

LITIGATION SECTION EXECUTIVE COMMITTEE

Meeting Minutes – November 18, 2015

Present: Heather Thuet, Heather Sneddon, Michael Stahler, Dan Steele, Prof. Amy Wildermuth, Judge Stone, Rod Andreason, Joe Amadon, Cameron Sabin, Benjamin Harmon, Jess Krannich

By Phone: Jen Tomchak, Sarah Hafen, Liisa Hancock, Christian Kesselring, Sade Turner

Excused: Philip Lott, Judge Roth, Tom Seiler, Matthew Orme, Jonathan Hafen, George Burbidge

1. Law Student Relations Committee Report

Jen Tomchak reported on the following events and welcomed new committee members Sarah Hafen and Andrew Roth.

- a. Introduction to Matheson Courthouse: The event is set for Jan. 15, 2016. She would like to have two panels: one of judges, and one of judicial assistants and clerks. She is also seeking a full day of CLE credit.
- b. Mentoring Social @ Squatters: The Section has been asked by the Bar Commission to join with them on Jan. 14, 2016, the night previously set for the Squatters event, for a joint “Bar Review” event that would be an even bigger social than we had planned. The Commission would do a short presentation on the state of the Bar, and the rest of the time would be spent networking. Because of the size of this anticipated joint event, the location may need to be moved from Squatters. Angelina Tsu is planning the event and looking at the Alta Club.
- c. Student / Mentoring Event @ BYU: This event is not yet scheduled, but anticipated in March or April of 2016.

2. Chair’s Report

Heather Thuet updated the committee on the changes taking place with the Bar. The Bar’s overhead allocation and staff time charges have put a lot of our events in the hole. The Section has had to modify past procedures to save on costs. The Bar has agreed, for now, to discontinue charging us overhead on events until they revisit what their overhead calculation should be. Currently, that overhead averages out to roughly \$72/hour for any staff member who works on our events, which is in addition to the hourly staff time the Bar charges to our events (charged in half-hour increments). Together, depending on which staff member is staffing the event, those charges average out to approximately \$110/hour.

At our insistence, and to provide some predictability, the Bar has agreed to cap its overhead allocation to our Section this year at \$16,000. That includes our Rise & Shines and Quarterly Lunches because those events, which are one hour or less, fall under the umbrella of “administrative expenses.” For those events, Bar staff time is also capped at 2 hours per event, so we will continue to use Bar staff on those events. For “seminars,” which are any events over one hour, we will switch to using an executive director exclusively for planning, scheduling, logistics, etc. Michelle Barrus has agreed to act as our executive director for these events for \$25/hr.

Cameron Sabin asked whether the overhead charge that is allocated to our Section on an annual basis will be decreased if we minimize other expenses. Heather T. responded that she has attended several meetings on the overhead allocation. The Bar is taking a hard look at it because many of the Bar's "fees" being charged to Sections are likely duplicative. Once the true numbers are determined, we'll work from there, but the overhead allocation will be based on utilization. If our utilization goes down, we anticipate that our Section's overhead allocation will go down. Michael clarified the two charges at issue: (1) the annual administration fee to cover events that are under 1 hour, and (2) the overhead allocation, which is for "seminars" that are over 1 hour. That overhead charge allocates to our Section a portion of the Bar's expenses for all seminars, including those held by other Sections. For example, based on the Bar's own audit report, the Annual Convention runs significantly in the red and those overruns are divided up between all Sections to cover.

A committee member questioned the Bar's justification for including Golf & CLEs among the "seminars"; even though the events are over an hour, the Section's utilization of the Bar for those events is not more than 1 hour. Heather T. commented that we are trying to save on staff time, hourly rates and overhead, but that a third component of our financial relationship with the Bar is the fact that the Bar takes half of all profits earned by our Section on events. Therefore, we will be utilizing an executive director for hourly work and will have our registration fees deposited elsewhere, i.e., not in the Bar's account. A committee member noted that Heather T. has put in an enormous amount of work this year for our Section, and asked what we have learned from the Bar. Heather T. responded that, due to the inquiries of our Section, the Bar is taking a hard look at its financials and how Sections are being charged. In addition, the Bar has a new CFO who replaced Jeff Einfeldt as of last week. Heather Sneddon asked whether we have any information regarding the Appellate Section and its decision to sever ties with the Bar. Heather T. said that our Section has addressed the Bar's charges and financial issues. Another member reported that the IP Section has raised similar questions given the Bar's report that the Section's only annual event, the IP Summit, was in the red even though the Section experienced record attendance and revenue. We did raise the idea of becoming a "division" under the Bar rules, but after further review, the Bar Commission has control of the divisions and they distribute money among those divisions. That would not meet our Section's goals of financial accountability and transparency.

