



# Administrative Law Section



**CHAIR:**

Andy Bertron  
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(850)907-2507

**CHAIR-ELECT:**

Elizabeth W. McArthur  
P.O. Box 10967  
Tallahassee, FL 32302-2967  
(850)425-6654

**SECRETARY:**

Seann M. Frazier  
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Tallahassee, FL 32301-7742  
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**TREASURER:**

Cathy M. Sellers  
215 S. Monroe St., Ste. 400  
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(850)681-6810

**IMMEDIATE PAST CHAIR:**

Patrick L. "Booter" Imhof  
404 S. Monroe St.  
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(850)487-5957

**BOARD LIAISON:**

Lawrence E. Sellers, Jr.  
P.O. Box 810  
Tallahassee, FL 32302-0810  
(850)425-5671

**P.U.L.C. CHAIR:**

Michael G. Cooke  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-7019  
(850)413-6199

**EXECUTIVE COUNCIL:**

**Terms Expiring 2008:**

F. Scott Boyd  
Tallahassee  
Clark R. Jennings  
Tallahassee  
Deborah K. Kearney  
Tallahassee  
Bruce D. Lamb  
Tampa  
Wellington H. Meffert  
Tallahassee  
Shaw P. Stiller  
Tallahassee  
T. Kent Wetherell, II  
Tallahassee

**Terms Expiring 2009:**

Donna E. Blanton  
Tallahassee  
Allen R. Grossman  
Tallahassee  
Lisa S. Nelson  
Tallahassee  
Daniel E. Nordby  
Tallahassee  
Linda M. Rigot  
Tallahassee  
W. David Watkins  
Tallahassee  
William E. Williams  
Tallahassee

**SECTION ADMINISTRATOR:**

Jackie Wernli  
651 E. Jefferson St.  
Tallahassee, FL 32399-2300  
(850)561-5623

**Administrative Law Section Executive Council**

**June 20, 2008**

**Boca Raton Resort & Club**

**AGENDA**

- I. CALL TO ORDER – Andy Bertron, Chair
- II. PRELIMINARY MATTERS
  - A. Consideration of Minutes
    1. February 21, 2008
    2. February 22, 2008 (LRP Retreat)
    3. March 12, 2008 (Conference Call)
  - B. Treasurer's Report – Cathy M. Sellers
    1. 6/10/08 Detail Statement of Operations
  - C. Chair's Report – J. Andrew Bertron, Jr.
    1. ABA Section on Administrative Law and Regulatory Practice
      - a. State Administrative Law Committee Update and Survey
    2. Lawyer Advertising Rules
- III. COMMITTEE/LIAISON REPORTS
  - A. Continuing Legal Education – F. Scott Boyd
    1. Pat Dore Conference – Seann M. Frazier
  - B. Publications – Elizabeth W. McArthur
    1. Newsletter – Donna E. Blanton
      - a. Agency Snapshots – Amy W. Schrader
    2. TFB *Journal* – Deborah K. Kearney
  - C. Legislative – Wellington H. Meffert/Linda M. Rigot/ William E. Williams
  - D. Public Utilities Law – Michael G. Cooke
  - E. Membership – T. Kent Wetherell, II
  - F. Webpage – Daniel E. Nordby
  - G. Uniform Rules of Procedure – Linda M. Rigot
  - H. Board of Governors Liaison – Lawrence E. Sellers, Jr.
    1. Meeting Summary – May 30, 2008
  - I. Law School Liaison – Bruce D. Lamb
  - J. CLE Committee Liaison – M. Catherine Lannon
  - K. Council of Sections – Allen R. Grossman/Clark R. Jennings
  - L. Section/Division Liaison
    1. Environmental and Land Use Law – Cathy M. Sellers
    2. Health Law – Allen R. Grossman
    3. YLD Liaison – Rhonda Chung-DeCambre Stroman
  - M. DOAH Update – Lisa S. Nelson/Linda M. Rigot/T. Kent Wetherell, II

- IV. OLD BUSINESS
  - A. Proposed Revisions to Appellate Rules
  
- V. NEW BUSINESS
  - A. Section Officer/Executive Council Election
    - 1. Nominating Committee Recommendations
  - B. 2008-10 Biennium Legislative Positions
    - 1. Rollover of Section Positions 6 & 7
  - C. Live Webcast of CLE Programs
  - D. APD Pro Bono/Training Project
  
- VI. INFORMATIONAL
  - A. Executive Council List
  - B. 2008-09 Committee List
  - C. Section Leadership Conference – July 11, 2008
  
