Mr. Musto, Ms. Loquasto, Ms. Norse, and Mr. Stark opposed. These members were invited to maintain their involvement as the matter proceeds for further consideration.

Retreat Committee: Mr. Shannin and Mr. Hall have been co-chairing the Retreat Committee. The retreat is scheduled for September 16-18 at the Westin Resort & Marina in Key West. On Friday, we will have a full meeting, and activities in the evening. On Saturday morning, we will have a long-range planning meeting, and there will be a follow-up meeting on Sunday morning. The budget for the retreat is \$30,000, and there will be sponsorship opportunities. Mr. Carlyle solicited agenda topics for the meeting.

Legislative Positions: - Exhibit D is a letter from Paul Hill, General Counsel for the Bar, inquiring as to whether we continue to support our previously adopted legislative positions. These positions include the independence of the judiciary and term limits for the judiciary. Mr. Shannin moved to re-adopt the positions. Mr. Bell seconded the motion. None opposed. Members of the judiciary did not participate in the vote.

Council of Sections: CLEs were a big topic of discussion at the last meeting, including competing with outside CLEs. A motion was made and approved to share information concerning CLEs among the sections. A motion was passed at that meeting to submit a survey on the topic.

Florida Bar CLE Committee: Mr. Musto noted from the meeting that there is a proposal to the Florida Supreme Court to add a 3-hour requirement pertaining to technology. With respect to Bar publications, he stated they will become available through a digital law library and also on Amazon. A new format will also be used, which will make the publications look slightly different. Mr. Musto discussed new topics being addressed in connection with professionalism guidelines and the extent to which they may conflict or overlap with ethical guidelines.

CLE Committee: Ms. Harrell reported that Hot Topics is the next CLE, which is being chaired by Mr. Shannin. The Practicing Before the Fifth CLE was going to be largely duplicated by an Orange County Bar CLE, so the Hot Topics CLE was used. The Art of Objecting, one of our most successful CLEs, will be presented next year. This year, we lost money on the Advanced Appellate Practice CLE, which was offset by the program's success in the prior year as well as the success of telephonic CLEs.

The Committee proposed doing the Advanced Appellate Practice CLE every other year and doing other programs in the interim as an update and also to provide the advanced certification credits. Ms. Harrell solicited input from the EC. Mr. Carlyle noted the lack of substantial change in the issues and that it made sense to move the program to every other year. Mr. Shannin confirmed the EC did not need to vote on it but appreciates the information to keep the Section apprised.

Ms. Harrell discussed the Tallahassee outreach program and other options for keeping it viable, including using our own venues. Ms. Harrell invited those interested in presenting at the Hot Topics seminar to contact the Committee. Mr. Musto noted concerns with not offering to our membership an appellate certification review course every year. He noted it should be marketed as more than a review course, which Mr. Carlyle confirmed it is. Mr. Carlyle responded that the prior year's presentation would always be available digitally.

Outreach Committee: Mr. Krukar reported on opportunities for relationships with other sections and organizations. Current opportunities include health law, the Supreme Court, and the First DCA Historical Society. He invited anyone involved in other organizations who would like to interact with the Section to get involved.

Pro Bono Committee: Ms. Wozniak reported on a successful Committee meeting and noted that Ericka Garcia, Director of Pro Bono Partnerships from the Florida Bar Foundation, attended. The Committee now has an expense form to use when submitting expenses to the Florida Bar Foundation. There is a CLE being offered to legal aid lawyers at Akerman on August 23, 2016. The Third DCA, with Judge Salter's support, is working with the Section for opportunities with the Miami Roundtable.

Programs Committee: Ms. Kanoff Berman reported on the Under the Big Top theme for the Dessert Reception, including the menu and program events. The Committee has raised \$18,750 in sponsors for the event. Ms. Kanoff Berman announced the sponsors. Ms. Kanoff Berman is recruiting a Vice Chair. Ms. Lantz volunteered.

Public Advocacy Committee: Mr. Shannin noted the Committee will advise of any legislative issues that come up and will also stay apprised of relevant potential constitutional amendments.

Publications: Ms. Jones reported on a great Publications Committee meeting where the Committee discussed social media and sharing information. Ms. Jones thanked Ms. Albrecht and the co-editors of the Pro Se Handbook for all of their hard work on the Pro Se Handbook. Ms. Albrecht reported on the Pro Se Handbook and advised it is complete. Mr. Carlyle thanked Ms. Albrecht and her team for all their hard work. Ms. Hoffman reported on the Record and noted that the Spring edition is being completed. She also reported that Ms. Triplett will be joining her as Co-Editor in the upcoming year. Mr. Christian reported on the Florida Bar Journal and the need to keep articles in the pipeline and that many Section members have already provided content. Mr. Christian announced that Mr. Seider will be joining him as Co-Editor in the upcoming year.

Website Committee: Mr. Streisfeld requested updates to the website as well as information about local appellate events. Ms. Albrecht announced that Tyler Pitchford is assisting with the technology aspects of the Pro Se Handbooks. Mr. Streisfeld noted the translations of the Pro Se Handbooks that will be provided.

