

ANTITRUST, FRANCHISING & TRADE REGULATION SECTION

STATE BAR OF MICHIGAN

OCTOBER 17, 2008 SECTION MEETING MINUTES

CALL TO ORDER & ATTENDEES

At about 12:00 Noon, Vice Chairperson Rick Juckniess called the meeting to order. Besides Mr. Juckniess, the meeting attendees were:

Secretary: Howard Lederman

Treasurer: David Janis

James Adams (By Telephone)

Pahl Zinn

Blair Renfro

Stuart Bordman

David Graham

SECTION BYLAWS DISCUSSION AND REVISIONS

After some discussion, the attendees agreed to make sure that all suggested section bylaws revisions are ready in enough time before next year's September 2009 annual meeting for the section council members and other section members to review and comment on them. For their convenience in beginning this process, the bylaw changes that last meeting's attendees discussed were as follows:

The attendees discussed and agreed on several section bylaws revisions. The bylaws' official name and date is Bylaws of the Antitrust, Franchising & Trade Regulation Section of the State Bar of Michigan current as of December 9, 1999. The revisions were:

Article III, Section I. Before the discussion, this section read in relevant part: "The retiring Chair of the Section shall be an honorary member of the Council for one year following his retirement for the purpose of advising and counseling with the Council, but without the right to vote."

The attendees voted to remove this sentence. Thus, the retiring Section Chairperson, if he/she serves on the Council, will have the same status and voting rights as any other Council member.

Article III, Section 5: Before the discussion, this section read: “All elections shall be by written ballot unless otherwise ordered by resolution duly adopted by the Section at the annual meeting at which the election is held.”

The attendees voted to remove the written ballot requirement as unnecessary. But the attendees also voted to require the Section Secretary to record the specific ballot results.

Article IV, Section 3: Before the discussion, this section read: “No person shall serve more than one full term in the same office in any five-year period.”

The attendees voted to remove this section.

Article VI, Section 4: Before the discussion, this section read in relevant part: “The Council shall act by a majority vote of a quorum.”

The attendees voted to remove the phrase “of a quorum.”

Article VI, Section 5: Before the discussion, this section read in relevant part: “Members of the Council when personally present at a meeting in person, but when absent may communicate their vote, in writing or by telephonic communication...with the same effect as if cast personally at such meetings.”

The attendees voted to add email to the list of approved communication methods.

Article VI, Section 6: Before the discussion, this section read in relevant part: “The Chair of the Section at any time may, and upon the request of any member of the Council shall, submit or cause to be submitted in writing, to each of the members of the Council, any proposition upon which the Council may be authorized to act, and the members of the Council may vote upon such proposition or propositions so submitted, by communicating their vote thereon, in writing, over their respective signatures, to the Secretary, who shall record upon his minutes each proposition so submitted, when, how, at whose request same was submitted, and the vote of each member of the Council thereon, and keep on file such written and signed votes.”

The attendees voted to strike the requirement for the Section Secretary to “keep on file such written and signed votes.”

Article IX Amendments: Pahl Zinn will review and suggest bylaws amendment procedure revisions.

General Bylaws review: Pahl Zinn will review and suggest bylaws revisions before and at the 2009 Annual Meeting.

The attendees also agreed that in the bylaw, the terms “Council Meeting” and “Section Meeting” are and mean the same, except for the Annual Meeting.

ANNUAL ELECTION OF 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.

No member has resigned from the Council. Mr. Juckniess will post a list of current section council members on the section website.

Under the Bylaws, Article IV, Section 2, “[t]he election of Officers shall occur at the first meeting of the Council to be held immediately following the meeting of the Section (Commencing with the meeting of the Council after the annual meeting, which follows the annual meeting at which these Bylaws are adopted).”

Under the above provision, the attendees unanimously elected or re-elected the following section members as the section officers:

Chairperson: Rick Juckniess

Vice Chairperson: Blair Renfro

Secretary: Howard Lederman

Treasurer: David Janis

FRANCHISE COMMITTEE REPORT

As of the October 17, 2008 meeting date, the Michigan Bar Journal Theme Issue containing two franchise law articles had appeared online and in print. As explained in the Publications Committee's activities described below, the upcoming Section E-Newsletter will contain at least one franchise law-related article. Mr. Lederman is writing on the congressional bills to change the Federal Arbitration Act to severely restrict mandatory arbitration agreements and provisions.

