

LITIGATION SECTION EXECUTIVE COMMITTEE

Meeting Minutes – October 21, 2015

Present: Heather Thuet, Rod Andreason, Michael Stahler, Heather Sneddon, Joe Amadon, Judge Stone, Tom Seiler, Erik Christiansen, Judge Dawson, George Burbidge, Ben Harmon, Jess Krannich, Tim Pack, Cameron Sabin, Erik Christiansen, Dan Steele

By Phone: Jenifer Tomchak, Bryan Pattison, Matt Orme, Matthew Koyle, Sade Turner, Judge Roth

Excused: Liisa Hancock, Philip Lott

1. Welcome and Chair's Report

Heather Thuet welcomed the Committee and new member, Professor Amy Wildermuth from the S.J. Quinney College of Law. Heather T. expressed her interest in increasing the Section's ties to the law schools, and also welcomed the addition of two new student representatives from BYU, both of whom are third generation Litigation Section members. Heather T. and Michael Stahler will be meeting with the Bar Commission this week to discuss the Section's financial issues with the Bar and, therefore, she wanted to focus today's meeting on the Section's mission.

2. Judicial Receptions

- a. Second District: George Burbidge spoke with Todd Sessions this morning. Although they don't have a date yet, they are thinking of February and will continue working on it.
- b. Fourth District: Tom Seiler has offered to assist Liisa Hancock with this reception. He asked about possibly co-sponsoring the reception with other bar organizations. George commented that we've done so in the past to avoid duplicating efforts and being seen as usurping projects from local county bars. It's a win-win if our members help to increase attendance at these events. Tom also asked about typical budgets and flow for these events. Heather T. said we typically try to stay around \$750 per event. George explained that they are usually held in the evening, with the first 45 minutes are dedicated to reception-style socializing with light fare and drinks, followed by an hour of CLE. The CLEs typically consist of a panel of judges who give observations on what they've seen in their courtrooms, discuss preferences, common mistakes, etc. Judge Dawson commented that judges really love these receptions as an opportunity to address issues. He and Judge Stone said that the format works really well. Judge Stone also mentioned that little preparation is needed because attendees are more interested in talking and the events are well-attended.

Heather T. raised February as a good time for this reception. Judge Stone said district court conferences begin in March. George commented that the Spring Convention is in March. Judge Dawson said that in northern Utah, the American Inns of Court is every third Thursday, but other than that, February was a good timeframe. Tom will speak with the judges and move forward on the date.

- c. Fifth District: Bryan Pattison will contact the Southern Utah Bar and move forward on this.

Heather T. encouraged all members in charge of judicial receptions to get dates set so that they can be advertised in the newsletter. Rod Andreason needs the information by November 5th.

3. Continuing Legal Education

a. Recently Completed CLEs and Sponsored Events

Heather T. congratulated Dan Steele on his Golf & CLEs this year after facing budgetary constraints caused by the Section's issues with the Bar. He achieved great revenue and great attendance, and saved on expenses where needed. Dan commented that the events have been fun, with the last upcoming event on Friday in St. George. He anticipates similar revenue from that event. The events were handled this year in a way that gives the committee the ability to -evaluate the events and pricing next year when we have more certainty on our budget. The Central Utah Bar Association has not yet paid their agreed-upon share for the book offered during the Utah County event, so that will help with revenue. Dan appreciates the Section's support and commented that the scrutiny regarding the Golf & CLE events was fair. Rod questioned whether the increased fees this year caused us to lose attendees. Dan said it was hard to say, but he hadn't heard any complaining about the fees from attendees or local bar leaders. He thinks we would have a small positive impact in attendance if the fees were reduced, but he has not yet compared attendance numbers this year with past years. This year, Utah County has over 40 attendees, with 30 golfers. Cache County is a smaller organization, but typically attracts 30 attendees. St. George has the biggest swing in numbers, but currently, 33 are registered to attend. Over the years, Dan has seen attendance as high as 75 and low as 15. Heather T. asked whether the absence of a post card has affected attendance. Dan answered that he's heard almost no rumbling about that, and attendance has been strong. He personally likes the post card, but he can't say that it has negatively impacted attendance. In the future, he would probably support sending the post card if the budget allowed.

b. Quarterly Lunches

- i. Fourth Quarter 2015: Rod said that with civil procedure rule changes going into effect soon, he'd like to put together a panel to discuss them that would hopefully include members from the Advisory Committee on the Utah Rules of Civil Procedure. He asked the committee for input on timing. The general consensus of the committee was early December. Heather S. suggested Judge Blanch from the rules committee as a possible panel member. Heather T. advised Rod to check the Bar's comprehensive calendar of CLEs to avoid major conflicts with other events. She also suggested the jury room at the federal courthouse as the location, as it is free of charge. For non-lunch CLEs, Heather T. encouraged the committee to use other facilities so that we are not charged for Bar staff time and room fees. Michael reminded the committee that the Bar considers CLEs over an hour to be "seminars," which are subject to additional fees and costs. The committee also discussed using the new law school as a venue in the future.
- ii. Second Quarter 2016: Cameron Sabin has not yet decided on a topic and date, but will work on it.
- iii. Third Quarter 2016: Erik Christiansen reported that he is considering a panel of judges to talk about how to handle large (Tier 3) commercial cases. Judge Stone commented that certain district court judges will be participating in a pilot program starting in January for Tier 3 cases. Erik will follow up.