History Committee: Ms. Hendricks has been increasing efforts to get more photographs and updating the Section website with the content.

Events: Mr. Carlyle reported on the afternoon moot court competition, the Chair's suite reception, and the Dessert Reception.

Elections: Ms. Loquasto moved to approve the slate of incoming officers by acclamation, and Ms. Hendricks seconded. All approved.

Awards: Mr. Carlyle presented awards to Section officers and chairs.

Chair's Message: Mr. Carlyle reflected on the past year, noting the Section's contribution to the Florida Bar Foundation, the appointment of a committee to explore utilizing Section reserves, and a number of other initiatives. Mr. Daiker thanked Mr. Carlyle for leaving the Section in such a viable condition, presented Mr. Carlyle with a gift of appreciation, and stated he is honored to be incoming Chair and is looking forward to a great year.

Next Meeting: The Section's next meeting will be in September at the Section retreat. Mr. Carlyle encouraged everyone to attend.

Adjournment: Meeting adjourned at 12:13 p.m.

EXHIBIT B



THE FLORIDA BAR

APPELLATE PRACTICE SECTION

JUNE 2016 FINANCIAL STATEMENT

OVERVIEW

YTD REVENUE:	\$128,462
YTD EXPENSES:	\$169,870
YTD NET:	\$-41,408
BEGINNING FUND BALANCE:	\$454,453
TOTAL CURRENT FUND BALANCE:	\$413,045

Total Current Membership: 1526 Members

	June 2016 Actuals	YTD 15-16 Actuals	Budget	Percent Budget
Total Appellate/Advocacy Law =====				
31431 Sect Dues	280	55,320	55,000	100.58
31432 Affil Dues	0	0	25	0.00

Total Dues Income Net	280	55,320	55,025	100.54

32001 Registrations	908	2,998	0	*
32191 CLE Committee Course	-1,940	18,961	25,625	73.99
32196 Cospons Share	0	30,893	19,000	162.59
32293 NonSect Mem Cost Dif	320	2,970	6,000	49.50
35202 Spons Reception	18,500	18,500	15,000	123.33
35700 Member Srvc Prog	0	10,985	12,000	91.54
38499 Investment Alloc	766	-12,165	12,785	-95.15

Other Income	18,554	73,142	90,410	80.90

Total Revenues	18,834	128,462	145,435	88.33

36998 Credit Card Fees	42	670	600	111.67
51101 Employee Travel	561	1,620	2,523	64.21
71001 Phone/Direct	149	851	1,000	85.10
71005 Internet Charges	0	0	450	0.00
84001 Postage	0	6	150	4.00
84002 Printing	3	292	300	97.33
84007 Membership	0	0	500	0.00
84009 Supplies	0	12	150	8.00
84010 Photocopying	0	0	75	0.00
84040 Judges Trav Annl Mtg	225	509	1,500	33.93
84051 Officers Travel Exp	4,646	4,646	800	580.75
84075 Sponsorship Exp	0	0	1,500	0.00
84101 Committee Exp	0	0	1,500	0.00
84200 General Meeting	0	3,854	1,500	256.93
84201 Board Or Council Mtg	0	62	100	62.00
84202 Annual Mtg	17,585	17,585	17,500	100.49
84204 Midyear Mtg	0	3,121	3,500	89.17
84205 Section Service Prog	1,679	12,728	7,500	169.71
84220 Moot Court	0	0	1,000	0.00
84286 FL Bar Foundation	0	50,000	50,000	100.00
84301 Awards	1,585	1,585	1,300	121.92
84422 Website	0	7,127	8,000	89.09
84701 Council Of Sections	0	300	300	100.00
84998 Operating Reserve	0	0	7,518	0.00
84999 Miscellaneous	172	185	1,000	18.50
85032 CoSpons Exp	0	27,159	19,000	142.94
88231 Spkrs Travel	0	1,023	0	*
88232 Spkrs Meals	0	289	0	*
88233 Spkrs Hotel	0	1,968	0	*
88239 Spkrs Oth Exp	0	441	0	*
88252 Course Credit Fee	0	150	300	50.00

	June 2016 Actuals	YTD 15-16 Actuals	Budget	Percent Budget
Total Appellate/Advocacy Law =====				
89999 Other Operating Exp	0	1,200	0	*
Total Operating Expenses	26,647	137,383	129,566	106.03
31433 Section Mgmt Fee	140	24,258	24,150	100.45
86001 Admin Exp	0	6,980	0	*
86532 Advertising News	0	1,249	0	*
Total TFB Support Services	140	32,487	24,150	134.52
Total Expenses	26,787	169,870	153,716	110.51
Net Operations	-7,953	-41,408	-8,281	500.04
21001 Fund Balance	0	454,453	476,174	95.44
Total Current Fund Balance	-7,953	413,045	467,893	88.28

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	YTD 15-16 Actuals	YTD 14-15 Actuals	YTD 13-14 Actuals	Rollup Totals Actuals
Total Appellate/Advocacy Law =====				
31431 Sect Dues	55,320	55,360	54,440	165,120
31432 Affil Dues	0	0	0	0

