

**Appellate Practice Section
Executive Council Meeting**

January 19, 2023

**The Florida Bar Winter Meeting
Rosen Shingle Creek
9939 Universal Blvd.
Orlando, FL 32819
(And via Zoom videoconference)**

MEETING MINUTES

I. Call to Order – Hon. Carrie Ann Wozniak, Chair

Chair Wozniak called the meeting to order at 12:18 p.m. and welcomed everyone to the Section’s Executive Council meeting as part of the winter Florida Bar festivities.

II. Introductions – Hon. Carrie Ann Wozniak

Kansas Gooden, Chair-Elect
Courtney Brewer, Treasurer
Joe Eagleton, Secretary
Kimberly Jones, Immediate Past Chair

Welcome, Paige Dooley-Levy!

Everyone in attendance in Orlando introduced themselves. In total, more than 20 Section members attended the meeting live and many more attended virtually via Zoom.

Live attendees included: Kimberly Berman, Courtney Brewer, Brandon Breslow, Chris Carlyle, Alyssa Cory, Duane Daiker, Diane DeWolf, Chris Donovan, Joe Eagleton, Sara Finnigan, Judge Alan Forst, Kansas Gooden, Tom Hall, Sarah Lahlou-Amine, Chance Lyman, Erin Newell, Laura Roe, Sarah Roberge, Sam Salaro, Nick Shannin, Judge Morris Silberman, Elaine Walter, Dineen Wasylik, and Judge Carrie Ann Wozniak.

Some of those attending via Zoom were: Robin Bresky, Karla Ellis, Courtney Fernald, Bailey Howard, Thomasina Moore, Tom Seider, and Morgan Weinstein. This is an incomplete list that mostly captures only the virtual attendees who spoke. No formal attendance of the Zoom attendees was taken.

III. Chair's Report – Hon. Carrie Ann Wozniak

Chair Wozniak expressed her appreciation for everyone's attendance at the meeting. She reported that a lot has happened since the Section's last meeting as part of the London retreat: she's on a new court, she had a baby, and it's a new year! Chair Wozniak thanked everyone who made London such a success.

She then recapped a special APS Town Hall event held just prior to the Executive Council meeting. There was a lot of participation and many members shared their ideas about the Section. The Officers will be using the items raised in the Town Hall to plan for the Section's future at an upcoming Officers Retreat. Chair Wozniak encouraged anyone else with thoughts or suggestions about what the Section is doing well or what the Section can improve to reach out to her and to the other Officers.

Finally, she made a special introduction to the Section's new Florida Bar administrator, Paige Dooley-Levy. Paige replaces Cheri Wright.

IV. Approval of Minutes from October 2022 Meeting – Joe Eagleton

Eagleton reported that the minutes from the Section's last Executive Council meeting, held in October as part of the London retreat, were attached to the agenda as Exhibit A and were ready to be approved. Donovan moved to approve the minutes; Shannin seconded. The minutes were approved by unanimous consent.

V. Treasurer & Finance Committee's Report – Courtney Brewer

Brewer reported that the Section's finances remain in good shape, as demonstrated by the report attached to the agenda as Exhibit B. The only negative right now are the Section's investments, which anyone who has looked at their own 401k lately can surely relate to. If anyone has any questions or would like additional details about the Section's financial health, reach out to her.

VI. Old Business

A. Bylaw Amendments – Nick Shannin

Shannin reported that, due to the creation of the new Sixth DCA, the bylaws need to be amended. That is the primary purpose of the proposed amendments, attached to the agenda as Exhibit C.

But there are, in addition, five other amendments listed that have already been approved but that, due to a hiccup in the formal process for seeking

Board of Governors approval, were never formally incorporated into the Section's bylaws. Shannin suggested that the Executive Council vote to ratify those five amendments again, and then approve a new amendment that accounts for the new DCA. This new amendment changes the number of judicial liaisons from 5 to 6 and the number of at-large members on the Executive Council from 9 to 10 to keep the math working. The recommendation of the Bylaws Committee is to approve these amendments.

Tom Hall raised a question about the language of the proposed amendments because the Section also has a liaison from the Florida Supreme Court and from the Eleventh Circuit. But Shannin reported that the bylaws specify those liaisons separately, so it is not an issue.

Dineen Wasylik moved to approve the bylaw amendments as proposed. Sarah Lahlou-Amine seconded the motion. The proposal was then approved by unanimous consent.

B. High School Moot Court Project – Brandon Breslow

Breslow provided an update on this project, which is back again after a long hiatus. As of this week, 15 schools throughout the state had registered to participate, some with more than one team. The problem has been distributed and the students will submit briefs in February. APS is recruiting volunteers to help grade the briefs. Breslow encouraged anyone who is interested to reach out to Paige Dooley-Levy.