- VII. FINAL REMARKS & PRESENTATION OF AWARDS — Outgoing Chair
  
- VIII. PROGRAM OUTLINE & CLOSING COMMENTS — Incoming Chair
  
- IX. TIME AND PLACE OF NEXT MEETING  
Fall 2008 – Tallahassee
  
- X. ADJOURNMENT

	May 2008 Actuals	YTD 07-08 Actuals	Budget	Percent Budget
<b>Administrative Law</b>				
31431 Section Dues	0	28,045	27,500	101.98
31432 Affilliate Dues	0	100	50	200.00
31433 Admin Fee to TFB	0	(20,464)	(19,290)	106.09
-----				
Total Dues Income-Net	0	7,681	8,260	92.99
-----				
32012 Sct Share Online CLE	0	0	700	0.00
32191 CLE Courses	383	6,418	5,000	128.36
32293 Section Differential	17	2,576	0	*
35700 Member Service Progr	0	2,550	5,000	51.00
38499 Investment Allocatio	0	6,705	12,106	55.39
39999 Miscellaneous	0	0	150	0.00
-----				
Other Income	400	18,249	22,956	79.50
-----				
Total Revenues	400	25,930	31,216	83.07
-----				
36998 Credit Card Fees	0	37	0	*
51101 Employee Travel	0	1,138	1,306	87.14
84001 Postage	2	62	208	29.81
002 Printing	0	82	2,808	2.92
003 Officers Office Expe	0	0	500	0.00
84006 Newsletter	0	3,811	3,000	127.03
84007 Membership	0	0	500	0.00
84009 Supplies	0	0	50	0.00
84010 Photocopying	0	31	156	19.87
84051 Officers Travel Expe	0	450	2,500	18.00
84052 Meeting Travel Expen	0	1,050	3,000	35.00
84054 CLE Speaker Expense	0	0	100	0.00
84101 Committee Expenses	0	0	500	0.00
84201 Board Or Council Mee	0	333	600	55.50
84202 Annual Meeting	0	0	1,950	0.00
84205 Section Service Prog	0	222	5,000	4.44
84209 Retreat	0	2,500	4,500	55.56
84299 Public Utility Comm	0	0	500	0.00
84301 Awards	0	0	600	0.00
84310 Law School Liaison	0	0	4,900	0.00
84422 Website	0	235	3,000	7.83
84501 Legislative Consulta	0	0	5,000	0.00
84701 Council Of Sections	0	300	300	100.00
84998 Operating Reserve	0	0	4,338	0.00
84999 Miscellaneous	34	266	500	53.20
-----				
Total Operating Expenses	36	10,517	45,816	22.95
-----				
86431 Meetings Administrat	0	75	32	234.38
543 Graphics & Art	122	2,469	1,870	132.03

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	May 2008 Actuals	YTD 07-08 Actuals	Budget	Percent Budget
Administrative Law				
Total TFB Support Services	122	2,544	1,902	133.75
Total Expenses	158	13,061	47,718	27.37
Net Operations	242	12,869	(16,502)	(77.98)
21001 Fund Balance	0	199,292	172,945	115.23
Total Current Fund Balance	242	212,161	156,443	135.62

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To: Members of State Administrative Law Committee of the ABA Section on Administrative Law and Regulatory Practice

From: Cynthia Baker and Edward J. Schoenbaum, Co-Chairs

Re: Current and Future Activities

Date: April 4, 2008

Greetings from the co-chairs. We are delighted that you have signed up for this important committee. We want your input on projects that we should undertake this year and further into the future. We are asking you to submit ideas on what our committee or subcommittees should be working on this year.

I would ask each of you to please keep us in mind for short articles on administrative law developments in your state for the State Developments portion of the Section's Newsletter. We're looking for news on judicial, legislative, or administrative decisions that would be interesting to our members outside your state. Please email your articles to Ed. If there's more than one of you from a state (which is likely since we have 112 members), please don't rely on the other person from your State to inform us of developments. The next deadline is May 15, 2008 .

The National Conference of Commissioners on Uniform State Laws (NCCUSL), recently renamed Uniform Law Commission (ULC) is working on a revised Model State Administrative Procedure Act. The revised act would replace the 1981 Model Act and is intended to be a simpler, more streamlined approach than was taken in 1981. Hopefully, it would be adopted in more states than the 1981 version. Lane Kneedler, my co-chair from last year, is a member of the NCCUSL drafting committee which is headed by Fran Pavetti. John Gedid of Widener Law School was the reporter until he had some health problems and Professor Gregory Ogden of Pepperdine has taken over. Fortunately, John, a member of our State Administrative Law Committee, is still serving on the Drafting Committee. If you're interested in learning more about the Model State APA drafts are available. We encourage you to check out the progress of this important State administrative law development and also give your input. The most recent draft is at [http://www.law.upenn.edu/bll/archives/ulc/msapa/2007nov\\_clean.htm](http://www.law.upenn.edu/bll/archives/ulc/msapa/2007nov_clean.htm) [.] If you have any comments please send them to Professor Gregory Ogden, at [Gregory.Ogden@pepperdine.edu](mailto:Gregory.Ogden@pepperdine.edu), Professor Ron Levin, [levin@wulaw.wustl.edu](mailto:levin@wulaw.wustl.edu), the ABA Advisor, and to Judge Schoenbaum at [JudgeEdS@gmail.com](mailto:JudgeEdS@gmail.com).

