

The Florida Bar- Criminal Law Section
Executive Council Meeting
Tampa Airport Marriott
Friday, September 11, 2009
9:00 a.m. - 12:00 noon, Collier Room

I. Call To Order

The meeting was called to order at 9:08 am, by the Chair, Carolyn Snurkowski.

Roll call by the Secretary:

Present- Carolyn Snurkowski, Lisa Porter, Sheryl Lowenthal (by phone), Scott Fingerhut (by phone), Donnie Murrell, Stanford Blake, Robert Dillinger, Douglas Duncan, Ann Finnell (by phone), Jeffrey Harris, Richard Hersch, Les Hess, Susan Hugentugler, Cynthia Imperato, Abe Laeser, Calianne Lantz, Martin McDonnell, Richard Polin (by phone), Scott Richardson, Harvey Sepler, Joel Silvershein, William Vose, Samantha Ward, Paul Zacks, Angelica Zayas, Jennifer Zedalis, Brian Tannebaum, Larry Turner (appeared by phone)

Guests- Aaron Clements, Tom Cushman

Excused- Kenneth Swartz, George Tragos, Michael Weatherby, Lewis Buzzell

II. Approval of the Minutes of the June 26, 2009 Meeting

The minutes of June 26, 2009 were approved.

III. Treasurer's Report

Paige Graham reported we took a \$62,000 loss for the year due to lost investment revenue and scholarships we gave. We still have \$252,494 in the bank. For this year, we are down from \$65,000 to \$54,000 for dues. Jennifer Zedalis reported that travel expenses have not rolled in yet from P/PD and we are waiting on that information from the University of Florida. Paul Zacks said it will be less this year because we reduced one hotel night. In addition, this year we will not have the scholarship cost we gave last year. Last year we paid \$54,000 for the cost of P/PD. This year it will probably be around \$30,000 maximum for P/PD cost. Stan Blake moved to accept the budget, Doug Duncan seconded and the budget was adopted without opposition.

IV. Section Committee Assignments and Committee Reports

Carolyn Snurkowski made the following committee assignments:

Budget: Scott Fingerhut- Chair; Carolyn Snurkowski; Les Hess; Ann Finnell; Lisa Porter

CLE Committee: Scott Fingerhut-Chair; Sheryl Lowenthal; Joel Silvershein; Calianne Lantz; Susan Hugentugler; Angie Zayas

Conflict Counsel: Stanford Blake-Chair; Robert Dillinger; Jeffrey Harris; Carolyn Snurkowski; Cynthia Imperato

Legislative: Martin McDonnell-Chair; Stanford Blake; Susan Hugentugler

Prosecutor/Public Defender Training Program Funding: Brian Tannebaum-Chair; Robert Dillinger; Abe Laeser; Richard Hersch

Committee Liaisons: Calianne Lantz-Appellate Rules; Cynthia Imperato-Criminal Rules; Scott Richardson- Criminal Jury Instruction; Beth Wetzel-Young Lawyers Section; Joel Silvershein- Juvenile and Juvenile Rules; Aaron Clements- Evidence; Robert Dillinger- Decriminalization of Misdemeanors; Government – Joel Silvershein

Capital Cases: Lewis Buzzell- Chair; Abe Laeser; Donnie Murrell

Communications/Website: Carolyn Snurkowski-Chair; Ann Finnell; Donnie Murrell; Richard Polin; Jennifer Zedalis

Federal Practice: Kenneth Swartz-Chair; Jeffrey Harris; Larry Turner; Sheryl Lowenthal

Membership: Lisa Porter-Chair; Lewis Buzzell; Carolyn Snurkowski; Larry Turner; Ann Finnell

Prosecutor/Public Defender Advisory: George Tragos-Chair

Selig Goldin Award: Harvey Sepler-Chair; Douglas Duncan; Susan Hugentugler; William Vose

The following **Committee Reports** were made:

(A) Communications/Newsletter

The Communications Committee is in agreement that we should continue our newsletter in the electronic version only. Aaron Clement volunteered to write an article about e-filing for the newsletter.

(B) P/PD Program and Budget

This committee was discontinued. Paul Zacks indicated a formal committee was not necessary. The cost of P/PD this year was discussed and is covered in the Treasurer's Report.

(C) P/PD Program Funding

No report was made.

(D) Federal Practice

No report was made.

(E) Capital Cases

No report was made.

(F) Conflict Counsel

The Conflict Counsel committee will stay intact and report on the status of issues with the Office of Regional Conflict Counsel. Carolyn Snurkowski asked Bob Dillinger to write a small article about the ORCC for the next publication of our electronic newsletter.