Because the number of teams is modest, Judge Ray agreed to host the preliminary rounds at the First DCA, rather than spread those around to different DCAs as has been done in the past. The final round will be held on May 3 at the Florida Supreme Court. The goal is to continue to have the other DCAs involved in the future.

VII. New Business

A. DCA Judges Conference – Kansas Gooden

Chair-Elect Gooden reported that the DCA Judges Conference will be held from January 9-12, 2024, at One Ocean in Jacksonville Beach. APS has historically sponsored a social on the first night of the conference and is responsible for one program during the educational component of the meeting. APS will also have its winter Executive Council meeting at the conference. This is a great way for members to get exposed to appellate judges and to enjoy a fantastic educational program.

VIII. Liaison Reports

A. Appellate Court Rules Committee – Laura Roe

Roe provided an update on the state of the Appellate Court Rules Committee (ACRC), which is catching up on the backlog of rules changes that were at various stages when the Florida Supreme Court amended the process for submitting proposals. This required ACRC to sort through the proposed amendments and to file them in related batches, which will be done this year. So look forward to lots of rule changes coming soon.

ACRC has proposed eliminating the requirement to serve writs in paper copy. ACRC is also proposing some changes in the rule on rendition, including changing “pursuant to” to “under.” And there are many interesting items nearing a final vote, including in the Stand Your Ground context.

Roe also suggested that anyone who has not been paying attention to it should check out the report of the workgroup on the improved resolution of civil cases. This report suggested a holistic overhaul of the rules, which would dramatically change the practice of law in Florida state courts. ACRC filed a comment in response to the report and appeared at the oral argument in which the Florida Supreme Court considered the proposal. The court ultimately declined to adopt the recommendations of the workgroup in total, but is referring these recommendations in batches, with recommended outcomes, to the individual rules committees. It is unusual, historically, that the court would give express instructions on what the rules committees should do with a recommendation, but that is what occurred here.

B. Appellate Practice Certification Committee – Duane Daiker

Daiker reported on the Appellate Certification Committee’s progress. If you are waiting to hear about eligibility to take the upcoming exam, those decisions are imminent. If you are waiting to hear about a recertification application, those are taking a little longer, but don’t panic because you remain certified until told otherwise.

The exam is complete, subject to BLSE approval. Daiker thinks it’s a good one. There are around 15 people sitting for the exam, which is on track with prior years.

C. Board of Governors – Robin Bresky

Bresky reported that the Board of Governors will be meeting in Tallahassee next week, with a legislative reception to follow. Let her know if there is

anything she can do for APS. There are a lot of details on the Bar website about what the BOG is up to right now. Of note, deadlines have been extended until February 24 to apply for the JNCs.

D. Council of Sections – Nick Shannin

Shannin reported that, at a meeting of the Council of Sections six years ago, APS was jealous of other section retreats and the great places everyone else was going. Then we did Key West, and D.C., and now London, and so everyone else is jealous of us.

Otherwise, Bar leadership continues to use this group to reach all the sections at the same time. So if there is something you want everyone in the other sections to know about, the Council of Sections is the way to spread the word.

IX. Section Committee Reports

A. Continuing Legal Education Committee – Elaine Walter

Walter reported that the CLE Committee had its annual brainstorming session last week to get ready for next year's webinar series. It also brainstormed ideas for other types of programs, like continuing the Practice Management Series.

Matt Conigliaro recently presented his ever-popular year in review. It was not particularly well-attended by past standards, but if you missed it, you have 90 days to view it. As always, he offered a great perspective on what's gone on with the courts in the past year.

In terms of upcoming events, the board certification bootcamp, which is a half day, is coming up at the end of the month. Initial planning is underway for Practicing Before the Second DCA, to be chaired by Chance Lyman. Practicing Before the Fifth DCA will take place sometime in the fall or winter and still needs a chair. Practicing Before the Sixth DCA will be chaired by Mary Walter and will take place sometime next year. Celene Humphries and Nancy Gregoire are also heading up the Van Nortwick advanced appellate workshop, to be held in 2024.

B. Communications Committee – Dineen Wasylik

Wasylik reported that the Communications Committee is still rocking and rolling with social media. It is also working with the ad hoc website committee on a revamp of the website. And soon, the committee is looking forward to having Tracey Eller on board to help get the website updated, in addition to her current work with the social media platforms.

C. Delegated Reserves Committee – Duane Daiker

Daiker reported that this Committee was formed five years ago because the Section Officers were inundated with requests for sponsorships. Ceci Berman headed it up for a while and did a lot of work. Since taking over, Daiker has had no requests. He will keep up the good work.