Additionally, Ed developed a brief survey in 2002, to learn how administrative adjudication was seen by the administrative judiciary in the various States. We are attaching a modified survey in both WordPerfect and Word, and hope many of you will fill it in and return it to him at [JudgeEdS@gmail.com](mailto:JudgeEdS@gmail.com). It should only take five to ten minutes of your valuable time. The best way to do it is copy paste into your word processing program and fill it out and return it as an attachment.

Between April 1 and June 30, 2008, the State Administrative Law Committee of the Administrative Law and Regulatory Practice Section, the National Conference of Administrative Law Judiciary of the Judicial Division of the American Bar Association, and the National Association of Administrative Law Judiciary are conducting a national survey on administrative adjudication. We seek input from members of the

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Committee, various state bar association administrative law sections, committees on public law, government lawyers, academicians, and private practitioners.

Would you please take a few minutes of your valuable time to complete the survey? The results of this national survey will be compiled, analyzed, and a report will be sent to all who respond.

Thanks! We are confident that the results will give our committee direction on how to focus our efforts. If you are interested in working on analyzing the results and/or writing an article, please let us know, by dropping us an e-mail.

In the past, our committee has not participated in the annual developments book of the Section, but if enough of you think the committee should do a chapter on developments in State Administrative Law, please let Cynthia Baker cabaker@iupui.edu know if you are interested in volunteering for this project. We need volunteers, who are willing to tackle any of the work that is suggested.

We look forward to working with you and accomplishing a great deal for improving State Administrative Law.

Prof. Cynthia Anne Baker  
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SURVEY ON STATE ADMINISTRATIVE LAW

\_\_\_\_\_ Name \_\_\_\_\_ State  
\_\_\_ Academician \_\_\_ Administrative Adjudicator \_\_\_ Government Attorney  
\_\_\_ Judicial Branch Judge \_\_\_ In-House Counsel \_\_\_ Private Practitioner  
\_\_\_ Other - Please specify \_\_\_\_\_

On behalf of \_\_\_ section, \_\_\_ committee, \_\_\_ self \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number \_\_\_\_\_  
E-mail address: \_\_\_\_\_ Web site for your section or committee \_\_\_\_\_

I would be willing to work with the chair of a sub-committee on: (Please check)

\_\_\_ Adjudication \_\_\_ Legislation  
\_\_\_ Central Hearing Agencies \_\_\_ Model State APA  
\_\_\_ Other \_\_\_\_\_ \_\_\_ Rules

\_\_\_\_\_ Please specify

Our State Bar has a Section on Administrative Law \_\_\_ Yes, \_\_\_ No,  
Best Website address \_\_\_\_\_ for administrative law activities in my State

Chair \_\_\_\_\_ e-mail address \_\_\_\_\_  
Chair-elect \_\_\_\_\_ e-mail address \_\_\_\_\_

1. What are the five most serious problems facing the administrative judiciary in your state?  
Please rank order 5=most 0=least use blank lines for other problems or to explain your  
problem in more detail. If so, use same number on line below.

- \_\_\_ Budgetary
- \_\_\_ Low salaries
- \_\_\_ Interference with Judicial independence
- \_\_\_ Training needs
- \_\_\_ Trust & Respect from agencies, bar and/or public
- \_\_\_ Varying administrative procedures
- \_\_\_ Caseload - timeliness pressures
- \_\_\_ Substantive failure of existing administrative procedures

\_\_\_\_\_  
\_\_\_\_\_

2. What are the five most noteworthy accomplishments in administrative adjudication in your  
state in the last five years? Please rank order 5=greatest 0= least

- \_\_\_ Increased productivity / more efficient and effective use of resources
- \_\_\_ Establishment or expansion of central hearing agency
- \_\_\_ Use of technology
- \_\_\_ Staffing improvements

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- \_\_\_ Improving rules of procedure
- \_\_\_ Salary improvements
- \_\_\_ Improvements to facilities
- \_\_\_ Implementation of mediation
- \_\_\_ Cross training
- \_\_\_ Better decisions
- \_\_\_ Quality of Administrative Law Judges

3. Improvements or projects our state bar is presently working on in the administrative law realm.

Please rank order in importance.

5=most 0=least

- \_\_\_ Computerizing case management
- \_\_\_ Expanding other technology, video, telephone hearings and/or website
- \_\_\_ Improving low salaries
- \_\_\_ Improving Training
- \_\_\_ Expanding central hearing agency jurisdiction
- \_\_\_ Adopting central hearing agency
- \_\_\_ Developing Public Trust & Confidence
- \_\_\_ Joint efforts ALJs & bar association to improving administrative law
- \_\_\_ Improving case management process & procedure

4. If yours is not a central panel state, are there formal or informal efforts underway now to adopt the central panel approach to administrative hearings in your state? \_\_\_\_\_ If so, would you please describe the type of efforts and the status of the efforts to create or enhance the central panel approach:

5. What training opportunities are available to Administrative Law Judges in your state?

6. How can the ABA's Administrative Law & Regulatory Practice Section, NCALJ and NAALJ help you or your state as you work to improve Administrative Law?