(G) Selig Goldin Award

Harvey Sepler reported that we all need to be involved in nominations for our award. He would like to see some prosecutors nominated. Paige Graham said we need the nominations by the end of the year so at our January meeting we can vote on the recipient of the award. We need to include a nomination form in each electronic newsletter we publish. Carolyn Snurkowski asked Harvey Sepler to write a paragraph about the Selig Goldin Award asking for nominations for inclusion in our newsletter. Paige Graham indicated in mid-October and November we can include the article and nomination form in the Bar News.

Abe Laeser asked what happened to the blue booklet that spoke about Selig Goldin and the prior recipients of the award that we always had at the award luncheon. The

blue booklet was missing from last June's luncheon. Abe Laeser wants us to have the booklet again at the next luncheon.

It was agreed the joint luncheon with the Trial Lawyers was a success. Carolyn Snurkowski will draft a letter to the Trial Lawyers to see if they want to do a joint luncheon with us again next year.

V. CLE Report

Scott Fingerhut reported on the status of our CLE programs. They are finalizing the locations for them. Caroline Iovino handles the Evidence seminar and it is co-sponsored between the Criminal Section and Trial Lawyers Section and we split the revenue from the program. The Masters of DUI date is unknown as we are waiting on the mid-year meeting dates per Paige Graham.

Scott Fingerhut reported he wants to get a Professionalism/Ethics CLE road show organized. It adds a low, to no cost free CLE, with a mixer afterward to get people interested in joining the section. Donnie Murrell added this was a great idea and Paige Graham came up with the idea for this type of CLE.

Special Guests Arrived at our Meeting- The President of TFB, Jesse Diner and President Elect Mayanne Downs arrived at our meeting. President Diner announced the dates for the January meeting of TFB will probably stay the same but the hotel is being switched. The meeting will be held at the other Hilton on International Drive in Orlando. President Diner thanked us for our work and said the Committees are the backbone of the Florida Bar. President Elect Downs concurred with President Diner's remarks.

Upcoming CLE Programs:

- A. Advanced Federal Practice- January 28, 2010, Miami**
- B. Masters of DUI- January 22, 2010, Orlando**
- C. Topics in Evidence- March 4, 2010, Tampa Airport, Marriott**
- D. Criminal Law Update- April 16, 2010, Miami**

VI. Membership

Carolyn Snurkowski brought up the problem with dropped membership, the lack of income to our section and what we can do about it. Paige Graham has a list of dropped members by county and it was suggested by Carolyn if everyone can look at their lists for their county and call members who did not renew and ask why they chose not to continue their membership.

Stan Blake asked how many members we have in our section and maybe we should send a letter in advance of the regular bar statements going out asking them to continue their section membership. Carolyn suggested perhaps we should send an e-mail but the problem with that is everyone is inundated with e-mail. It was suggested perhaps we should send both a letter and an e-mail.

Brian Tannebaum asked what is happening across the Bar and are all sections suffering from low membership. Carolyn Snurkowski said it is happening in the Government Lawyers section as well because of the current financial situation and government agencies are not paying for section memberships anymore. Carolyn Snurkowski said at the Attorney General's Office lawyers give their individual checks at the same time as the regular bar dues. Others send in their checks later which also creates a problem with renewals. Paige Graham reported our section membership was close to 3000 and we are now around 2500. The numbers are skewed around August because they drop off then because they have not paid yet. Just about every section dropped off 500-1000 members and the sections send a reminder to the dropped members and some add back and some don't. About 50-100 people per month rejoined last year. Donnie Murrell suggested we don't panic because of the current economy.

Jennifer Zedalis asked if we know the percentage of bar members in Florida who are reported as criminal practitioners. Paige Graham said there is no way to get an answer to that based upon the way it is reported. The Bar profiles are self-reported by the members. Jennifer Zedalis said we need to give a reason to join our section such as excellent CLE, manuals, t-shirts, etc.

Paul Zacks said his office accounted for 100 of the dropped members. His predecessor required Criminal Law Section membership in exchange for payment of annual bar dues and now the new State Attorney requires local bar membership in exchange for paying bar dues. Paul suggested writing the SAs and PDs in the state to encourage membership and attach the work the section does for the benefit of membership.

Bill Vose said we should mention P/PD as a reason to be a member of the section. Paul said the SAOs and PDs are the biggest numerical target group for membership. Samantha Ward said you can get from the bar a list of members that designate criminal practice as their practice area. Jennifer Zedalis asked if members get a break on CLE and it was reported that members get a \$25 break on each CLE they attend which we sponsor. We need to let people know what the benefit of membership is.