Total Dues Income Net	55,320	55,360	54,440	165,120

32001 Registrations	2,998	0	1,579	4,577
32010 Legal Span On-line	0	769	0	769
32191 CLE Committee Course	18,961	56,680	43,586	119,227
32196 Cospons Share	30,893	0	19,380	50,273
32291 Sect/YLD Fee	0	1	0	1
32293 NonSect Mem Cost Dif	2,970	7,620	7,435	18,025
35202 Spons Reception	18,500	23,500	19,250	61,250
35700 Member Srvc Prog	10,985	16,040	13,313	40,338
38499 Investment Alloc	-12,165	-1,194	26,939	13,580
39342 Sec Over Cap-Serv Pr	0	-4,501	-1,052	-5,553

Other Income	73,142	98,915	130,430	302,487

Total Revenues	128,462	154,275	184,870	467,607

36998 Credit Card Fees	670	365	591	1,626
51101 Employee Travel	1,620	1,057	1,229	3,906
71001 Phone/Direct	851	861	563	2,275
71005 Internet Charges	0	46	261	307
84001 Postage	6	45	6	57
84002 Printing	292	178	535	1,005
84007 Membership	0	0	0	0
84009 Supplies	12	49	295	356
84010 Photocopying	0	46	17	63
84040 Judges Trav Annl Mtg	509	0	139	648
84051 Officers Travel Exp	4,646	738	918	6,302
84075 Sponsorship Exp	0	0	0	0
84101 Committee Exp	0	0	583	583
84200 General Meeting	3,854	882	1,155	5,891
84201 Board Or Council Mtg	62	43	37	142
84202 Annual Mtg	17,585	14,919	17,346	49,850
84204 Midyear Mtg	3,121	3,166	3,219	9,506
84205 Section Service Prog	12,728	6,540	7,261	26,529
84220 Moot Court	0	1,500	0	1,500
84286 FL Bar Foundation	50,000	0	0	50,000
84301 Awards	1,585	1,288	1,262	4,135
84422 Website	7,127	7,367	8,753	23,247
84701 Council Of Sections	300	300	300	900
84998 Operating Reserve	0	0	0	0
84999 Miscellaneous	185	1,251	1,000	2,436
85032 CoSpons Exp	27,159	0	18,985	46,144
88231 Spkrs Travel	1,023	0	0	1,023
88232 Spkrs Meals	289	0	0	289
88233 Spkrs Hotel	1,968	0	0	1,968

	YTD 15-16 Actuals	YTD 14-15 Actuals	YTD 13-14 Actuals	Rollup Totals Actuals
Total Appellate/Advocacy Law =====				
88239 Spkrs Oth Exp	441	0	0	441
88252 Course Credit Fee	150	0	0	150
89999 Other Operating Exp	1,200	0	0	1,200
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Total Operating Expenses	137,383	40,641	64,455	242,479
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31433 Section Mgmt Fee	24,258	24,154	23,733	72,145
86001 Admin Exp	6,980	0	0	6,980
86431 Mtgs Admin	0	0	470	470
86532 Advertising News	1,249	0	0	1,249
86543 Graphics & Art	0	5,502	2,252	7,754
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Total TFB Support Services	32,487	29,656	26,455	88,598
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Total Expenses	169,870	70,297	90,910	331,077
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Net Operations	-41,408	83,978	93,960	136,530
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21001 Fund Balance	454,453	370,468	276,503	1,101,424
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Total Current Fund Balance	413,045	454,446	370,463	1,237,954
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EXHIBIT C



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

John F. Harkness, Jr.
Executive Director

850/561-5600
www.FLORIDABAR.org

August 3, 2016

Mr. Duane Allan Daiker
Chair, Appellate Practice Section
Shumaker, Loop & Kendrick, LLP
101 E Kennedy Blvd Ste 2800
Tampa, FL 33602-5150

Re: Report of Florida Bar Board of Governors Action

VIA E-MAIL ONLY

Dear Mr. Daiker:

During its regular meeting on July 29, 2016 the Board of Governors of The Florida Bar approved the roll-over of two 2014-2016 legislative positions held by the Appellate Practice Section.

Consistent with your submission, these positions of the Appellate Practice Section will be officially published within the 2016-18 Master List of Positions as follows:

July 29, 2016

1. Supports maintaining an independent judiciary in the appellate courts.
2. Supports pay raises for appellate judges and support personnel consistent with the Supreme Court of Florida's budget requests

For the benefit of all involved in Bar legislative activities, the Office of Governmental Affairs also maintains a listing of individuals who might be directly lobbying legislators on any section position. Our listing includes the names of all "contacts" listed on your original Legislative Position Request Form as well as the section chair and legislative chair. However, if you anticipate legislative visits or appearances by persons other than those cited above, please advise us as soon as possible.

Finally, legislative advocacy by sections must conform to Supreme Court rules which specify that such activity be clearly distinguished from The Florida Bar's separate lobbying. We ask that all individuals engaged in section lobbying emphasize these distinctions in their legislative communications, to help minimize confusion among lawmakers about The Florida Bar and its sections.

If you have any questions or need further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joni".

Joni Wussler
Administrative Assistant