

MINUTES OF THE WORKERS' COMPENSATION SECTION
EXECUTIVE COMMITTEE
OF OCTOBER 14, 2011

I. CALL TO ORDER

Chair Dale Johnson called the Executive Committee (EC) to order at 12:12 p.m. at the OSB office in Tigard, Oregon.

Committee members attending or absent were:

Exec Board Member	Present in Person	Present by Phone	Absent	Comments
Bohy, Ronald	▲			
Cole, Norm	▲			
Donnelly, Kate	▲			
Edmunson, James	▲			
Fisher, Matthew		▲		
Guarrasi, Robert	▲			
Harrell, Tom		▲		
Jacobson, Jacqueline	▲			
Johnson, Dale	▲			
Masters, Julie	▲			
Rock, Douglas		▲		
Schoenfeld, Steven	▲			
Semple, Keith			▲	
Sencer, Nicholas	▲			
VavRosky, Dennis	▲			

David Wade also attended by phone as BOG liaison.

Matt Shield, from the OSB Public Affairs Department, also attended.

II. MINUTES

A motion was made and seconded to approve the EC Minutes of September 9, 2011.
The motion passed.

III. CHAIR'S REPORT

Dale Johnson.

Jim Edmunson will be our liaison to the Public Affairs Department.

Chair Johnson directed committee chairs to submit reports stating goals for last year, progress meeting those goals, and goals for next year.

Matt Fisher and Holly Somers have agreed to serve on the Daughtry Committee. It was moved and seconded to approve their appointment. Motion passed.

On October 28, 2011 Chair Johnson will attend the house of delegates meeting as *ex officio* participant.

IV. TREASURER'S REPORT

Julie Masters.

Julie discussed the section budget worksheet. She suggested the section not offer complimentary memberships to new attorneys. She estimates 340 paid memberships in the next fiscal year.

If the fee for Salishan is increased \$5.00, income from that seminar is projected at \$32,800.

Projected revenue from all sources is \$42,950. Salishan is the largest expense. Expense for bench/bar could be budgeted for several \$100 less than the existing year.

Members discussed whether the \$25 fee to join the section should be increased. Members agreed to discuss this issue after the next budget cycle. We will have to find out if the Bar will approve a tiered cycle, *e.g.*, lower rates for new lawyers and public lawyers and higher rates for attorneys in practice more than 5 years. A motion to table until July 2012 was seconded and passed.

It was moved and seconded to increase the Salishan registration fee \$5.00. The motion passed by majority vote.

It was moved and seconded to no longer offer free membership to newly admitted attorneys. The motion failed.

The proposed budget anticipates no donations to the Campaign for Equal Justice. It was moved and seconded to make no charitable contributions in next year's budget. The motion passed.

V. COMMITTEE REPORTS

A. Salishan

Mission Statement: The mission of the Salishan Committee is to organize and deliver quality continuing legal educational topics/credits, focusing on topics relevant to the practice of law and workers' compensation law of Oregon.

Ron Bohy reported for Linda Conratt, who is chair of this committee.

The committee recommends no change in the cost but suggests a \$30 discount if registration is early (because this would be the 30th Salishan seminar).

The committee hopes to obtain 8-9 credits. Justice DeMuniz will be a speaker. Topics being developed include a presentation on evidence, Medicine 101, legal update, possible employment law topic involving harassment/retaliation cases, MCO's, presentation from a neuropsychologist, Tips from the Bench (from an ALJ), AOE/COE from Judge Wollheim, work disability presentation from somebody at Liberty NW and Ron Fontana.

The committee recommends we not video tape or obtain audio tape. It is not cost effective. It costs \$1,600 to \$2,500.

The committee plans to offer a CD with registration and charge \$20 for paper.

We are locked into Salishan until 2014. The committee recommends we negotiate with Salishan for 2015 and 2016. We will take a survey at 2012 to find out if members still want to stay at Salishan.

In light of Justice DeMuniz' announced retirement, a member suggested we develop some kind of tribute or honor in light of his years of service.

It was moved and seconded to allow the Salishan Committee to negotiate prices for 2015 and 2016 conferences. The motion passed.

B. Communications

Mission Statement: The purpose of the Communications Committee is to develop and maintain the section's web site and the newsletter.

Julie Masters.

It is uncertain if the Bar distributed cards to new members.

C. Daughtry Award of Merit

Mission Statement: The purpose of the Douglas W. Daughtry Award of Merit Committee is to review nominations for recommendation of a Section members to the Executive Committee to be a recipient of the award who demonstrates commitment to the highest standards of professionalism, honesty, integrity, and a willing adherence to the highest ethical standards, while making outstanding contributions to the Section and the hearing process.

Matt Fisher

The Committee is considering renaming the award in honor of Judge Chuck Mundorff. Discussion was tabled until December.

D. Legislative / Rules

Mission Statement: The purpose of the Legislative and Rules Committee is to monitor passage of new legislation and rules; advise the Executive Committee regarding the advisability of passage of proposed legislation and rules after reaching a consensus and identifying the underlying reasoning; and review the current workers' compensation laws and rules in consideration of the development of legislative and rule concepts to be sponsored by the Section.

