

ANTITRUST, FRANCHISING & TRADE REGULATION SECTION

STATE BAR OF MICHIGAN

JANUARY 9, 2009 SECTION MEETING MINUTES

CALL TO ORDER, ATTENDEES, & MINUTES

At about 12:00 Noon, Chairperson Rick Juckniess called the meeting at the Sheraton Hotel-Novi, 21111 Haggerty Road, Novi, Michigan 48375-5305, to order. Besides Mr. Juckniess, the meeting attendees were:

Secretary: Howard Lederman

Treasurer: David Janis

Stuart Bordman

Justin Hakala

Brock Swartzle (Telephone)

Bob Wierenga (Telephone)

Pahl Zinn

The attendees approved last meeting's minutes.

SECTION DIRECTORY

The attendees discussed a section directory. The State Bar has sent sample entries. The directory would be open to all section members, and they could include biographies and photos. Mr. Herrman stated that an attorney's accepting of section membership implicitly permitted the section to publicize an attorney's membership. If a member did not want such publicity, he/she was responsible for notifying the State Bar of his/her decision. Mr. Lederman suggested that any section directory should leave room for members to describe and emphasize particular expertise, experience, and foci. Mr. Herrman suggested that the directory include links to the ABA Antitrust Section web site. He also proposed that the directory could include a hyperlink to a member's biography, if already on the web. Mr. Juckniess and Ms. Kaur will investigate these possibilities. At Mr. Janis' suggestion, the attendees agreed on two e-blasts, the first in November 2008 and the second about January 4, 2009 to publicize the directory to section members. Mr. Hakala will work on compiling the directory.

PUBLICATIONS COMMITTEE REPORT

In December 2008, Mr. Hakala completed distribution of the section e-newsletter. The attendees discussed how often the section can publish and distribute and publish future newsletters. Mr. Juckniess suggested a monthly newsletter with announcements and current events, with articles appearing in newsletters every three months. Mr. Zinn agreed, stating that the resulting articles would be more substantive. Mr. Lederman and Mr. Bordman suggested a bimonthly newsletter, with articles appearing in each issue. Mr. Janis contended that more articles would lead to more section members' participation. Everybody agreed that the November-December 2008 newsletter's articles were the right length. After much discussion, the attendees agreed on a bimonthly newsletter, because a monthly newsletter would turn into "a grind," impairing the publication's quality for no corresponding benefit. Mr. Lederman suggested a February 20, 2009 draft article deadline and a March 2009 newsletter publication and distribution. The attendees agreed. Mr. Hakala will write on antitrust merger standards, and Mr. Janis will write on Real Estate Multi-Listing antitrust issues. The newsletter will also include the top three law student articles from the section's law student writing contest.

FRANCHISE COMMITTEE REPORT

Mr. Lederman will begin planning for a Fall 2009 franchising seminar. He and presumably other section members will continue to write newsletter articles on franchising subjects.

EDUCATION/SEMINAR COMMITTEE REPORT

Mr. Renfro has been talking with the Michigan Attorney General's office about an antitrust webinar. He is shooting for a February or March 2009 webinar. Mr. Juckniess will check with him on his progress and the specific subject before the next meeting.

Mr. Lederman and Mr. Pahl mentioned a possible Fall 2009 Franchising Seminar. Mr. Lederman also mentioned the trade regulation as a possible seminar area, whether alone or as part of another seminar. Mr. Juckniess suggested US Department of Justice or Federal Trade Commission representatives at these seminars.

The attendees continued their earlier discussions of a joint seminar or webinar with the State Bar's Real Estate Law section. The subject is the Real Estate Multi-Listing Service antitrust issues. The attendees felt that a webinar would be best. Mr. Janis will contact the Real Estate Law Section to obtain their joint participation. Mr. Juckniess will investigate and contact possible outside seminar presenters. Since Mr. Janis has done recent work in this area, he can be a presenter. The attendees agreed on a February 27, 2009 Webinar. Mr. Juckniess, Mr. Janis, and Mr. Hakala will work on arranging and publicizing the webinar.

Mr. Juckniess suggested a webinar on *Twombly*'s impact on Sixth Circuit antitrust cases. Mr. Wierenga noted that in several antitrust cases over the past one-and-a-half years, the Sixth Circuit has applied *Twombly*. The attendees agreed to pursue this suggestion.

Next, the attendees discussed an antitrust lock-in theory webinar and suggested a March 24, 2009 webinar date. The attendees will pursue this possible webinar.

Then, the attendees discussed an antitrust/trade regulation Certificate of Need seminar or webinar. Mr. Juckniess will follow up on this possibility.

Finally, the attendees discussed whether to charge section members for webinars. The attendees decided against charging section members, but for requiring their registration.

At the next meeting, the conferees will schedule those webinars ready for scheduling.

FUTURE MEETING IDEAS

The conferees discussed Mr. Juckniess' idea of a Detroit Institute of Arts [DIA] outing in late March 2009. Mr. Juckniess agreed that if our section "piggybacks" on another event on a Friday, we can complete our event at less expense. Mr. Juckniess will continue his follow-up and inform us of more expense and other details at the next meeting.

Mr. Lederman will inform the conferees of details regarding his Frisbee golf idea at the first Spring 2009 section meeting.

The attendees also discussed a possible April 2009 social event.

OTHER NEW BUSINESS

The conferees discussed the Spring 2009 State Bar Antitrust Section Meeting. They will resume their discussion at our next section meeting.

Mr. Juckniess announced, and the attendees agreed, that due to nonuse, the section will disconnect its listserve. The e-newsletter and e-blasts will be the main communication means between the section council and the section members.

PRESENT SECTION COUNCIL MEMBERS AND OFFICERS

Under the Bylaws, Article III, Section 2, "[a]t each annual meeting of the Section, four council members shall be elected for a term of three years...."

The conferees voted to expand the section council membership this year to include three members willing to serve and contribute to the section. These members were David Graham, Mitch Rapp, and Bob Wierenga.

As of this date, the following Section Members and Officers are Council Members:

James Adams: Third Year.

Stuart Bordman: Third Year.

Howard Iwrey: Third Year.

Fred Herrmann: Third Year.

David Janis: Third Year.

Rick Juckniess: Third Year.

Atleen Kaur: Second Year.

Howard Lederman: Third Year.

Paul Novak: Third Year.

Mitch Rapp: Third Year.

Blair Renfro: Second Year.

Bob Wierenga: Second Year.

STUDENT WRITING CONTEST

Since the due date for student papers is January 15, 2009, at the next meeting, the conferees will discuss the papers with the aims of arranging for publication of the top three in the March 2009 newsletter and of declaring the winner, second place, and third place papers.

TREASURER'S REPORT

Mr. Janis reported that as of November 30, 2008, the section treasury had \$49,111.55.

NEXT MEETING

The next section meeting will be on Friday, February 20, 2009, at 12:00 Noon at Kerr Russell & Weber, PLC, 500 Woodward Avenue-#2500, Detroit, Michigan 48226, (313) 961-0200.

Howard Yale Lederman, Section Secretary
219 Elm Street, Birmingham, MI 48009
(248) 642-3600
lederman@normanyatooma.com

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