

OREGON STATE BAR
WORKERS' COMPENSATION SECTION
ANNUAL REPORT – 2011

Activities and Accomplishments:

Election of officers and Executive Committee members:

The section held its Annual Meeting on May 13, 2011 at the Salishan Lodge at Gleneden Beach, Oregon. The meeting was chaired by Administrative Law Judge (ALJ) Charles R. Mundorff. The section elected the following officers and members-at-large to serve on the Executive Committee: Chair-Elect: Norman Cole, Secretary: ALJ Jacqueline Jacobson, Treasurer: Julie Masters, Members-at-large: ALJ G. Duff Bloom, John Oswald, Ronald Bohy, Robert Guarrasi, Keith Semple, ALJ Nicholas Sencer, and Jennifer Roumell. The members-at-large were elected to serve until December 31, 2013.

Those members-at-large still serving until December 31, 2012 were Tom Harrell, Douglas Rock, Steven Schoenfeld, Dennis VavRosky, and James Edmunson. Dale Johnson was elected Chair-Elect in 2010. The Past-Chair this year was Matthew Fisher.

On June 20, 2011, the section was saddened by the news that ALJ Charles Mundorff died suddenly. He was 52 years old. He had served on the Executive Committee for many years.

Pursuant to Section Bylaws, Article IV, Section 3, Dale Johnson performed the duties of the Chair for the remainder of Judge Mundorff's term.

In August, 2011, Jennifer Roumell resigned from her position as member-at-large. Her position will be filled by appointment, beginning January 1, 2012.

Seminars:

The section sponsored three seminars in 2011. The first, as part of its annual conference at Salishan was held on May 13 and May 14, 2011. The seminar was approved for 8.75 general credits and featured medical experts, Dr. Emil J. Bardana, Jr. speaking about work-related asthma, and Dr. Paul Puziss speaking about arthritis. Other topics included a workers' compensation law appellate update, an update from the Workers' Compensation Division (WCD), a discussion about settlement practices,

and a break-out session on the “nuts and bolts” of workers’ compensation practice for new practitioners.

On October 20, 2011, the section and the Bar’s CLE department co-sponsored a beginner’s seminar entitled “How to Try a Workers’ Compensation Case.” A mock hearing was scripted and performed by section members. It was digitally recorded for future use. The seminar was approved for six credits.

On November 4, 2011, the section held its annual Bench/Bar Forum at The Oregon Garden in Silverton, Oregon. The keynote speaker for our annual ethics seminar and luncheon was former Oregon Supreme Court Justice, Hon. W. Michael Gillette. The seminar, which was free to section members, included former ALJ Donna Garaventa speaking on the ethics of mediation, and a panel discussion on ethical issues in litigation. The section sought approval for three ethics credits.

Budget:

The section executive committee approved the section’s budget for 2012. In 2011, the executive committee sought ways to decrease expenses, particularly in its most expensive line items: section sponsored seminars. With regard to the Salishan Conference, the standing committee in charge of the event was able to reduce the cost of producing materials by moving to CD-ROM as the default option. The Bench/Bar Forum standing committee found a less expensive venue for its event and reduced costs by offering a buffet luncheon. The expense for a recording of a mock workers’ compensation hearing for the beginner’s seminar will be spread out over time, when the video is re-played at future seminars. The beginner’s seminar, produced by the section’s Going Forward standing committee, was intended to increase interest in workers’ compensation practice and to increase section membership and revenue. Section membership had decreased from roughly 550 members in 1993 to approximately 350 members currently.

The section is projected to be only \$178 over its budgeted expenses at year’s end. The section will continue to balance its expenses and revenues, while maintaining a reasonable fund balance and serving its membership. In 2012, the Executive Committee will decide whether to seek an increase in membership dues. The Executive Committee is aware of the Bar’s deadlines in that regard.

Legislative Issues:

The section Executive Committee is not proposing any legislation for the next legislative session, at this time. The Committee is aware of the Bar’s deadlines for such action. Due to statutory changes, such as changes to ORS 656.790 (3) in 1995, the section’s role in making proposals to the legislature has diminished. The Executive

Committee will continue to monitor bills and legislative changes that affect the practice of workers' compensation law and will keep its membership informed. The Executive Committee's legislative contact person for 2012 is former State Representative and current Committee member-at-large James Edmunson.

Matters considered / Matters pending:

The section Executive Committee has had a busy year. The Executive Committee met each month, except for August, and there is a December meeting scheduled for December 9, 2011. The Executive Committee has nine standing committees that report through Executive Committee liaisons at each meeting. Those committees are: Salishan (annual conference), Bench/Bar Forum, Nominating, Douglas Daughtry Award of Merit, Access to Justice, Going Forward, New Technologies, Communication, and Legislative/Rules. This year the standing committees were asked to review and revise, as necessary, their mission statements for approval by the Executive Committee and to state specific goals for 2012. The re-organization of the standing committees was intended to provide accountability to the Executive Committee and to provide an annual assessment of goals attained.