Please rank order again 5 most 1 least.

- \_\_\_ Provide more training
- \_\_\_ Provide publication/ information on activities in other states
- \_\_\_ Carry our message to the judicial, legislature, executive & the public
- \_\_\_ Provide help on improving salaries for ALJs
- \_\_\_ Assist in establishing a central hearing agency

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- Encourage highest standards possible
- Provide help in developing model forms, etc.
- Promote excellence in due process adjudications
- Support budgetary increases or realistic caseloads

\_\_\_\_\_  
\_\_\_\_\_

7. Suppose an agency in your state wishes to issue an interpretive ruling that applies an ambiguous statute to hypothetical facts. Is the agency required to adopt the ruling by first conducting notice and comment proceedings under the state's APA?  Yes  No. If so, do agencies try to circumvent this requirement?  Yes  No. How do they do it?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Please attach a bibliography or articles written about Administrative Adjudication in your state. If you have a newsletter or annual report, please send an electronic copy or hard copy.

9. Are you aware of the ABA's Administrative Procedure Database? (on the World Wide Web at <http://www.law.fsu.edu/library/admin/> and it has data from the states about administrative law and procedure.)  Yes  No

If you are aware of this website, have you ever used it? (If so, for what purposes?)

\_\_\_\_\_  
\_\_\_\_\_

You can find the actual documents (or links to the documents) referred to on the website. These will inform you of accomplishments and projects to improve administrative adjudication. Do you have any suggestions for making the website more useful?  Yes  No

\_\_\_\_\_  
\_\_\_\_\_

10. Are you aware of the Symposium issue of the Administrative Law Review devoted to State Administrative Law that was published by the ABA-Administrative Law Section Spring 2001.

Yes  No

11. Are you aware of the Journal of the National Association of Administrative Law Judges ?

Yes  No

<http://www.naalj.org/>

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# The Florida Bar

JOHN F. HARKNESS, JR.  
EXECUTIVE DIRECTOR

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WWW.FLORIDABAR.ORG

March 3, 2008

Mr. James Andrew Bertron, Jr., Chair  
Administrative Law Section  
Sutherland Asbill & Brennan, LLP  
3600 Maclay Blvd. S., Ste. 202  
Tallahassee, FL 32312-1267

Re: Lawyer Advertising Rules

Dear Mr. Bertron:

I write as the chair of the Board of Governors Review Committee on Professional Ethics (committee) regarding specific lawyer advertising rules.

The Florida Bar asked the Supreme Court of Florida to amend the lawyer advertising rules. Among the changes requested by the bar were amendments that would specifically exempt lawyer to lawyer communications as well as communications between lawyers and their own past and current clients from application of the lawyer advertising rules. The Court declined to do so at this time, but invited the bar to provide further support for the bar's position at a later time. *Amendments to Rules Regulating The Florida Bar - Advertising*, 971 So. 2d 763 (Fla. 2007 Case No. SC05-2194). In its order, the court stated as follows:

The Bar proposed several amendments to rule 4-7.1 (General), including adding subdivisions that would exempt certain areas from the advertising rules. The proposed exemptions included, along with other areas, communications with family members, communications between lawyers, and communications with current and former clients. We adopt the exemption in respect to communications with family members. We request further information from the Bar as to why communications between lawyers, and communications with current and former clients, should be exempted from the advertising rules, including any research or evidence supporting such exemptions. We defer adoption of those two exemptions at this time.

The committee intends to provide additional information to the court and will be conducting a survey of bar members. The committee hopes that a survey will provide information about member opinion regarding application of the advertising rules to these types of communications and information from members regarding whether members have received such communications, whether such communications should be subject to the attorney advertising rules, and whether Florida Bar member recipients of communications from other lawyers had ever been misled by such communications. That information would be provided to the court in support of the original rules amendments proposals, which would be submitted to the court with the survey and any other supporting information available.

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March 3, 2008

In addition to the survey, the committee welcomes comments from any group, organization or individual. Please disseminate this information to your members so that they may comment, whether or not you decide to respond as an organization. The committee encourages interested persons to contact Elizabeth Clark Tarbert, Ethics Counsel, at the address above with any comments they have.

Thank you for your assistance with the committee's work.

Sincerely,



Jennifer R. Coberly

Chair, Board Review Committee on Professional Ethics

JRC/ET:ssM1

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BOARD OF GOVERNORS  
May 30, 2008

The Board of Governors met on May 30 in Key West. Here are some of the highlights of our meeting:

The Board approved the Bar's 2008-09 budget. Good news: no dues increase!

