

**MINUTES OF THE WORKERS' COMPENSATION**

**EXECUTIVE COMMITTEE MEETING**

**OF:**

**MARCH 20, 2009**

**I. CALL TO ORDER**

Chair Matthew L. Roy called the Executive Committee (EC) meeting to order at 12:07 p.m. at the Oregon State Bar offices in Tigard, Oregon.

Present in person were: Matthew Roy, Matthew Fisher, Holly Somers, Dale Johnson, Julie Masters, Rob Guarrasi, Dennis VavRosky, Jill Riechers, and Suzanne Cushing (OSB).

Present by telephone were: Dean Lederer, and Charles Mundorff.

Absent were: Adam Stamper, Art Stevens, Jennifer Roumell, Jacqueline Jacobson, Jim Edmunson and Barbara DiIaconi (BOG).

**II. MINUTES**

The minutes of the February 20, 2009 meeting were approved.

**III. CHAIR REPORT**

Chair Roy received a request from Salishan Committee chair Sally Curey for an update of the standing committee rosters for publication in the Salishan Conference book. The published rosters from last year's Salishan book were passed around the table and EC liaisons made corrections and additions. Chair Roy will forward the information to Curey.

**IV. TREASURER'S REPORT**

Treasurer Masters reported no major expenditures at this time, because the 2009 Salishan Annual Conference and the Bench/Bar Forum are still pending. Straight contributions will be made by the IME companies. The OSB Revenue and Expenses report, ending February 28, 2009 was distributed by Masters. The current balance is \$22,701.00.

## V. COMMITTEE REPORTS

### A. Salishan

Member Mundorff was present and reported. The Salishan brochure went to the printer on March 20, 2009. The program has been approved for 8 ½ MCLE hours. Mundorff will email a copy of the brochure to the EC membership.

Discussion followed concerning the CD option. The EC previously deferred to the Salishan committee (see 2-20-09 minutes under **Treasurer's Report**) to determine how books or CDs would be offered for Salishan 2009. The Salishan committee decided to allow an attendee to opt for the CD before 5-1-09, otherwise the attendee would receive a book. Receipt of both is not an option. Mundorff indicated that Curey will try to reduce costs this year by eliminating as many pages from the book as possible. [Note: Member Jacobson emailed Secretary Johnson with information that the committee is working hard to reduce costs including: using comb-binding (\$600 reduction), CDs through OSB at \$1.50 per CD, and changing formatting to reduce the number of pages]. Mundorff suggested that the EC keep the issue before it to avoid making decisions when the deadlines for Salishan 2010 are nigh.

EC members made the following suggestions. Fisher: the committee should gather data this year to determine what the Section really wants (CDs or books). Masters: in the future the attendees should have to opt for the book and the CD would be the default choice. Somers: the brochure should highlight the sustainability issue to encourage choosing the CD.

### B. Communication

Member Masters was present. No new report or developments.

### C. Daughtry Award

Past-chair Somers was present and reported. The committee received one nomination since the last EC meeting, but that nomination was rejected because the nominee was not a section member. The deadline for nominations is 3-31-09. Following the closure of nominations, Somers and past-chairs Linh Vu and Martin Alvey will meet to discuss the nominations and propose a recommendation to the EC. At the next EC meeting, Somers will present the recommendation, the list of nominees, and the supportive documents. The EC will consider the recommendation of the committee and other information and will make a decision on the award. [Note: According to Member Riechers, the EC has previously obtained Award plaques from Chuck's Trophies and Awards, 1224 SW 12<sup>th</sup>, Portland; (503) 228-8530]

#### **D. Legislative / Rules**

Member Roumell was not present, but provided the following to Secretary Johnson by email. 1) After a long and thoughtful discussion, the committee would like to monitor the interpretation of ORS 45.275 by the Presiding Judge, on the use of WCB-contracted interpreters. This matter will be tabled and revisited if problems arise on the use of WCB interpreters. 2) After a thorough discussion of hearings conducted on the record (documentary record), the committee recommends the EC approve the following recommendation and forward on to the WCB, presiding judge or others they see fit to implement the following: require a pre-hearing conference for all hearings that will be held on the record to address admission of the exhibits and any objections, statement of the issues and/or stipulated facts. No testimony to be taken. The committee highly recommends this be recorded. And 3) The committee held another discussion on the request for a rule to require interpreters at medical arbiter examinations for non-English speakers. After another lengthy debate, the committee could not reach a consensus on this issue.