Additional Mission Statement: The purpose of the Rules Committee is to monitor the potential promulgation of the new rules by the Workers' Compensation Board and the Department; advise the Executive Committee regarding the advisability of promulgation of the proposed rules after reaching a consensus and identifying the underlying reasoning; and review the current rules of the Board and the Department in consideration of suggestions for improvement and the formulation of specific suggestions.

Jim Edmunson.

OSB has a legislative program.

The legislative and rules committee tends to deal with external affairs. Until 2007 it was two committees – legislative and rules – which made sense because the legislature met every two years. After discussing the committee's mission with co-chairs and others his observations are: The committee meets rarely, once or twice a year. Committee membership is not involved in activities. The mission statement is unhelpful and unrealistic. There is no clear understanding of what EC

wants from the committee. Members on this committee are not particularly aware of legislative process. Co-chairs do most of the actual work, such as it is. They are more than willing to continue working and step aside to work in a different way. The advocacy role is too difficult and is ineffective due to competing interests, with parties who cannot reach consensus. Large insurers tend to have strong opinions, which make it difficult for attorneys employed by them to offer a different opinion. Claimant attorneys are perceived as partisan advocates. Judges feel their role as an impartial trier makes it difficult for them to take positions on legislation.

The Board has reached out to the section quite a bit but EMLAC has not. If the Board plans to appoint an advisory committee, it would be a good fit for the section.

Possibilities: Abolish the advocacy part of the mission. Be more advisory and analytic. Provide white papers without saying good, bad, or indifferent. There is a need to emphasize practice and procedure. Consider tri-chairs consisting of claimant, defense, and judge. One chair should be on EC or have close relationship to the EC.

The Chair, with members agreeing, asked the committee to propose a new mission statement by the end of the year.

E. Bench / Bar Professionalism Committee

Mission Statement: The purpose of the Professionalism Committee is to advance the interests of professionalism among the members of the Section by sponsoring the Bench Bar Forum and, on occasion, other seminars and programs which afford an opportunity for education and discussion.

Tom Harrell

Projected expenses for lunch buffet is \$2,600. Room rental \$500. Beverage table \$292.50. Service charge \$610. Total cost is under \$5,000. Materials cost is not yet known.

Oregon Garden is making preparations. The agenda is set. Most materials have been received. Every seat will face the stage.

F. Access to Justice

Mission Statement: The purpose of the Access to Justice Committee is to increase access to justice in workers' compensation matters. The committee serves this mission by striving to increase the diversity of the Workers' Compensation Section, by educating the Section about the diversity of the clients they serve, and by developing and implementing initiatives to remove barriers to justice in workers' compensation matters.

Steve Schoenfeld

The committee proposed asking WCD to pay for an interpreter per OAR 436-030-0115(4) (depositions of workers for the reconsideration record), in light with interpreter rules in OAR 436-009-0110 through -0185. It was moved and seconded (as amended) to allow the committee to send the proposed letter to WCD, but with the proviso the insurer only pays for the interpretive services during the deposition. A motion to refer this issue to the Legislative/Rules committee for their consideration and advice, for consideration by EC at the December EC meeting was seconded and passed.

Chair Johnson

One member thought the BOG had voted to require attorneys who receive clients through lawyer referral service to remit 15% of their fee to the Bar. One member observed this might be inconsistent with California law (for attorneys who also are admitted to the California bar).

G. Going Forward

Mission Statement: The purpose of the Going Forward Committee is to study and investigate whether workers' compensation practice in Oregon is declining and if so to formulate ways to sustain a workers' compensation practice in Oregon.

Steve Schoenfeld.

The committee has been focusing on its CLE. About 40 have signed up, which is somewhat disappointing.

H. New Technologies

Mission Statement: The purpose of the New Technologies Committee is to consider, prioritize and implement technological improvements that may benefit section members by consulting with attorneys, parties, and WCB/other forums. And to educate members on how to implement technological improvements that will increase efficiency, save costs, and promote environmental sustainability.

Rob Guarrasi

The Board established an advisory committee. Members are Nancy Marque, Rebecca Watkins, Rob Kinney, Judge Dougherty, Rob Guarrasi.

I. Nominating

Mission Statement: The nominating committee reviews and nominates candidates for service on the Workers' Compensation Executive Committee.

Chair Johnson

Chair Johnson met with the committee. The committee is trying to find younger attorneys who may be willing to serve.

Chair Johnson circulated a draft of 2011 and 2012 EC positions. Vacant positions will be filled at the beginning of next year.

VI. OLD BUSINESS

None.

VII. NEW BUSINESS

Special report from Matt Shields from the OSB Public Affairs Department

Public Affairs Department helps any section with bill tracking during the legislative session. Each section should designate a legislative contact. The bar sends the contact a copy of bills it believes may be relevant to the section. Sessions in even number years are short, so there is not a lot of time for this process. For the 2013 session the Public Affairs Department will work with a section to develop legislation, but usually this concerns issues other than major policy shift, such as technical errors in existing legislation. BOG decides what the bar will or will

not submit. Proposed legislation must be sent to the judicial committee 6-7 months in advance, which means the Public Affairs Department needs proposals by April 1.

VIII. ADJOURNMENT AND NEXT MEETING

The Executive Committee Meeting adjourned at 2:20 p.m.

The next meeting will be at 11:00 p.m. on November 4, 2011, at the Oregon Garden (before the Bench-Bar forum).

Enc: None