

**MINUTES OF THE WORKERS' COMPENSATION SECTION
EXECUTIVE COMMITTEE
December 12, 2014**

I. CALL TO ORDER

Chair Jacqueline Jacobson called the Executive Committee (EC) to order at 12:06 p.m.

Committee members attending or absent were:

Exec Board Member	Present in Person	Present by Phone	Absent	Comments
Bohy, Ronald			X	
Caldwell, Katherine	X			
Chen, Bin		X		
Cole, Norm			X	
Edmunson, James			X	
Ray Schmitke	X			Non-voting
Frost, Christine			X	
Harrell, Tom			X	
Jacobson, Jacqueline	X			
Lesh, Allison		X		
Ogawa, Jenny	X			
Olney, Kathryn		X		
Oswald, John			X	
Parks, Carol	X		X	
Schoenfeld, Steve		X		
Semple, Keith	X			
VavRosky, Dennis			X	
Wren, Geoffrey		X		
TOTAL	6	5	8	

II. MINUTES

A motion passed to approve the EC Minutes of the 11/14/14 meeting, with two typo correction

III. Chair Report

Welcome new members ALJ Ray Smitke, Linda Conratt, and Alana DiCicco (who replaced Rob Kinney).

The Annual Report was submitted to the Bar on November 1. It summarized the sections activities, including 2 CLEs, the treasurer's report, Access to Justice issues, LRS issues, and acquiring new members. The report will be posted on the section website.

IV. Treasurer Report

On 12/11/14, Ron Bohy e-mailed the following report: "on the November 30, 2014 WC Section Statement of Revenue and Expense, the balance is \$21,130. To November 30, we have net revenue of \$1,469. I submitted the 2015 WC Section budget to the OSB based on approval of the EC last month."

V. Committee Reports

A. Salishan

Allison Lesh reported the subcommittee is to meet on Tuesday to finalize the keynote speaker and to confirm the rest of the program.

B. Professionalism Award

No report

C. Access to Justice

Aron Yarmo, chair of the Access to Justice subcommittee, presented possible proposed changes to the LRS:

1. Allowing a dollar-for-dollar reduction in the attorney fee for out-of-pocket costs prior to calculation of the referral fee;
2. A reduction in the 12% fee to 10% since we are statutorily limited to a below market rate, as compared to industry standards of 33% or more;
3. Since we have a tiered fee system, 25% of the first \$17,500 and 10% after that, cap the maximum referral fee at the 25% / 10% break point. In other words, the fee for a settlement of \$17,500 is \$4375 (10% to LRS = \$437.50). Because of the further reduction in our fee for any money earned above this, it is overly burdensome to have to share any more with LRS. Using this as a benchmark for WC, a \$437.50 referral should be a cap for any referral fee paid to LRS, regardless of whether the fee was earned via settlement, O&O, etc.
4. Cap the LRS referral fee on settlements, as set forth above, but eliminate referral fees in the case of an assessed fee (following a hearing, for instance). The rationale being that in WC the assessed fee bears little in common with percentage fees in other areas of practice AND because assessed fees in other

areas of practice may also include an additional fee from the award of prevailing party fees, etc. In short, it is too burdensome to ask that claimants' attorneys pay a referral fee on an assessed fee which only just barely provides fair compensation.

5. No referral fee to LRS when the attorney's award is based on a fee provision with a fee cap or an out-of-compensation fee. The rationale is that the only time the claimant's attorney is compensated based upon actual time expended is when they receive a carrier-assessed fee. Additionally, it may deter a lawyer's efforts/interest in pursuing increases in time loss or PPD issues if they had to pay a referral fee from a small 10-25% out-of-compensation fee.
6. Reduce the referral fee to 10% of all fees collected, excluding out-of-compensation fees, for the first 2 years after referral from LRS. Most WC cases have a "life expectancy" of 2 years or less. This would eliminate the issue of whether any new issues (after 2 years) require a referral paid to LRS.

Other suggestions made by EC included:

7. No referral fee if the attorney fee award is under \$5000. This may give attorneys an incentive to take lower benefit cases.
8. Pay a higher registration fee in lieu of referral fee.

Aron will prepare and send to the Access to Justice subcommittee the following proposal to present to EC in Jan. 2015:

1. Cap if attorney fee is under \$5000
2. 2 year duration
3. 10% referral fee

Chair Jacobson will request from LRS the number of current WC attorneys vs. the prior years.

D. Bench/Bar

No report

E. Going Forward

On 12/8/14, Steve Schoenfeld e-mailed the following report:

"GFC met today. John Oswald is our newest member. GFC will be working on trying to put together a CLE in 2015 with the New Lawyer's Section of the OSB. I reached out to them today."

“There are two issues we need the EC to assist us on:

- 1) GFC would like to review the numbers of section membership over the last 4 years to see if we are losing members and specifically what kind of members are we losing; young, old, claimant’s, defense?
- 2) GFC committee agreed that having an ALJ or Board member on our committee would be an asset both with strategic focusing of potential section members and with planning and presenting CLE’s.”

Chair Jacobson will ask the Bar for a list of members.

F. Legislative and Rules

Keith Semple reported the subcommittee plans to meet in 2015.

The WCD is revisiting the medical services rules; the proposed rules should be published soon.

The WCD conducted multiple meetings regarding the *Brown* and *Schleiss* cases. The meetings are now open for comments.

MLAC is reviewing a proposal from chiropractors; a proposal regarding attorney fees; a proposed amendment regarding when does the State have to search for light duty jobs.

Michael Orlando was unable to attend the MLAC meeting to present the 2 Legislative Concepts, but, MLAC did have them. The next MLAC meeting has not yet been scheduled. *Brown* and *Schleiss* proposals will likely to be presented to MLAC.

G. New Technologies/Communications

Chair Jacobson reported that Rob Guarrasi would benefit if there was a schedule and a plan of who will be submitting articles for the newsletter.

Contributors are needed for articles. We are exploring doing a point-counterpoint type of articles on hot topics.

H. Nominations

VI. Old Business

On 12/9/14 Paul Tichy e-mailed Chair Jacobson regarding the website revision/directory: “Thank you for choosing us for this project. I have a copy of the last contract we entered into with the OSB and can use that as a base. We look forward to working with you on this project.”

Chair Jacobson asked Mr. Tichy to draw up a contract and to search for possible available domain names, such as OSB.WC.org.

VII. New Business

None

VIII. Adjournment and Next Meeting

The Executive Committee Meeting adjourned at approximately 12:53 p.m.

The next meeting will be at 12:00 p.m. on Friday, January 9, 2015 at the offices of the Oregon State Bar.