

**STATE BAR OF MICHIGAN
BUSINESS LAW SECTION
COUNCIL MINUTES**

December 1, 2007

This meeting of the Council of the Business Law Section of the State Bar of Michigan was held at Dickinson Wright PLLC in Detroit, Michigan, on Saturday, December 1, 2007, pursuant to notice duly given. Council members present: Diane Akers, Judy Calton, David Eberhard, Dee Dee Fuller, Michael Khoury, Edwin Lukas, Christopher Maeso, Paul Rentenbach, Cynthia Umphrey (via telephone), Jeffrey Van Winkle, and Robert Wilson. Committee members present: James Breay (via telephone), Margaurite Donahue, Jane Forbes, Roger Mali, Judith Greenstone Miller, Daniel Minkus, Justin Klimko, Mark Peters, and Jerome Schwartz. Others present: Ann Baker, James Carey, John Decker, John Dresser, Mark High, Dan Kopka (ICLE), and Terri Shoop (Section Administrator).

1. Call to Order and Determination of Quorum. Section Chairperson, Michael S. Khoury, called the meeting to order at approximately 10:10 a.m. and determined with the other officers present that a quorum existed.

2. Approval of Minutes of September 20, 2007 Council Meeting. Mr. Khoury called for a motion to approve the Minutes of the Meeting of the Council from September 20, 2007. Pursuant to motion duly made and seconded, the Minutes were unanimously approved 13-0-0.

3. Treasurer's Report. A written Treasurer's Report is attached to these minutes. Mr. Wilson reported that the Section had an \$11,000 profit last year and is healthy. A copy of the proposed budget is attached to these minutes. No prior approval is needed for day to day spending. However, major expenditures must be approved by the Executive Committee. A motion to approve the Treasurer's Report was made and seconded and unanimously approved 13-0-0.

4. Chairperson's Report. Mr. Khoury reported that the next council meeting will be held on March 6, 2008. February 28, 2008 is the deadline for submitting committee and directorship reports to Terri Shoop. Report packages will be distributed on March 3, 2008.

(a) Update on Initiatives.

(i) E-Newsletter. Mr. Khoury reported that the e-newsletter will go out next week and that Jeff Van Winkle will be the new co-editor. The e-newsletter is a way for the Section to touch 90% of its members monthly. Overall it has received good reviews.

(ii) Historian Project. Mr. Khoury reported that several volunteers have sent pictures and recollections of early struggles, interviews, etc., however, no one has taken the lead to assemble the project. Mr. Khoury has interviewed writers who take on these kinds of projects that the Section may want to hire, however we will need to decide if \$5,000 to \$10,000 is a cost we want to invest. The Section may be able to get sponsors to help defray the cost.

(iii) Outreach. Mr. Khoury reported on a joint event that took place in November with the D. Augustus Straker Bar Association, Young Lawyers Section and the Hispanic Bar Association regarding intellectual property management. Participation of the Hispanic Bar Association was arranged by Chris Maeso. The event was attended by approximately 50 people and made page one in *Michigan Lawyers Weekly*. Straker would like this joint program to be an annual event and the Hispanic Bar Association, currently in reorganization mode, also likes the idea of joint programs in the future. Mr. Khoury will talk with the Programs Directorship to determine who can take the lead on an annual event.

Mr. Khoury also attended an Arab American Bar Association event to publicize the Section's efforts at broader participation with other organizations.

(iv) Amicus Briefs. The Section was asked by the Supreme Court to provide an amicus brief in *Estes v Titus*. The Debtor Creditor Rights Committee undertook this task and has done a wonderful job. When the Family Law Section reviewed this issue, they came to the same conclusion as the Debtor Creditor Rights Committee. However when they took it to their Council, they were divided and consequently filed an opposing brief.

(v) Demographics. Demographic reports were prepared by the State Bar of Michigan and are attached to these minutes. The reports indicate that the Section is getting old. Not many new lawyers are joining our Section and of the newly admitted Bar, only eight people have signed up. 20 percent of our membership is corporate counsel. One-third of our membership is in Oakland County. Mr. Khoury asked that the meeting attendees review the report and give consideration to the statistics for planning purposes. The Section is now the third largest section behind Probate and Real Estate. Our focus needs to be on new lawyers and tapping into markets we have not been in before.