PUBLICATIONS COMMITTEE REPORT

Michigan Bar Journal Theme Issue: As of the October 17, 2008 meeting date, the Michigan Bar Journal Theme Issue containing two antitrust law, one trade regulation, and two franchise law articles had appeared online and in print. Regarding the upcoming E-Newsletter, Mr. Lederman and Mr. Juckniess stated that they were working on articles, and that the articles would be ready shortly. Mr. Lederman reported that he would be meeting with Mr. Bordman after the article due date, October 31, 2008, to review the articles. Mr. Lederman stated that he would make sure that the article writers received Mr. Bordman's feedback on their articles as soon as possible after the above meeting. Mr. Lederman emphasized that he, Mr. Bordman, and Ms. Barger of the State Bar had discussed and agreed on the formatting and production aspects and would produce the E-Newsletter with the articles written as of the above article due date, no matter how many or how few. After some discussion, the attendees decided that the top three articles would be student articles from our planned Fall 2008 student writing contest would appear in the planned Spring 2009 E-Newsletter.

Section Website: Mr. Lederman will continue to email the approved section meeting minutes for posting.

EDUCATION/SEMINAR COMMITTEE REPORT

The attendees discussed several seminar ideas, such as an antitrust real estate multi-listing service seminar and an antitrust tying seminar. At the next meeting, the attendees will decide on a late 2008 or early 2009 seminar.

PART-TIME ASSISTANT LAW STUDENT

Mr. Novak, Mr. Juckniess, and Mr. Wierenga had written and posted a job description. Four students have applied. The two most under consideration were:

Amanda Morris, Wayne State University, Third-Year Law Student, Law Review;

Justin Hakala, Wayne State University, Law Review, Moot Court, and Dean's Scholar;

Mr. Juckniess informed the attendees that Mr. Hakala had searched for and found the section website, reviewed the section minutes, and shown much interest in the section and its subject matter. Mr. Janis stated that he had interviewed Mr. Hakala. Mr. Lederman asked if either student could handle the assistant's duties, while working on their classwork and above outside activities. Mr. Juckniess responded that he would talk to the students about this. The attendees decided that if Mr. Hakala responded to Mr. Lederman's question in the affirmative, the section would offer the position to him based on his initiative and qualifications. Mr. Juckniess will inform us of his response.

The assistant's main task will be to collect and upload federal and state case, legislative, and regulatory developments into the e-newsletter. He/she will also manage the section's website and perform other necessary tasks. He/she will work 15-20 hours a month for \$400 a month during the school year.

UPCOMING SEMINARS

Since Stuart Bordman is an arbitrator on a franchise case, he will be keeping notes on his experience for a future franchise law seminar or webinar.

The attendees then discussed a possible Real Estate Multi-Listing and related areas antitrust seminar. Mr. Janis reported that he knew Mike Levan, a realtor serving as a realtor association officer. Mr. Graham suggested possible seminar ideas arising from the next presidential administration, whether a McCain or an Obama administration. The conferees also discussed Michigan Department of Attorney General antitrust investigations as a source of seminar subjects. Mr. Juckniess stated that the Department had reactivated its antitrust section. He also suggested that Mr. Novak and Mr. Renfro could present lunch seminars on the Department's efforts.

Next, the conferees discussed a trade regulation seminar focusing on Michigan Certificate of Need laws, a combination antitrust and health care law area. Several attendees discussed the idea of a joint Antitrust-Health Care Sections seminar. One member suggested a possible speaker: Jim Forsman of Miller Canfield, a Certificate of Need expert. The conferees discussed a possible early 2009 webinar lasting 1.5 hours.

Finally, the attendees decided to organize a half-day March 2009 seminar. They agreed to discuss speakers and subjects at the next section meeting.

STUDENT WRITING CONTEST

The conferees agreed to post the contest rules at area law schools, including University of Michigan, Wayne State Law School, Detroit College of Law, Cooley Law School, and University of Detroit, with a January 15, 2009 paper due date. The aim is to publish the three best papers in the Spring 2009 E-Newsletter.

NEW BUSINESS

The members discussed the section membership statistics and recognized that while our section is relatively small, our area is relatively specialized.

The conferees next discussed special events to promote membership cohesion and growth. Mr. Lederman suggested a Frisbee golf outing for Spring 2009. Another attendee suggested a pool outing for Winter 2009. A third member suggested a combination dinner-wine tasting. Other suggestions surfaced. The members decided to combine the next meeting with a social event. Mr. Juckniess agreed to find a suitable restaurant, whether in Ann Arbor, Novi, Northville, or another centrally located event.

A few members mentioned that the State Bar can compile a section directory. The attendees agreed to invite section members wanting their names, addresses, telephone numbers, email addresses, and practice area information, with or without photos, in the directory to forward their requests. Discussion on the directory will continue at a future meeting or meetings.

TREASURER'S REPORT

Mr. Janis reported that as of August 31, 2008, the section treasury had \$45,350.41. He reminded the attendees that they must forward all remaining section expenses incurred through September 30, 2008 by October 18, 2008.

NEXT MEETING

The next section meeting will be on Thursday, November 20, 2008, 6:00 PM, at Bella Ciao Restaurant, Second Floor, 118 West Liberty Street, Ann Arbor, Michigan 48104, (734) 995-2107.

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