The Board heard a report about budget cuts and anticipated layoffs of court personnel, and we briefly discussed plans to find a dedicated and trust-funded source of revenues as part of an effort to ensure adequate funding for the court system in the future.

The Board Review Committee on Professional Ethics reported on a proposed ethics opinion on off-shoring paralegal work. In response to an issue raised by lawyers who submitted comments, the committee has asked that additional language (which suggests notifying the opposing party if case work will be sent offshore) be prepared for its review. This proposal likely will be ready for consideration at our next Board meeting.

The Board also considered a proposed new Rule of Judicial Administration that brings the rules into compliance with the Americans with Disabilities Act by requiring reasonable accommodations for the disabled users of the court system – including lawyers. The proposed rule now goes to the Supreme Court for final approval.

The Board also approved and sent to the Supreme Court several proposed rule changes dealing with candor toward the tribunal, Bar disciplinary procedures for judges who are removed from the bench by the Supreme Court, lawyers who fail to respond to Bar inquiries on grievance matters, prohibiting direct mail solicitations to respondents of domestic violence restraining orders, and other matters.

The Board approved nominations for upcoming vacancies on the 26 judicial nominating commissions, including the nominating commissions for your circuit, DCA and Supreme Court. The Bar transmits three nominations for each JNC vacancy, with Gov. Charlie Crist making the final appointment. Thanks to all of you who volunteered to serve in this capacity. By the way, the Governor also fills another vacancy on each JNC from applications submitted directly to his office, so feel free to apply there, too.

In addition to the JNC nominations, the Board also made a number of appointments to the ABA House of Delegates, legal aid boards, and related legal entities.. We appreciate the volunteer service of our lawyers, and we encourage you to keep an eye on the Bar's home page for upcoming appointments.

Our next meeting is scheduled for July 24-25. In the meantime, please contact us if you have questions or we may be of any service.

Larry Sellers

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MINUTES OF THE COUNCIL OF SECTIONS  
GENERAL MEETING OF SEPTEMBER 8, 2007  
TAMPA AIRPORT MARRIOTT - TAMPA, FLORIDA

Call to Order

The Council of Sections of The Florida Bar met on September 8, 2007 in Tampa, Florida in conjunction with the General Meeting of the Sections of The Florida Bar. Joe Schimmel called the meeting to order at approximately 9:10 a.m. Council of Sections representatives in attendance were:

Joseph Barry Schimmel	Council Chair, Tax Law
Allen R. Grossman	Council Chair-Elect, Health Law
E. Duffy Myrtetus	Council Secretary, Out of State Practitioners
K. Kaye Collie	Council Treasurer, City, County and Local Government
Harold E. Kaplan	Health Law
Ed Sawyer	Tax Law
Sandra F. Diamond	Real Property, Probate & Trust Law
Stephen A. Meek	Labor & Employment Law
Jewel White Cole	Young Lawyers Division
Robert Krauss	Government Lawyer
Damon Kitchen	Labor & Employment
Diane M. Kirigin	Family Law
Allyson Hughes	Family Law
Marsha Rydberg	Business Law
Damon Glisson	General Practice, Solo & Small Firm
Jack Merritt	General Practice, Solo & Small Firm
Linda Chamberlin	Elder Law
L. Donald Murrell, Jr.	Criminal Law
Julee L. Milham	Entertainment, Art & Sports Law
Mary Helen Farris	City, County and Local Government
Tuwana McMillen	Workers' Compensation
Dorothy Easley	Appellate Practice
Paul H. Chipok	Environmental and Land Use Law

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Representatives of The Florida Bar in attendance were:

Francisco R. Angones	President
John G. White, III	President-Elect
Laird A. Lile	BOG Liaison
John F. Harkness, Jr.	Executive Director
Terry L. Hill	Section Administrator/Member Benefits
Allen Martin	
Yvonne Sherron	Director Professional Development
Jewell White Cole	President-Elect, YLD

Introductions

Joe Schimmel introduced the various representatives of The Florida Bar who were in attendance including President Angones, President-Elect White, Jack Harkness, Terry Hill, and Allen Martin.

Bar President's Remarks

President Angones introduced Laird Lile to the Council as the Council's liaison to the Board of Governors. He indicated that Mr. Lile was making the transition from the Real Property, Trust and Probate Law Section to his new role with the Council. President Angones assured the Council that Mr. Lile would be an effective liaison to the BOG. Mr. Schimmel noted that Mr. Lile is a Council success story in that his Council of Sections experience led in part to his BOG involvement.

President Angones also commended the Council to remember that the Council members are together as a unified integrated Bar, recognizing that the Sections operate independently. Although the Sections and Divisions operate for their members, the Bar wants to support the Sections and Divisions in those efforts.

President-elect White echoed the Bar's ongoing support for the Council and offered his assistance to Council members in any way needed. He indicated that he looks forward to working with the Council as his term approaches.