D. Diversity and Inclusion Committee – Laura Roe

Roe reported that she is still trying to round out this newer committee, including updating the membership list. Let her know if anyone is interested in joining. She continues to work on getting the word out about the committee, compiling a list of diversity-related topics for potential articles in *The Record*, and identifying contacts at the DCAs for possible court liaisons.

E. Fellows Program Committee – Brandon Breslow

Breslow reported that the Fellows Committee is ramping up to start the application process for next year. The program is working well—two Fellows attended the London retreat and are actively involved in APS activities.

F. Advocacy Committee – Thomasina Moore

Moore reported that she will be attending the Florida Bar’s legislative reception next week. The only item on her list right now is the legislation in support of increased funding to build a Sixth DCA courthouse, which APS supports. Let her know if you have any ideas or connections so she can be sure she’s talking to the right people and right legislators to garner support.

G. Outreach Committee – Mary Walter

Chair Wozniak reported, on Walter’s behalf, that the Outreach Committee is doing a lot. From the high school moot court competition to working with other organizations, this committee is extremely active right now. Walter provided an email update to the Officers and looks forward to updating everyone at the next EC meeting.

H. Pro Bono Committee – Kimberly Berman

Berman reported about the very active Pro Bono Committee, which has fielded almost 100 requests since the last meeting. These include requests from the Defending Best Interests partnership with the Guardian ad Litem Program, the Injunction for Protection Project, and other sources. The

committee is screening all the cases and continuing to try to improve the intake form on the website. The committee is also trying to reach out to legal aid organizations across the state to remind them about the APS pro bono committee.

Berman thanked the Section leadership for supporting the fourth joint pro bono training with the GAL and for providing the lunch. There were many great presentations and a nice turnout in connection with the winter Bar meeting.

Berman also mentioned a recent pro bono initiative of the Third DCA, in which the court is considering its own program to appoint pro bono attorneys. She has been involved in discussions about APS's potential involvement.

Elaine Walter commented that she has also been involved in some of those meetings, in connection with the Miami-Dade appellate bar, and she is concerned about the judges identifying issues that they want practitioners to brief for them on behalf of pro se folks.

Sarah Lahlou-Amine responded that there is some precedent for programs like this. Although on the surface it might raise concerns, Sarah noted that the Florida Supreme Court, the Eleventh Circuit, and even some other DCAs have done this off-and-on over the years. There are workarounds, she said, so that it is not advocacy by the court but rather the appointment of lawyers where they need to be appointed.

Tom Hall added that the Third DCA has an opinion from the early 1980s addressing the subject, in which they rejected an argument that the court lacked authority to appoint an attorney in an individual case.

Berman concluded by reminding anyone who is not part of the pro bono listserv to contact her if they wish to be included.

I. Programs Committee – Diane DeWolf

DeWolf reported that there is not a lot to report on behalf of the Programs Committee. The committee is already working on the June dessert reception. Several possible themes have been discussed but the committee has not yet settled on one.

J. Publications Committee – Tom Seider, Courtney Fernald, Morgan Weinstein, and Chance Lyman

Seider reported on the most recent goings-on of the Publications Committee. Morgan Weinstein has taken over for Heather Kolinsky as editor of the *Florida Bar Journal* submissions. He has volunteers lined up through September but could use a more robust bank of topics.

The committee wants to encourage new members who are interested in helping as assistant editors or in writing for *The Record* to reach out. Fernald added that an article for *The Record* does not have to be extensive or time-consuming – it can be a profile of a new judge, an update on a recent case, a brief discussion of a rule change, or anything else appellate-related. Amy Dilday has volunteered to start a recent column on Florida Supreme Court cases.

Lyman reported on the Pro Se Handbook. He just assembled a team a week ago based on a referral of sorts from the Office of the State Courts Administrator to do updates related to the creation of the new Sixth DCA. These edits will be folded into the edits the committee is already doing for the next edition of the Handbook.

K. History Committee – Hon. Carrie Ann Wozniak (update)

Chair Wozniak reported that V. Hendricks, the longtime chair of the History Committee, has retired. The Section will miss her.

The Section Officers have talked for a while about what to do with this committee. She will be meeting next week to discuss combining the Outreach and Programs Committee and about perhaps having the History Committee become a subcommittee within that merged committee. She supports the general idea of capturing the Section's activities and remembering its past; there just needs to be a better, more efficient, more organized way to do it.

X. Announcements – Hon. Carrie Ann Wozniak

Chair Wozniak announced that the next Executive Council meeting will be held at the Florida Bar's annual convention, on Thursday, June 22, 2023, in Boca Raton. She is looking forward to seeing everyone there.

XI. Adjournment – Hon. Carrie Ann Wozniak

With that, Shannin moved to adjourn the meeting, and Daiker seconded the motion. The meeting was adjourned at 1:12 p.m. by unanimous consent.