(vi) Professional Investigator Licensure Act. Mr. Khoury reported that he was going to ask the Section to take a position against the Professional Investigator Licensure Act. He had discussions with forensic investigators and lobbyists for the Michigan Association of Private Investigators and discussed opposition to the bill from certain groups. Currently there is a revised bill which addresses many of the concerns that might be relevant to the Section, and electronic discovery is being excluded. As a result, Mr. Khoury indicated the Section will not need to take a formal position at this time. Please let Mr. Khoury know if you have an interest in this Act. Ann Baker will be our legislative liaison.

(vii) Committee Activities. The officers and council are charged each year with reviewing committee activity, developing transition plans, and making sure appropriate outreach is being made to members of the Bar. As a general rule, committees should hold at least two formal meetings per year. Mr. Khoury asked all committees to send a list of members to Terri Shoop. Mr. Khoury reported that there will be no changes in committee chairs at this time. He asked that committee chairs look for opportunities to bring new people into leadership roles, perhaps by adding co-chairs.

The e-newsletter is one way to let people know of committee activities.

Mr. Khoury reported that after the USA is completed, Cyril Moscow has asked to rotate off as co-chair of the Corporate Laws Committee.

Mr. Khoury called for a motion to approve the all existing committee chairs and directorships. Pursuant to motion duly made and seconded, the motion was unanimously approved 13-0-0.

(b) Sunset Agricultural Committee. Several years ago Will Tishkoff wanted to establish an Agricultural Committee. John Dresser agreed to co-chair the committee and then Will Tishkoff became inactive. The Section has decided to retire the Committee. A motion was made to retire the Agricultural Committee. The motion was seconded was unanimously approved 13-0-0.

(c) Proposed New Committee: Law Schools Committee. Ed Lukas will speak on this topic later in the meeting.

(d) SBM Services. Mr. Khoury reported that the Section paid roughly \$3,000 last year in public relations fees regarding the Schulman Award. The State Bar of Michigan has now made available at no charge or a nominal fee: (i) graphic design at \$50 per hour; (ii) press releases at no charge; and (iii) an 800 number for telephone conferencing which is available 24/7 at a cost of five cents per minute per line. Before spending any money on public relations, please check to see if the SBM can provide the needed services at no cost or a nominal fee.

6. Committee/Directorship Reports.

a. Standing Committees.

(i) Commercial Litigation Committee. A written report of the Commercial Litigation Committee is attached to these minutes. Ms. Akers reported that the Task Force on Attorney Client Privilege is disbanded, its recommendation was approved, and the House has passed the Attorney Client Privilege Act of 2007. Ms. Akers will take over as chair of the Section in September. At that time she will resign as Chair of the Commercial Litigation Committee. The Committee will need a new chair and co-chair.

(ii) Corporate Laws Committee. A written report of the Corporate Laws Committee is attached to these Minutes. A lengthy discussion ensued regarding opposition to portions of the bills designed to address the *Miller v Allstate* decision. Mr. Klimko reported that the Supreme Court has asked the Section to prepare an amicus brief on whether or not *Miller v Allstate* should be upheld. The brief would be due in March. After further discussion, Council asked the Committee to prepare the brief.

(iii) Debtor/Creditor Rights Committee. A written report of the Debtor/Creditor Rights Committee is attached to these Minutes. The Committee is seeking council approval with respect to taking a position opposing the proposed amendments to the Federal Rules of Bankruptcy Procedure to increase the time to take an appeal from 10 days to 30 days. The amendments are

uncontroversial. The Committee is seeking authority to write a paper opposing the change or signing on with other groups who are opposing and want to testify. A motion was made by Judy Calton and seconded by Chris Maeso to take a position against the proposed amendments to the Federal Rules of Bankruptcy Procedure. The motion passed unanimously 13-0-0.

The Committee is seeking Council approval to engage Karoub & Associates to lobby in favor of passage of amendments to MCLA 600.6023 and repeal of MCLA 600.5451 for a flat fee of \$5,000. After discussion, a motion was made by Judy Calton and seconded by Paul Rentenbach for \$5,000 in funding to engage Karoub & Associates to lobby as described above. The motion passed unanimously 13-0-0.