To further save on costs, Heather T. reported that we have located a new postcard vendor: Salt Lake Mailing. ZDocs has always been used by the Bar for our Section's postcards, usually running \$700-800 per event. Our new vendor is roughly half that. We've informed the Bar that we will no longer be using ZDocs. Salt Lake Mailing's initial layout charge is \$50, which is less than what the Bar used to charge us.

Heather T. also reported that she and Michael have discovered 9 or so additional errors in the Bar's accounting, so the Section should be seeing about \$2,400 coming back.

Finally, Heather T. welcomed new committee member, Professor Amy Wildermuth.

3. Judicial Receptions

- a. Fourth District. Liisa Hancock reported that she has spoken to Tom Seiler, and they are planning a breakfast event. They plan to speak with the chief district judge in the coming week and then reach out to other judges. They are still looking for a location.

4. Continuing Legal Education

- a. Recently Completed CLEs. Dan Steele reported that the Golf & CLE in St. George was a success with 46 attendees. Bryan Pattison and Blake Hamilton presented on the new URCP 56. He hasn't seen numbers yet, but believes the event should be close to revenue neutral.
- b. Quarterly Lunches

- i. Fourth Quarter 2015: Rod Andreason reported that the event is ready to go on December 7, 2015 @ noon. Judges Toomey, Blanch and Anderson from the URCP Advisory Committee will serve on a panel to discuss the latest rule changes. He has asked Lincoln Mead to send out an email blast.
 - ii. Second Quarter 2016: Cameron Sabin reported that he is working on the event. Heather T. relayed a potential topic submitted by Wayne Klein on “bullying,” with a panel consisting of a judge, an OPC member, and perhaps practitioners, to discuss various litigation and discovery “bullying” tactics and how to address them.
- c. Rise and Shines
- i. Fourth Quarter 2015: Heather T. reported that this video-intensive CLE event is ready to go at the federal courthouse on December 8, 2015.
 - ii. Second Quarter 2016: Ben Harmon reported that he is considering dates in April, and two potential topics: (1) what happens when a claim being litigated goes into bankruptcy (with a panel that includes a trustee); and (2) best practices and advice from a panel of federal and state court clerks (which might overlap with the Matheson event). Dan commented that giving judges’ clerks a voice is important. They are the gateway to the judge. He also noted Mark Jones’ support of our Section’s events. Heather T. suggested the title of “Tips from the Gatekeepers.”

Jess Krannich asked whether the Section maintains a central depository for CLE topics to ensure good ideas don’t get lost. Heather T. proposed including a list of topics with the agenda each month. Dan said that he and Jon Hafen serve as central depositories but that their memories are fading. Dan committed to putting a list of topics together and providing it to Heather Sneddon.
- d. Legal Writing CLE w/ the Courts: Heather T. reported that this CLE is still in the works, and will be revisited next month.
 - e. Fall Forum: Michael Stahler encouraged the committee to attend the Fall Forum. He will be moderating the Litigation Section track on Thursday on openings and closings.
 - f. Spring Convention: Judge Stone said that Judge Scott was available but bracketed with other events. If she’s ultimately unable to commit, Judge Stone will find a worthy replacement.
 - g. Federal Bar Convention: Jess reported that he has spoken to Jon Hafen about potentially connecting on the Southern Utah event, but Jon has been in trial so he’ll follow up. Heather T. proposed doing the event on President’s Day weekend, even if the FBA is not involved.
 - h. Annual Convention: Heather T. said that she will be attending a meeting on the Annual Convention in the afternoon, and will be hearing “tryouts” by potential speakers.
 - i. Trial Academy: Michael said that he needs to coordinate with Jon Hafen and get in touch with Judge Dawson regarding the next Trial Academy. He’s hoping to do it at a larger venue like the new law school.
 - j. Chocolate and CLE: Heather S. reported that she, Jon Hafen and Jenifer Tomchak went to lunch to discuss this event and potential topics. They are considering inviting a panel of general counsel to discuss the skills and traits they look for in hiring outside counsel. Jess suggested Ben Bates and Amy Paulson as possible panel members.
 - k. Healthy Lifestyles for Litigators & Developing Collegial Relationships