At the EC meeting, Somers raised and discussed the WCB's response to the EC's request to look into video conferencing. If a pilot program is instituted, Somers may send out an email to solicit volunteer cases scheduled for remote locations (such as Pendleton) for the pilot program.

Somers also raised the recommendation of the Legislative / Rules committee (see #2 above). Discussion followed about on the record cases. Although recording the pre-hearing conferences would resolve later disputes, Riechers pointed out that it is difficult to find hearing rooms that are available for recorded conference calls.

A motion was made and seconded that Somers deliver the following from the EC.

“The Executive Committee is requesting that the Board convene or appoint an Advisory Committee to consider procedures to clarify the issues and exhibits in on the record hearings including consideration of the following recommendations of the Legislative / Rules committee: require a pre-hearing conference for all hearings that will be held on the (documentary) record to address admission of the exhibits and any objections, statement of the issues and/or stipulated facts. No testimony to be taken. The committee highly recommends this be recorded.”

The motion passed.

### **E. Bench Bar / Professionalism**

Member Riechers was present and reported. The committee has chosen Friday, November 13, 2009, as the tentative date for the Bench Bar Forum. The event will be held again at Willamette Valley Vineyards near Salem.

### **F. Access to Justice**

Secretary Johnson was present and reported. The Access to Justice committee met on March 16, 2009. The committee has composed an on-line survey to determine what barriers to access to justice, if any, people are experiencing. Chair Smith will contact Julie Masters to put the survey on the Section website. The committee discussed the shrinking number of WC Section members, from 550 in 1999 to 362 presently. The largest age group was the 51 to 60 group. This may present an access to justice issue in the near future, for even English speaking claimants, as the attorneys retire. The committee was interested in determining the number of claimant's attorneys and defense attorneys in the Section. The committee discussed barriers to getting younger attorneys into the Section. The committee will attempt to meet with Salishan speaker Rafael Arellano-Barrera on the second day of the conference. The committee will continue to discuss the use of interpreters at hearing and will contact the Association of Interpreters for input. The committee was interested to know if the Legislative / Rules committee is tracking HB 2044 which will penalize (non-MCO) employers who attempt to control workers' initial or subsequent change of treating physician/facility. Bill Replogle will contact the L/R co-chairs Chris Moore and Thad Hettle. The committee is still investigating potential speakers for the Bench Bar Forum and will be in touch with Riechers. The committee meets again on April 13, 2009, at noon. [Note: Committee member Adriana Ortega has left WC practice and accepted a position with the BOLI, Civil Rights Division. She has resigned from the committee].

### **G. Going Forward**

Member Lederer was present and reported. The committee will meet on April 17, 2009 at noon, and Lederer will update the EC on April 24, 2009. [Note: Committee member Martin Alvey has resigned from the committee].

## **VI. OLD BUSINESS**

A brief discussion was held about the sources for plaques (Awards) and making sure the EC will keep track of the businesses it uses each year. (See note in **Daughtry Award**).

## **VII. NEW BUSINESS**

Suzanne Cushing (OSB liaison) reminded the Section leadership that the 2009 Section CLE report must be filed by April 15, 2009 with Karen Lee, manager of the OSB Seminars department. Chair-elect Fisher will complete the form.

Member VavRosky requested clarification of the status of the Nominating committee currently composed of himself, Nick Sencer and Phil Garrow. It was moved and seconded that the committee members be retained. The motion passed.

Chair-elect Fisher said that he will work with Chair Roy to determine if any EC positions need replacement and will report to VavRosky's committee, before the nomination deadlines (see Section Bylaws Article VI, Section 8).

Johnson urged the EC to start thinking about the Section's long term vision or mission, so that decisions can be made in a larger context than from one Salishan Conference to the next. Johnson suggested that many projects, such as Member Stevens' suggestion that the Section move toward a more modern (electronic) approach to WC practice (See 2-20-09 minutes under **Treasurer's Report**) could be implemented more easily if the Section has already made clear what its stated purpose is, for example, over the next five or ten years. [see Section Bylaws Article I, Section 2. "Sections may adopt a statement of purpose."]

The next EC meeting is scheduled for Friday, April 24, 2009, at noon, at the OSB offices.

The Executive Committee meeting was adjourned by Chair-elect Fisher at 1:30 p.m.