(iv) Financial Institutions Committee. A written report of the Financial Institutions Committee is attached to these Minutes. Mr. Breay reported that a meeting was held on November 19, 2007 at the Detroit Branch of the Federal Reserve of Chicago. The speakers were Kenneth Ross and Samuel Kahan and the Committee was given a tour of the new facility of the Detroit Branch.

(v) In-House Counsel Committee. No report. Paul Marcela has resigned as Chair of the Committee and Matthew Case is the new Chair.

(vi) Nonprofit Corporations Committee. A written report of the Nonprofit Corporations Committee is attached to these Minutes.

(vii) Regulation of Securities Committee. A written report of the Regulation of Securities Committee is attached to these Minutes. The Committee held a meeting in June which was attended by 20 people. The Committee has 60 members.

(viii) Uniform Commercial Code Committee. A written report of the Uniform Commercial Code Committee is attached to these Minutes.

(ix) Unincorporated Enterprises Committee. A written report of the Unincorporated Enterprises Committee is attached to these Minutes.

b. Ad Hoc Committees.

(i) Uniform Securities Act (2002). No written report. The Committee continues to work on an informal basis.

(ii) Business Court. No written report. The Business Court process has been stalled.

(iii) Lobbyist Issues. No report.

(iv) PR Developments. The Section had tables at the Solo & Small Firm Institute and Family Law Institute. Eric Lark worked with Theresa O'Dea and prepared brochures.

c. Directorship Reports.

(i) Legislative Review Directorship. No report.

(ii) Nominating Directorship. A written report of the Nominating Director is attached to these Minutes. Mr. Khoury stated that next year there will be two open positions where council members are term limited and we need to start thinking about replacements. Only one person from each firm can be on council.

(iii) Programs Directorship. A written report of the Programs Director is attached to these Minutes. Mr. Peters reported that the speakers are locked in for the Business Law Institute. We are still looking for entertainment to follow the dinner. Sponsorship is going well. Almost all of the sponsors from last year have signed up again. Additionally, we have been contacted by other companies who have asked to be sponsors. ICLE has proposed an increase of \$1,500 this year and \$1,500 next year with respect to their fee for the Business Law Institute. The increased fee is reflective of increased costs. The Business Law Institute will be held in June at the Dearborn Inn. The Section hopes to see an increase in attendance.

a. Small Business Forum. A written report of the Small Business Forum is attached to these Minutes.

b. ICLE Liaison. A written report of the ICLE Liaison is attached to these Minutes.

(iv) Publications Directorship. A written report of the Publications Director is attached to these Minutes. Mr. Wilson reported that the Section is thinking of incorporating advertising into the *Business Law Journal*. We are looking for articles for the *Business Law Journal* with respect to In House Counsel topics for July 2008.

(v) Section Development. A written report of the Section Development Director is attached to these Minutes. Mr. Mali reported that it is recommended that the annual law school scholarship contest be terminated. Participation has been light, and it does not seem that the Section receives an appropriate return on its investment for this activity. Mr. Carey stated that the law schools are not happy with the termination of this program. Mr. Lukas stated that the Section got in front of a large number of students but only received a small number of submissions and quality was poor.

The Directorship would like to hold a cocktail reception in the City of Detroit in the spring or fall of 2008. The event would be purely social.

(vi) Technology. A written report of the Technology Director is attached to these Minutes.

7. Liaison to Law Schools Report. A written report of the Law Schools Liaison is attached to these Minutes. Mr. Lukas reported that he feels that a liaison to the law schools is important so that when law students graduate they will participate and join the Section. Mr. Lukas wants to institutionalize the Section's participation with the various law schools and proposed the creation of the Law Schools Committee. Committee members would serve as liaisons to one of each of the six Michigan law schools. This would personalize our relationship and make our participation routine. A motion was made to establish a Law Schools Committee with Ed Lukas as Chair. The motion was seconded and passed unanimously 13-0-0.

8. Other Business and Announcements. None.

9. Announcement of March 6, 2008 Council Meeting. The next meeting of the Business Law Section Council will take place at 3:00 p.m. or 3:30 p.m. at the State Bar of Michigan in Lansing.

10. Meeting Adjournment. There being no further business to come before the Council of the Business Law Section, upon motion duly made, seconded, and unanimously approved (13-0-0), the meeting was adjourned at approximately 12:30 p.m.

Respectfully submitted,

By: _____
Dee Dee Fuller, Secretary