Calianne Lantz said in Appellate their membership committee has been changed to outreach and they market more in a community sense the things they are doing such as CLE. Calianne said there is also a crisis in the private side of bar practice.

Donnie Murrell said we just need to put a good product out and then talk about doing something to encourage membership. If we put on relevant CLE that will help him in his practice he will join. Jennifer Zedalis discussed making CLE available locally such as a 2-3 hour program on a Saturday, and if we did it regionally and had members present at these seminars covering topics like discovery depositions, making and meeting objections and if we charged a section member \$50 and a non-member \$100, people will join to save the registration fee.

Paige Graham said at the CLE program they can have the option to join the section when registering for the CLE. Paige Graham reported TFB is doing this on all CLE forms now. Jeff Harris said we need to highlight this on the CLE form so people see it and not bury it on the registration form.

Bill Vose said the best message is not necessarily CLE but other activities such as what Donnie Murrell did last year about the criminal justice system funding issue. Richard Hersch said we should be visible and on the front page of the Bar News every month.

Carolyn Snurkowski asked all of us within the next two weeks to provide a memo to her of what we have done for the Criminal Law Section in the past 2 years and the value of being a member. The memo should address how being a member is meaningful to us and why we do this.

Carolyn Snurkowski asked if can we get our own block in the Florida Bar News that says "From the Criminal Law Section". Donnie said he does not believe TFB will give us the space but they are fascinated by our issues. If only we raise the issue they will cover it.

Carolyn Snurkowski does a criminal law alert called Angie's Tips and people have said it is very helpful and it contains little tidbits and we could highlight a couple of cases each month in our newsletter.

Abe Laeser said an outreach right now might be premature until we know for sure what the drop off is. Paige said the list is accurate but members will come back after they get our letter and in October through November we will know where we stand on attrition.

Bill Vose said we should ask the State Attorneys and Public Defenders to distribute our letter to their lawyers to try and increase membership. Harvey Sepler said the question is going to be what can I get that I otherwise would not get by not being a member and the second thing is does it make me feel special by being a member. Is it worth your time to be a member.

On CLE the money is the hook and perhaps we should do dedicated seminars that you can only attend by being a member. Carolyn Snurkowski said the Appellate Section does lunch seminars that are only available to members. Stan Blake said CABA in

Miami does small lunches for members only. Calianne Lantz offered to set up 1 hour seminars on criminal appeals and combine it with our section and the Appellate Section. Richard Polin said our section is heavily dependent on government lawyers for membership and with the current financial situation in government employment unless there is some lobbying benefit on behalf of the government lawyers it will not help with increasing their membership.

Bob Dillinger suggested reporting on pre-filed bills. Marty McDonnell says his office tracks bills and he will send them. Carolyn Snurkowski told Marty to send them to her and Paige Graham and they will set up a legislative section in our newsletter. By the end of the month we will have a legislative report to include in our newsletter.

VII. Legislative Issues

No report. However, Donnie Murrell brought up the issue with the Clerks and the decrease in service. Stan Blake said he thinks the Clerks are trying to make it look difficult to perform their function due to the budget cuts. Bill Vose said there is a battle between the clerk and chief judge in his circuit. Stan Blake said the issue will vary on a clerk by clerk basis and a circuit by circuit basis and each are handling the issue differently. He noted the clerks are not going to go out of their way for the attorneys and judges. Donnie Murrell feels this is an issue we should speak out about and Stan Blake said the message that needs to be delivered is the public is not being served. Brian Tannebaum suggested taking complaints from lawyers and presenting them to the Supreme Court. The prospect for electronic filing was raised. Bill Vose said some of their counties have electronic filing. Carolyn Snurkowski said there is an Administrative Order issued by the Florida Supreme Court that says we will all go to administrative filing.

VIII. Liaison Reports

A. Appellate Rules

Calianne Lantz reported there is a report coming out from Criminal Rules and Appellate Rules which was sent to the Supreme Court regarding 3.850, belated appeals, denial of post-conviction motions in capital and non-capital cases and we should be aware of it. The report was sent by Carol Dittmar, Chair of the joint committee to the Florida Supreme Court within the last month.

B. Criminal Procedure Rules

No report.

C. Criminal Jury Instructions

No report.

D. YLD- Beth Wetzel

No report.

IX. Old Business

No old business was discussed.

Richard Hersch made a motion to adjourn which was seconded by Stan Blake. The meeting adjourned at 11:20 am.