The standing committees are very active and are composed of energetic practitioners and judges who volunteer countless hours to the completion of section activities, goals and other business. The committees are purposely balanced with lawyers who represent workers and those who represent employers. Judges from the Workers' Compensation Board's hearings division also serve and provide a judicial perspective in each committee's deliberations. This year younger volunteers were recommended to each committee, so that veteran committee members could provide mentoring. It is our hope that younger colleagues will enjoy the committee work and will seek elected positions on the Executive Committee in future years.

A brief discussion of each committee's mission and work in 2011 and goals for 2012 follows:

The Salishan Committee, as discussed earlier, planned and coordinated the annual business meeting and seminar in May, 2011, and did so under budget. The committee's goal is to present interesting and educational CLEs to the section within budget. The 2012 meeting, "Salishan 30," is scheduled for May 11th and 12th.

The Bench/Bar Forum (Professionalism) Committee planned and coordinated the November 4, 2011 ethics seminar. The committee's goals for 2011 were met very successfully and under budget. The committee's goals for 2012 are the same.

The Nominating Committee is charged with recommending candidates for the annual elections. The committee, currently composed of three past Executive

Committee members, representing the claimant's bar, the defense bar and the bench, is seeking potential standing committee members and, with committee approval, recommending them to standing committees for mentoring. The committee is sensitive to issues of gender, geographic and age diversity.

The Douglas Daughtry Award of Merit Committee is composed of the three most recent Past Chairs, and since the chairpersonship is rotated among claimant's counsel, defense counsel and the bench, the three provide different perspectives and a broad-based knowledge of the nominees for the section's highest honor. The award was presented to long time Salishan committee chair Sally Anne Curey in 2011. ALJ Holly Somers will serve on the committee in place of ALJ Charles Mundorff. The committee will meet on December 6, 2011 and will plan the nomination process and deadlines for 2012. If the committee has a recommendation for the award in 2012, the recommendation will be presented to the Executive Committee in the spring, and the award will be presented at the Salishan Conference on May 11th.

The Access to Justice Committee's mission is to increase access to justice in workers' compensation matters. In 2011, the committee's goals included reviewing the Workers' Compensation Division's (WCD) publications for information about finding attorneys, particularly information about the Bar's Lawyer Referral Service; working with the Ombudsman for Injured Workers office on the same issue; tracking legislation that would affect access to justice; informing Legal Aid Services about workers' compensation access to justice issues; and providing input to WCD about the use of and payment for interpreters in WCD reconsideration process depositions. The committee completed or made significant progress in meeting its goals in 2011. In 2012, the committee will address improving worker access to medical care and evaluations, will investigate whether lack of reimbursement for benefits of employment is impeding access to justice, and will discuss whether providing more information to physicians will improve access to justice.

The Going Forward Committee's main goal for 2011 was to work with the Bar to produce a seminar for new lawyers. The seminar "How to Try a Workers' Compensation Case," was presented on October 20, 2011. The committee's mission is to increase the number of workers' compensation practitioners in Oregon. In 2011, over two-thirds of the section's membership was age 50 or older. In 2012, the committee's goal is to work with the three law schools to provide a seminar for law students and to show its mock hearing video.

The New Technologies Committee's mission statement is to consider, prioritize and implement technological improvements that may benefit section members by consulting with attorneys, parties, the Workers' Compensation Board (WCB) and other forums. The committee also seeks to educate members on how to implement

technological improvements that will increase efficiency, save costs and promote environmental sustainability. In 2011, the committee launched its monthly newsletter, "Tech News Tuesday," and beginning with its May 3, 2011 publication, the committee has electronically published seven issues, each available on the first Tuesday of each month. The committee met its goals for 2011 and then started working on its 2012 goals by working with the WCB on rules involving technological improvements. The committee will provide additional technological information to section members in 2012.

The Communication Committee maintains the section website, provides information to the section membership through the section listserv and provides workers' compensation section information to new OSB members at the swearing-in ceremony in the fall. It met its goals for 2011. Its goals for 2012 are the same.

The Legislative/Rules Committee is re-defining itself. In 2011, it reviewed its mission statement and decided it needed to be brought up to date. The old mission statement was established at a time when the section actively proposed legislation through the Bar. The committee's goals for 2012 are to suggest a new mission statement for Executive Committee consideration and to provide advice to the Executive Committee as the WCB prepares for rule-making.

Final Comments:

The Executive Committee of the Workers' Compensation Section acknowledges and is grateful for the numerous contributions, the many volunteer hours, exceptional work and wise counsel, provided over a decade by its Chair for 2011, Charles "Chuck" Mundorff. Chuck patiently waited his turn to lead the section, serving on the Salishan committee for many years and then on the Executive Committee. When he took office in January, 2011, he did so with the confidence of an Administrative Law Judge accustomed to controlling his hearing room. He seemed to thoroughly enjoy his role as Chair. One of his last official acts was chairing the annual meeting at Salishan in May, 2011.

We enjoyed serving on the Executive Committee with Chuck. We enjoyed debating issues with him, laughing with him, seeing his smiling face across the conference table, and sharing the work and concerns of this section with him. He is greatly missed by the entire section membership.

Respectfully submitted: