

STATE BAR OF MICHIGAN
WORKERS' COMPENSATION LAW SECTION

MEETING MINUTES: Thursday, June 17, 2010

This was a council meeting held at Crystal Mountain, attended by members of the Section Council and various Agency representatives.

This meeting was called to order at 4:00 p.m. by Chairperson Joel Alpert.

Minutes of Meetings

The Minutes of the special meeting held 5/28/10 were discussed. A Motion was made by Chuck Palmer, seconded by John Charters that they be accepted and approved. Motion passed unanimously.

Discussion was held regarding the filing of Meeting Minutes as required by the by laws. The filing of the Minutes with the State Bar will be done in the future.

By Laws

A discussion was held regarding changes in the by laws. Chairperson Alpert suggested we bring the by laws into compliance with our practice regarding the composition of a nominating committee. It was noted that based upon the current by laws, there could be a deadlock in light of the fact that the by laws call for participation by the Chair and three non-council members.

Chairperson Alpert also noted that we have been conducting meetings by audio and video and the by laws should be changed to allow this.

Vice-Chair David DeGraw acknowledged that the suggestions are valid and expressed an intention to address them during his term as Chair.

Scholarship

Chairperson Alpert suggested we meet with the Young Lawyers Section of the State Bar to discuss the scholarship. At that meeting, a discussion regarding whether a competition should be held for the scholarship should be made. The suggestion would be made that the young lawyers set up or help with the competition.

Past-Chair Murray Feldman noted that our three year commitment to U of D Law School Scholarship ended in December of 2009. He noted that the College of Workers' Compensation Lawyers has a writing competition for a scholarship of \$1,500.00 and a trip to Boston. University of Detroit Law School has a \$2,500.00 writing competition.

Council Member Chris Rabideau suggested that the scholarship be named for Magistrates Barney and Harris.

Facilitation

A mini report was presented by Chief Magistrate Ambrose regarding the crisis at the Board of Magistrates. He noted that there are 105 decisions that have not yet been written including cases that have been tried to conclusion.

Magistrate Ambrose noted that he has ten decisions to write. With regard to the way forward, it was noted that three of the sitting magistrates are in the late stages of the Social Security administrative law judge appointment process. It is possible that these magistrates will leave the workers' compensation bench in early to mid August. Other magistrates are burdened by their travel and increased docket. Magistrate Ambrose added that he would be meeting with the Board of Magistrates on Monday to explain the situation. Certain magistrates will be taken off the bench in order to write decisions, although each hearing site will have a magistrate on the bench.

Magistrate Ambrose noted that half of the terms expire in January. Of those, some are up for Social Security ALJ positions and the concern is that no attorney would be willing to accept a four month appointment by Governor Granholm.

Magistrate Birch has been brought back to the bench. He would be signing the papers on the following day to take the balance of Magistrate Harris' term which will run through 2013.

Director Nolish noted that appointment of temporary magistrates cannot be done under the statute. The appointments need the full advice and consent of the Senate due to the fact that the magistrates will be leaving not because of a disability or a leave of absence.

Due to the situation, there could be a huge backlog of cases on the trial dockets of each and every magistrate.

Magistrate Ambrose noted that a moratorium on trials was not acceptable because settlements would dry up immediately.

Director Nolish noted that he, Magistrate Ambrose and Chief Appellate Commissioner Gorchow have been working on this. In the past, facilitation produced settlements in half of the trial cases. However, currently we have no extra magistrates to do the facilitations.

Vice-Chair DeGraw suggested that the defense bar may be willing to call their clients and explain the need for a facilitation in those cases where the clients have been waiting for at least six months for a decision. It was suggested that the Board of Magistrates send a letter to all the parties identifying those cases which could be facilitated in this manner. It was noted that the parties risk having a decision written by a new magistrate, who did not hear the testimony in person, write the decision.

Chief Magistrate Ambrose suggested that he will request from Sue Corbin funding to pay a former magistrate to facilitate the cases at perhaps \$300.00 per day where the proofs are closed and a decision is not yet written.

In cases that have not been tried, it was noted that use of a two person panel of members of the WC Section would work to facilitate cases on the day of trial.

Hall of Fame

Discussion was held regarding the Hall of Fame and comments regarding Magistrate Harris. Chris Ambrose will speak about Magistrate Harris at the Section meeting dinner. Hall of Fame inductee Ray Cardew will be unable to attend because of a health issue. Jack Wheatley will be speaking regarding Inductee Cardew. Libby Child will be speaking regarding Magistrate Baril and his induction into the Hall of Fame.

It was noted that there is no more money left in the Sloss Slush Fund for use in supplying alcohol for the after dinner gathering.

Vice-Chair DeGraw made a Motion to Adjourn at 5:45 p.m. which was seconded and passed.

These Minutes were prepared by Denice LeVasseur, as Secretary John Sims was unable to attend.