

**MINUTES OF THE WORKERS' COMPENSATION SECTION  
EXECUTIVE COMMITTEE  
March 11, 2016**

**I. CALL TO ORDER**

Chair Tom Harrell called the Executive Committee (EC) to order at 12:05 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			
Conratt, Linda	x			
DiCicco, Alana		x		
DiBartolomeo, Joe		x		
Frost, Christine		x		
Garrow, Phil			x	
Harrell, Tom	x			
Lesh, Allison		x		
Ogawa, Jenny	x			
Olney, Kathryn	x			
Oswald, John	x			
Schoenfeld, Steve			x	
Semple, Keith			x	
Smith, Bruce		x		
Wren, Geoffrey		x		
TOTAL				

**II. MINUTES**

A motion passed to approve the EC Minutes of the February 12, 2016 meeting.

**III. Chair Report**

Tom Harrell received an email from the Bar about the Bar's new WordPress platform for the Section's website. With the Bar's website platform, the Section has to assign a web content editor if the Section elects to proceed with the Bar platform for its website. Tom Harrell agreed to contact Julie Masters to see if she would agree to act as web content editor for the Bar platform website. Otherwise, the Bar will charge \$40 an hour for any maintenance or assistance with the website. Given that the Section must transition to the Bar's website platform at some time during the year 2016, it was discussed whether the Section should continue to complete work on its website through

the private service of Appaloosa Business Services. The Section agreed it makes sense to terminate Appaloosa's work and contract at this time. The Section moved to start the Bar website platform immediately. The motion was seconded and passed. Ron Bohy agreed to look at the contract with Appaloosa and terminate it as of May 1, 2016 (assuming the contract requires 30 days notice).

Tom Harrell was contacted by OLIO and asked whether the Section would make a contribution to its organization this year. Ron Bohy confirmed the Section has not budgeted a contribution to OLIO this year.

#### **IV. Treasurer Report**

The Bar published the Section membership on 12/31/15. The Section budgeted for 13 new members, however, the Section only gained 11 new members. Overall, the Section is down 25 members (which equates to \$625 less in dues for the Section).

#### **V. Committee Reports**

##### **A. Salishan**

The CLE brochure is done and off to the printer. The CLE lineup is complete. Everything is running smoothly. One addition to the CLE program is a family friendly activity for kids (a scavenger hunt / educational event). It was reported that some have experience the front desk at the Salishan resort not taking room reservations. The Salishan committee will try to fix the problem.

##### **B. Professionalism Award**

Tom Harrell is going to talk to the Bar's General Counsel about the process utilized by the Executive Committee in how it votes on nominations for the Professionalism Award. Therefore, discussion on the Professionalism Award recipient was tabled. It was recognized the Executive Committee has to vote soon due to the upcoming May, 2016 Salishan CLE wherein the award recipient is recognized. At least a week to 10 days lead time is necessary to get the award plaque. Thus far, only one candidate has been put forward by the Professionalism Award sub-committee.

Dale Johnson was in attendance at the Executive Committee meeting as a public member. He said a couple of years ago there was a discussion of whether to do away with secret votes/ballots for the Professionalism Award. Ron Bohy mentioned talking to the Bar when Norm Cole was the Chair and there was a vote by email at that time. The Executive Committee was aware that ballots are available as public records if requested. Email voting has been sanctioned in the past as long as the Secretary or someone had possession of the ballots.

##### **C. Access to Justice**

David Runner and Matthew U'Ren were in attendance at the meeting by telephone. Dale Johnson was in attendance at the meeting in person.

There was discussion of a proposed change to OAR 438 rules (438-007-0018) with respect to translation of documents submitted at a hearing (in response to the *Camacho* case). The Board does not have statutory authority to provide a translator. A compromise provision was proposed regarding which party has the responsibility to have documents translated: the insurer would have initial responsibility for translation into English any portion of a non-English document it submits into evidence, and if the worker wants to submit additional documents into the record then the worker would be responsible for translation into English any portion of a non-English document. The proposed rules state the translator could be from any source (not necessarily certified).

There was discussion concerning the translation cost at hearing and whether the worker may be able to include those costs for reimbursement if the worker prevailed at hearing.

There was discussion of the fact that there is no state-wide certification for translators. A proposal in OAR 438-007-0018(3) states if the parties cannot agree on the correctness of a translation, then the parties may submit their own evidence of the correct translation, including a Board interpreter at hearing interpreting the documents into the record.

Geoff Wren voiced concern of imposing the cost of translation on a non-English speaking injured worker. The cost issue is the biggest issue/concern (who should bare the cost).

There was a motion to table any action/approval of the proposed changes to OAR 438 pending further sub-committee work and review of the language. The motion was seconded and passed.

Another subject was discussed concerning providing an attachment to certain documents sent to non-English speaking injured workers. For those workers who do not speak English, the concern is they are not adequately made aware of the importance of the documents and not advised where to turn for assistance. Therefore, it was proposed to attach a one page notice to documents sent to workers which includes a brief paragraph in multiple languages advising the worker of the importance of the document and where to turn for assistance. Insurers, the WCB and WCD would be responsible for including the attachment and the DCBS would be responsible for producing the document.

The Executive Committee was concerned with the languages that were not included in the proposed attachment. If certain languages are left out of the attachment, there is a lack of equality and complete access to justice.

There was a motion to table any action/approval of the proposed attachment. The motion was seconded and passed.

#### **D. Bench/Bar**

No report.

#### **E. Going Forward**

No report.

#### **F. Legislative and Rules**

Keith Semple sent an email about some proposals for amending the statutes regarding Workers' Compensation Board members. A proposed amendment to ORS 656.712(5) would require Board members to be Oregon State Bar members in good standing or members of a bar of the highest court of record in any other state or currently admitted to practice before the federal courts in the District of Columbia. Also, ORS 656.712(6) would state that paragraph 5 would not affect current Board members service or their reappointment. There was a motion to pass the new language in ORS 656.712(5)&(6). The motion was seconded and passed.

#### **G. New Technologies/Communications**

No report.

#### **H. Nominations**

No activity.

#### **VI. Old Business**

None

#### **VII. New Business**

None

#### **VIII. Adjournment and Next Meeting**

The Executive Committee Meeting adjourned at approximately 1:18 p.m