- i. Bar Review: Heather T. reported that the event is scheduled for Jan. 16th. The budget of \$1,000 has been approved.
- ii. Tuesdays at 2! Heather T. said this series is ready to begin on the first Tuesday in January: yoga or Pilates at 2:00 pm at Zimmerman Jones Booher. (She determined that Squashworks is not an ideal venue for yoga or Pilates classes.)
- iii. Rafting, Reception & CLE in Moab: Heather T. has scheduled the event on June 2, 2016. The concept includes a social component (reception), an athletic/outdoor component, and an entertaining Ethics CLE. Judge Anderson has offered to sit on a panel, give a history of the Seventh District, or discuss “how to try a case in a small town.” The committee discussed the timing and whether to begin the event on Thursday or Friday. Dan commented that rafting will likely be tame in early June, but if people are interested, we could include an off-road motorcycle outing, a mountain biking outing, a rafting outing, etc. Dan is happy to lead an off-road motorcycle outing and suggested Dan Larsen and Paul Matthews as being capable of leading a rock-crawling outing. Cameron suggested including a few activities to choose from. Heather S. suggested beginning the CLE mid-day on Friday to permit attorneys and their families to drive down Thursday night and participate in an activity Friday morning. Heather T. said the lodge has agreed to give us \$100/rooms including internet. Suites and cabins will be more expensive. Judge Stone asked about attendance, suggesting that we not schedule too many activities or we will have too few participating in each activity. Heather S. also suggested including a scheduled activity like hiking that is family friendly.
- iv. Bike & CLE in Cache County: Heather T. reached out to Herm Olsen and he is interested in this event, but is not sure about the bike component.
- v. Ski & CLE: Michael said that he will reach out to the Real Property Section to determine whether they want to proceed with this event, as it is traditionally their event. He isn’t sure whether they are keen on doing it since they took a significant loss on the event last year. Cameron noted that Sarah Boulee is the Real Property Section’s activities chairperson, and his understanding is that they have a substantial budget this year.

5. Sponsorship Requests

- a. Constitutional Law Moot Court Team: Heather T. revisited the University of Utah law school’s sponsorship request for \$1,000 for their Constitutional Law moot court team. Prof. Wildermuth assured the committee that this is the shortfall not covered by the school. Dan questioned whether BYU should be given an equal opportunity for sponsorship. Heather T. responded that we’ve received no request from BYU. Sarah Hafen commented that if the Section is giving out money, there will be someone from BYU who wants it. She’s happy to check. Cameron said that we want to provide sponsorships if there is a need; we don’t necessarily want to look for opportunities.
- b. And Justice For All: Heather T. discussed And Justice For All’s sponsorship request for \$1,500, which would include 20 free race registrations for the committee and a 1 hr Ethics CLE for free. Dan commented that And Justice For All has enjoyed a long history of receiving money from our Section, including in the past when the interest on our account was donated (before that was eliminated).

In discussing both requests, Rod Andreason asked what our total sponsorship budget is, and what we have allocated to And Justice For All and others in years past. Michael reported

that we supported the East High moot court competition last year, and that we budgeted for and spent \$2,000 last year on grants and contributions. We have approved a \$500 sponsorship to East High this year. Michael also commented that we will likely be receiving more sponsorship requests this year. Rod noted that our sponsorship form is likely reducing requests.

Heather T. moved to approve a \$750 sponsorship of the U of U, and \$1,000 for And Justice For All. Jess seconded, and noted that the law schools both have about a dozen traveling competitive teams. Although the schools cover some costs, the students still have to come out of pocket. He is sensitive to the idea that extra funding will help, but he cautioned the Section that this might be a first come, first served sort of thing. We can't sponsor every team. Michael said that if the motion carries, we will be at our budget. Rod noted that we can change our budget. Michael explained that the Section will have roughly \$37,000-\$38,000 after the Bar's anticipated charge of \$16,000-17,000. Quarterly Lunches and Rise & Shines cost roughly \$1,000-1,500 each (although charging \$10/person has helped). With those anticipated costs, he estimates the Section has roughly \$20,000 for all other events this year.

Cameron said that we don't know what is going to come up, so he suggested voting on these sponsorship requests on their merits since these organizations filled out the paperwork, and we can address whether to increase our sponsorship budget at a later date if further requests come in. Rod said that he is fine approving these sponsorships at the levels suggested by Heather T., but that we still need to discuss our budget. Dan reiterated that the smoke is not yet clear with respect to the Bar, so we need to be careful until we can more accurately predict what our budget is. Committee members suggested that we inform the Bar that we are taking the profits of our events to fulfill sponsorship requests to prevent the Bar from sharing in 50% of our profits. Dan moved to approve the And Justice for All request at \$1,000, agreeing to split revenue on the later Ethics CLE. Cameron seconded and the motion carried. The Constitutional Law Moot Court team request was tabled.

6. Meeting Minutes

Rod moved to approve the meeting minutes from September. Seconded, and all approved.

The meeting adjourned at 9:14 a.m. The next meeting will be at 8:00 a.m. on Wednesday, December 9, 2015.

Respectfully submitted,

/s/ Heather M. Sneddon
Executive Committee Secretary