Approval of Minutes

Secretary Myrtetus presented the Minutes of the Council's June 30, 2007, meeting. The Minutes were approved with minor changes.

Old Business

Mr. Schimmel asked for an updated report on general Section finances in conjunction with the new allocation and reporting scheme being instituted. Allen Martin from the Bar indicated that he did not have a formal report, but did make reference to the attachment with the

Council Agenda titled: "*The Florida Bar Cost Allocation System*," which was summarized. He indicated that the process of fully implementing the new system has been challenging. The Bar has been a little behind in processing close-outs monthly; but, this reporting function will catch up. Mr. Martin also stated that the June audit did reveal certain calculating errors; but, adjustments are being made. He concluded by stating that most Sections fared better financially under the new system and realized more revenue, but not all Sections did.

Ms. Sherron requested a narrative description of the cost allocations. With this year's history, the Bar will utilize these records prospectively.

Mr. Schimmel noted that the budget numbers provided with the Council agenda were calculated through June 30, 2007 only. Changes will need to be made to these figures; but, it does not appear that changes will be adverse. Adjustments anticipated all appear to reflect more money being remitted back to the Sections.

Mr. Schimmel and Mr. Grossman asked several questions of Mr. Martin and others about the application of the new system to all Sections. In particular, Mr. Grossman requested a summary of the overall financial experience by the Sections.

Mr. Harkness mentioned that the RPPTL experience has been a good one, which maximizes the benefits of the new budget scheme. This past year, the Sections in the aggregate put a total of \$1,000,000 into the Section reserve. Overall delivery of CLE has improved and has been more profitable for the Sections.

Mr. Grossman asked about the costs of media production and related cost allocations. Allen Martin responded that last year was a CLE revenue "bonanza;" but, he is cautious about future budgeting profiles. Mr. Harkness advises that he wants to set reasonable budget targets with an eye towards facilitating the pass-through back to the Sections.

### Financial Report

Mr. Schimmel announced that there was no Treasurer's Report since the financials required additional adjustment. Mr. Martin will provide updated corrected financial information for the Sections and Council in advance of the Mid-year meeting. Mr. Schimmel indicated that Council should keep the emphasis upon the Sections, as Council status is largely unaffected by the new allocation system.

### CLE Report

Mr. Schimmel confirmed that most Sections had productive and profitable years in terms of CLE presentations and revenue. He asked Mr. Martin whether any specific trends were noted. Mr. Martin stated that while the performance of most Sections has been good, the Bar was taking a wait and see approach as to overall trends. Ms. Sherron stated the principal difference this year has been that the Sections that lost money knew in advance and were able to make informed decisions.

Mr. Grossman stated that the financial reports show a significant increase to \$919,000 from the 5-year average CLE earnings of \$390,755. He asked whether the Council should be concerned about the impact and potential adverse results. He noted that the vast majority of Sections benefited, but suggested that Council monitor these developments to ensure that we are helping all Sections be profitable. Based upon the 5 year projections, 11 Sections had increases in CLE revenue, and roughly 11 had decreases.

Section Leadership Conference:

Mr. Schimmel discussed the Bar sponsored leadership conference in Tallahassee, scheduled for July 10-11. He asked that all Section leaders consider this unique opportunity to learn about the Bar and Bar leadership positions. The evening of the 10<sup>th</sup> includes a tour of the Bar and dinner. The 11<sup>th</sup> includes conferences on CLE, budgeting, lobbying, etc. – and this year will include some discussions about how to increase Section membership. He asked that the Sections leaders encourage their Treasurers to attend, given the new revenue sharing & cost allocation as well as the increasing importance of CLE.

Mr. Schimmel advised that the Council might consider spending some time to discuss marketing of Section memberships. We might possibly consider an outside sponsor to make a presentation about effective ways to enlarge membership. He asked for a show of hands for support of the initiative.

Harold Kaplan said that he thought the Council should be very careful about selecting a person or company to make such a presentation. Mr. Schimmel stated that the Sections are comprised of voluntary membership – it might be good to consider ways to get new members to join. Mr. Lile suggested that membership committee or membership development groups at the Section level might collaborate on a presentation.

Mr. Schimmel stated that the fluctuation in Section memberships may present an opportunity for us all to review what it is we do attract our members, especially where overall Bar membership numbers are increasing.

Dorothy Easley of the Appellate Section said that her Section was feeling the financial squeeze, and needs to attract new members. They are considering how to partner with other Sections to do so. She asked about the percentage of costs borne by the Sections. Mr. Martin responded that allocation is all a function of costs – the cost allocations exhibit in the Agenda materials was written as to CLE administration and costs; but, the methodology applies generally.

BLSE Report

No BLSE Report was given.



## Young Lawyers Division

Mr. Schimmel asked Jewel White Cole whether YLD liaisons had been assigned to the Sections. Ms. Cole stated that Scott Atwood had undertaken the process of making assignments – she was not certain if all assignments had been made. YLD is working on programs to determine how to best partner with the Sections.