c. Rise and Shines

- i. Fourth Quarter 2015: Heather T. reported that Phil Lott's rise and shine for the fourth quarter is set: "Avoiding Legal Malpractice: Beginning and Ending Client Relationships," on December 8, 2015 @ 8:30-9:30 a.m. at the federal courthouse. The presenters will be Heather T., Ken Landis and Judge Toomey. Heather T.

encouraged members to attend as the CLE will be excellent with practical, user-friendly handouts.

- ii. Second Quarter 2016: Rod encouraged another committee member to volunteer on this event. Dan recommended looking at the new changes to Rule 56 as a possible topic. Bryan Pattison is offering a CLE on that topic in St. George and he might be willing to travel to offer the same CLE in Salt Lake.
- d. Legal Writing CLE w/ the Courts: Judge Dawson reported on his previous conversation with Tom Longhorn about this event. Tom was hoping to work something out with the University of Utah where Prof. Terrell would come in on a reduced fee and present to judges, law students and Litigation Section members. It has been roughly two months, however, so Judge Dawson will reach back out to Tom. Financing the CLE was the issue.
- e. CLE Advisory on Bar Conventions: Michael reported that this is coming along; nothing specific to report.
- f. Fall Forum: Michael reported that the Fall Forum is also coming along, although the judicial reception might be moved to the evening of November 18th. The event is at the Grand America on Nov. 19-20. Michael and Jonathan Hafen have worked on putting a panel together. The organizers have promised that this year's event will be a different format, and is guaranteed to blow our minds.
- g. Spring Convention: Tom Seiler reported that he originally thought our Section had 5 hours to fill, but recently learned we have only 2. He is not sure whether those will be scheduled on Friday or Saturday. Amber Mettler will be assisting in planning the CLE as well. Alan Sullivan initially agreed to speak for one CLE hour, but he may now be tied up with trial. Tom is considering Don Winder instead and plans to reach out to him. For the other CLE hour, because fewer cases are tried these days, Tom would like to enlist the judges' help in identifying practitioners who are particularly adept at presenting motions to the court in a way that is helpful for judges. Judge Roth recommended Michael Zimmerman, Troy Booher and Linda Jones, as well as the folks in the AG's criminal appeals division. He believes they are fairly untapped for these kinds of presentations but really know how to write and present. Judge Dawson mentioned Laura Scott was outstanding both in her writing skills and presentations to the court before she took the bench. Tom commented that she would also be a good draw because members like to attend CLEs with judges on the panel. Heather T. noted the Spring Convention is on Mar. 10-12. Judge Stone will email Laura Scott to ask about her availability on those dates, and will also think of other practitioners to recommend.
- h. Annual Convention: Heather T. reported that the Annual Convention will be in San Diego next year from July 6-9. For a speaker, Tom suggested renowned Prof. Chemerinsky. Jess Krannich commented that he attended a CLE two weeks ago with Chemerinsky as the speaker and that he covered every major opinion issued by the Supreme Court over the last year without notes. He is remarkable. Judge Dawson said that he has presented to the judges every year and is very good. Judge Stone mentioned that he is very hard to get. Jess said that the Appellate Section brings him here every year. Tom suggested that Heather T. talk with the Appellate Section about bringing him for the Annual Convention.
- i. Trial Academy: Michael said there was nothing new to report.
- j. Chocolate and CLE: Heather S. reported that she had not yet spoken to Jon to discuss the event, but would begin working on it. She plans to schedule it again at Caputo's. She

invited other committee members to assist in planning the event, and Jen Tomchak volunteered.