Mr. Schimmel said that he thought it was important that the YLD representatives be in contact with the Council in order to identify and help support future Bar leaders. He suggested trying to complete such assignments sooner rather than later as the year is progressing quickly.

President Angones reminded Council that BOG liaisons to each of the Sections had been made. He asked that Section representatives contact him with any questions, or if there were any problems

Ms. Cole stated that the Basic Skills course is offered throughout the year – YLD is currently planning the Oct. and Nov. programs. Committee Chairs will be contacting Section leadership about possible speakers. Program venues will be using certain less well traveled locations.

She also stated that the YLD wants to partner with the Sections on CLE programming. They need good speakers and input on good speakers. Scott Atwood and Ms. Cole will handle the contacts for liaisons, etc. In conjunction with programming for their presentations, she emphasized that YLD needs good and diverse speaker perspectives (big firm, small firm, etc.).

President Angones stated that at the last Section Leadership Conference, it was noted that young lawyers should be included in panels and committees to help diversify the Sections and Bar leadership.

## Section Updates

*City, County and Local Government Law Section:* Mary Helen Farris and Kay Collie discussed a project to reach out to local high school students to provide an opportunity to expose students to a working law firm. They hope to obtain a matching grant to start this program.

*Entertainment, Arts, and Sports Law Section:* Julee Milham discussed the Section's annual program scheduled for Puerto Rico in conjunction with the meeting of the Intellectual Property Section of the Georgia Bar. The annual program will include combined CLE programs.

This Section's midyear program will be held with the American Bar Association on intellectual property issues. The Section is attempting to start a certification program for intellectual property lawyers. This initiative includes a sports program with Nova University and a trademark program in Orlando as new projects.

The Section will also hold an annual symposium at the Diplomat Hotel. Gloria Estefan will be honored. The Section tries to honor a Florida recipient in the entertainment industry. The

Section's annual retreat will be held on Memorial Day at a South Florida location and will include CLE opportunities.

*Business Law Section:* Marsha Ryberg had to leave for another Bar program.

*Criminal Law:* Donnie Murrell mentioned that this Section had had very good success with its BOG liaison, David Rothman. They feel fortunate to have worked with David and have experienced success in working with the BOG. The Section has approached the Florida Bar Foundation about a trial training seminar for prosecutors and Public Defenders. The program would be approximately one week long on trial practice administered around the state. The Section has struggled to find the necessary funds to develop this program. Mr. Rothman has helped obtain a grant for the program plus matching funds. In this regard, the Section feels its BOG liaison has been enormously helpful. Mr. Angones echoed the general good work of BOG liaisons.

Mr. White asked if the grant was a one time opportunity. Mr. Murrell stated that the grant was a one time lump sum; but, the Section may potentially obtain more funding if matching funds are obtained. They will continue to look at how to make the program more efficient as it is one of the only such programs in the nation, where prosecutors and Public Defenders train together.

The Section's Presidential Showcase CLE was a round table discussion at the Annual Meeting on issues relating to criminal law. This CLE program was big success for the Section.

Mr. Murrell also summarized some of the Article 5 funding revisions and their impact generally on changes to the criminal justice system. He suggested there may be looming crisis coming. The newly created Office of Conflict Counsel is based upon the various District Court of Appeal jurisdictions. It is expected to represent every indigent defendant from Tallahassee to Marion County. This is potentially a second class of indigent defendants; and, the program potentially may be a disaster. The Section started an Oversight Community to monitor the administration of this new program. They will carefully monitor the Office of Conflict Counsel.

Mr. Murrell also stated that losing Connie Stewart at the Bar as their program administrator was a real concern for the Section. Connie had been the Section program administrator with the Bar for 30 years.

Mr. Angones echoed that the Office of Conflict Counsel is a matter that the Bar will monitor as a potential pretrial minefield with constitutional issues. Mr. White asked if the concerns related to funding issues; and, Mr. Murrell responded yes.

*Health Law:* Mr. Kaplan stated that the Section had recently lost their program administrator with the Bar. The Section believes the change in program administrator has gone relatively well. Mr. Angones acknowledged Mr. Kaplan and Mr. Grossman on the Florida Medical Association program as a very important initiative for the Florida Bar. Mr. Grossman stated that a joint committee was formed a year ago to help the FMA and Health Law Section to interact and collaborate more. A national summit is planned in Florida to discuss how to manage

issues related to impaired physicians. Per Mr. Angones, this is a high profile and important initiative, where the Section has been very effective.

*Environmental and Land Use Law:* Mr. Chipok advised that the Section intended to undertake long range planning in July. This Section has also started some new substantive law committees to use as a planning tool and to form ideas for CLE opportunities. One issue is how to obtain more members and develop Section leaders. The Section offered a free lunch at meetings conducted with CLE presentations. This was an effective change. Additionally, the Section has continued efforts to sponsor minority fellowships with the American Bar Association. They expect to have two (2) such sponsored fellowships this year.

*Real Property, Probate and Trust Law:* Mrs. Diamond noted that Terry Hall had left as the Section's program administrator. She also stated that this year's CLE performance appears to be an anomaly – it included a diverse substantive range with many disciplines and various topics. The Section offered eight (8) CLE programs this year. Last year, CLE efforts focused largely on amendments to the Florida Trust Code with approximately \$100,000 of revenue tagged to this single CLE topic. The Section is gearing up for legislative issues and has been very active in lobbying with its team of lobbyists in Tallahassee. The Section will be working on legislative session initiatives over the summer.

*Elder Law:* Mrs. Chamberlain reported on the Section's long range planning meeting. This year's focus will be on orientation, training for new officers, and committee chairs. The Section hopes to also reach out to law schools in an effort to pursue new membership. The Section is actively involved with the Department of Family and Children in conjunction with the Deficit Reduction Act of 2005 on implementation of legislative changes (Medicaid planning and eligibility).

*General Practice, Solo and Small Firm:* Mr. Merritt announced that this Section's merger with the Practice Management Section was completed this year at the Section's convention in Orlando in October. They experienced good responses to the merger at the Annual Meeting. A five hour CLE presentation for credit and to grow membership is planned this coming March.

Mr. Glisson (for the Practice Management Development Section) mentioned the oversight of the PEC of the Bar. Merger talks had been discussed with the PEC due to declining membership, a lack of specific substantive law, and some CLE money lost. All of these factors led the PEC to ask the Practice Management Development Section to justify its independent existence. Thereafter, a merger was approved. Mr. Glisson indicated that the smaller Sections of the Council should be aware of the PEC, its impact upon Section administration, and the issues the PEC will criticize. He suggested that all Sections develop a better awareness of this process and the PEC criteria. Even after the merger, Mr. Glisson believes the Section still had practice management resources which are valuable for all practices (i.e. boot camp programming, etc.). Mr. Shimmel mentioned technology and practice support – the PMD was a leader on innovation for the Bar. That mission remains relevant and important for all Bar Sections. He emphasized that all members of the Bar need that ongoing help and support.

*Worker's Compensation:* Ms. McMillan announced that the Section held its annual meeting and focused in part on working to be more involved with membership around the state. The Section's Bylaws were amended; and, they now have a 30-member Executive Committee, enlarged to include more statewide members.

On the issue of professionalism, an August seminar with judges is planned on issues relating to workers compensation with an emphasis on professionalism. This Section has also approved a new professionalism award. Finally, the Section has updated its website and is now capable of sending an e-mail blast message to members. The Section is also considering how to provide more CLE's through alternative audio and visual means.

*Labor and Employment Law:* Mr. Kitchen stated that the Section's CLE presentations have been very strong. New formats have been used in telephone and "webinar". This Section's next program is planned in Fort Lauderdale in October. The Section continues to explore new formats for CLE, using telephone and web technology.

*Government Lawyer:* Mr. Krauss announced that the Section's long range planning meeting was held in Apalachicola. Discussions at the long range planning meeting focused on the Section being a small section with an emphasis on how to do more CLE presentations to be profitable. He indicated that he would be calling other Section leaders to discuss CLE efforts. He also announced a Federal Seminar being planned in Washington, DC, which has been very successful. The Program involves federal agencies and is a joint effort with the Out of State Division and Environmental Law Sections. Finally, Mr. Krauss reported on efforts to secure the first state and federal government lawyer certification program.

*Young Lawyers Division:* Ms. Cole reported that the Division will sponsor a minority mentoring program for the fourth year. The Division is trying to start minority mentoring programs state wide, and will attempt to start one in Central Florida perhaps in the Spring.

The Affiliate Outreach Program will be held in St. Petersburg in January. This will be an opportunity to consider how to collaborate with affiliates and talk about programming and funding of public service projects (i.e. foster children, etc.). The Practicing with Professionalism program will be overhauled this year entirely. The Division will review all aspects of the program. Mr. Shimmel asked about the affiliate program. Ms. Cole stated that the voluntary Bar Associations throughout the state – frequently at the local community level – have a local YLD (i.e. Dade County, Clearwater, etc.). The local community sections try to be active with the YLD and the minority bar group associations. The YLD wants to reach out to young lawyers on opportunities for nontraditional program funding. The focus will be on local funding (i.e. backpacks for kids; library programs; school supplies; etc.). Mr. Shimmel talked briefly about "Affiliates" for all sections of the Bar. Mr. Angones inquired about the "Mentoring Committee," formed by Justice Cantero. Ms. Cole reported that the Mentoring Committee was an outgrowth of the Commission on Professionalism and that Justice Cantero wants mentoring to be a focus of the Supreme Court. The Committee is looking at the issues of how to best focus on the efforts of fostering professionalism through mentoring, and how this mission can be best accomplished through mentoring help for young lawyers not in a big law firm setting.