k. Healthy Lifestyles for Litigators & Developing Collegial Relationships

- i. Bar Review: The Bar has asked us to co-sponsor a social event to encourage interaction between litigators (and to show our unity with the Bar). The Bar requested that we give \$1,000 toward the event. The Bar originally planned the event for Nov. 4, but due to a conflict, the date is currently TBD. After discussion, the committee concluded that we may be interested but only once our financial issues with the Bar are resolved.
- ii. Tuesdays at 2! Heather T. explained that this is her pet project. The owner of Squashworks has offered to make 2 squash courts available to our Section for free every Tuesday at 2:00 pm. Heather T. would like to schedule yoga sessions there every week for Section members. A highly recommended yoga instructor is willing to teach the sessions for \$60/week. Heather T. noted that Zimmerman, Booher and Jones currently offers yoga classes, which fill their conference room every week. Erik mentioned that the federal court also offers yoga classes on Tuesdays and Thursdays, mostly attended by court staff and a few practitioners, that are attended by 15-20. Rod asked what level of attendance would be considered successful. Heather T. responded that she would like to get 20/week and would love if the event attracted 40/week. She anticipates the event will develop a core following with other members attending occasionally. It is a great opportunity for lawyers to socialize in a different atmosphere and pursue a healthy lifestyle. Heather T. moved to approve the expenditure of \$60/week for 6 months (total of \$1,560) to test Tuesdays at 2! at Squashworks, and plans to advertise the event via email blasts and other means. George seconded, and the motion carried.
- iii. Rafting, Reception & CLE in Moab: Heather T. said that the proposed dates for this event are April 14-15 and May 12-13, as we want to avoid the car show in Moab. The concept is to have the event at Red Cliffs lodge with an evening reception, coupled with outdoor activities in Moab. For warmer water, Cameron suggested the May dates. Judge Stone commented that spring and fall in Moab are crazy, and that we might want to consider summer. Cameron said the water is still good in June, but not as good in July. Heather T. will look at June dates and begin working on numbers. Tom suggested that she also speak with lawyers who own property in Moab, including David Eckersley, Jeff Eisenberg and Judge Harris, to get input on the area. Judge Stone also mentioned that Red Cliffs Lodge gets booked up very early, so we'll want to arrange dates as soon as possible.
- iv. Bike & CLE in Cache County: Heather T. asked whether any committee members want to assist in planning this event. Tom suggested that she get in touch with Herm Olsen and ask who in Cache County could assist.
- v. Zen in Zions & CLE: Heather T. would like to plan this event at the Cliffrose Lodge and requested proposals from the committee. Judge Stone said that Flannigan's Inn has yoga classes and a meditation circle walk. He also suggested President's Day as a nice time in Zion. Jess said that if we want to spread out events, a February timeframe makes sense. He also suggested talking with Jon Hafen about the option of partnering with the Federal Bar, as the Southern Utah Federal Bar Symposium takes place in St. George in May. Jess said that he always attends that event and

then his family goes to Zion on Saturday or Sunday after the Friday meetings. Jess will talk with Jon about it.

- vi. Ski & CLE: Michael reported that he just received from the Bar the accounting information from the February 2015 Ski & CLE event and has some concerns regarding the charges. The Real Property section is interested in doing the event again this year, but the location needs to be determined and financial issues need to be discussed. Last year, the sections believed that contributions of \$1,600 each, in addition to revenue generated from the event, would be more than sufficient to cover costs. Instead, we have over \$800 in seminar losses for the event, even though it wasn't held at the Bar. Lift tickets were expensive and food and beverage was a surprising \$3,500. Michael's biggest concern is that the Bar charged \$1,200 for what seem to be unrelated expenses. He is communicating with the Bar about those issues, but for next year, is considering resorts in Park City as an alternative to Brighton. Cameron commented that because Talisker bought Park City Resort, season passes have doubled in price this year. It might be cheaper to go with resorts that are not in Park City, i.e., in Big or Little Cottonwood Canyon.

4. Sponsorship Requests

- a. Constitutional Law Moot Court Team: Heather T. informed the committee that the moot court team from the University of Utah S.J. Quinney College of Law has made a sponsorship request for \$1,000, and that the Section has supported the team in the past. Heather S. read the sponsorship form submitted by the team. Michael reported that we do have the money to fulfill the request. Heather T. indicated that we have now received credit for our Section's membership fees of roughly \$48,000. Michael explained that although the Bar's latest financial information suggests the Section has roughly \$59,000, he believes our current balance to be closer to \$55,000 because certain cost items have not gone through yet. Jess commented that, given his involvement in similar moot court events, he would be surprised if the law school was not covering the team's travel expenses, so he asked what the money would be used for. Cameron moved to approve the sponsorship request, provided that the team spend the \$1,000 on acceptable costs. Michael suggested that we table the request and ask the team to explain what the funds will be used for. Rod also commented that we should look at our budget for these sponsorship requests, consider what we have done historically and what our other commitments are before granting it. The committee decided to table the request and ask the team to provide more information on what the \$1,000 would be used for.

5. Committee Reports

- a. Law Student Relations
 - i. Introduction to Matheson Courthouse: Jen Tomchack reported that because the room where this event is held is booked out for November and most of December, she is looking at Jan. 15 as the date, which is the night after the Mentoring Social at Squatters. Michael asked whether Jen could handle the events back-to-back. Given that she has planned these events before, Jen indicated that she could. Rod said that there shouldn't be a large overlap in the crowds that attend the two events. The committee expressed support for the Jan. 15 date.
 - ii. Mentoring Social @ Squatters: The Jan. 14th date is confirmed. To the extent she hasn't already, Jen will provide all of the details on these events to Rod for inclusion in the next newsletter.

