

STATE BAR OF MICHIGAN - BUSINESS LAW SECTION
COUNCIL MINUTES

December 7, 2019

Pursuant to notice duly given, a meeting of the Council of the Business Law Section of the State Bar of Michigan was held at Butzel Long in Bloomfield Hills, Michigan on December 7, 2019. Council members present were Jennifer Consiglio, Julia Dale, Bruce Haffey, Shane Hansen (via telephone), Mark Kellogg, Michael Molitor (via telephone), James Waggoner, Ian Williamson (via telephone), and Christopher Yates (via telephone). In addition, Committee Chairs, Directors and Liaisons present were Amber Beebe (via telephone) Kevin Block, Judy Calton, Marguerite Donahue, Dee Dee Fuller (via telephone), Loukas Kalliantasis, Jordan Segal (via telephone), and Douglas Toering. Others present were Alexis Derrossett and Terri Shoop.

1. Call to Order and Determination of Quorum. Section Chair Jennifer Consiglio called the meeting to order at approximately 10:00 a.m. and determined that a quorum was present.

2. Approval of Minutes of October 4, 2019 and October 5, 2019 Council Meetings. Ms. Consiglio called for a motion to approve the Minutes of the October 4, 2019 and October 5, 2019 Council meetings. A motion was made to approve the Minutes. The motion was seconded and unanimously approved, 9-0-0.

3. Treasurer's Report. A written Treasurer's Report was provided to Council. A discussion ensued regarding lower Section participation and dues.

4. Chair's Report.

A. Support of MI Coalition for Impartial Justice's Proposed Amendment to Judicial Canon 2(F). Ms. Consiglio reported on the proposed amendment to the Code of Judicial Conduct 2(F). Judge Yates reported that this topic will be discussed at the next Judicial meeting. The judges are not in favor of this amendment and he expects opposition to it. Judge Yates believes the Section should not be involved in this matter. This matter will be further discussed at the March Council meeting.

B. Interim Executive Committee Action. Ms. Consiglio reported that the Section has purchased a laptop, including anti-virus protection, which will be used by Terri Shoop and owned by the Section.

C. Other Activity. Ms. Consiglio reported that she has been contacted by Kevin Francart of the State of Michigan Office of the Chief Compliance Officer. Consideration is being given to the establishment of a new section, the Compliance and Ethics Law Section. Mr. Francart is contacting sections that may have a conflict with a Compliance and Ethics Law Section. Mr. Francart reviewed the *Business Law Journal* and stated that in 20 plus years, only one article was done on the field of compliance. He believes compliance and ethics is its own discrete and specialized area and that the community would be better served with its own section.

A discussion ensued on this topic. Ms. Consiglio will contact Mr. Segal to discuss and then Mr. Segal will contact Mr. Francart and report to Council at the March meeting.

Ms. Consiglio reported that she has started a discussion with Mike Scott and will be reaching out to PR firms with respect to marketing for the Section. A discussion ensued regarding marketing materials, social media, how to get new lawyers involved in the Section, activities to bring people together, law school events, and annual events.

5. Committee/Directorship Reports.

A. Standing Committees.

(i) Business Courts Committee. Written reports have been provided by the Business Courts Committee. Judge Yates reported that new business court judges have been added. The judges meet quarterly and are open to presentations to the business court bench.

(ii) Commercial Litigation Committee. Written reports have been provided by the Commercial Litigation Committee. Mr. Toering reported that the Committee co-sponsored with the Litigation Section *New Discovery Rules and the Business Courts* on October 15 in Troy. It was well-received and well-attended. Consideration is being given to a similar program in western Michigan.

(iii) Corporate Laws Committee. Written reports have been provided by the Corporate Laws Committee. Mr. Molitor reported that a task force is examining the oppression provisions of the Business Corporation Act and the Limited Liability Company Act.

(iv) Debtor/Creditor Rights Committee. Written reports have been provided by the Debtor/Creditor Rights Committee. Ms. Calton reported that the Committee drafted and obtained approval to advocate adoption of the Michigan Uniform Assignment of Rents Act (the "MUARA"). The MUARA was introduced in the House on October 8, 2019, H.B. 5086, along with a companion bill H.B. 5092. Section 5, subparagraph (5) of H.B. 5086 and subparagraph 7 of H.B. 5092 provide that a construction lien does not take priority over a perfected assignment of rents under MUARA. Some construction groups have raised concerns as to those provisions. The members of the Committee voted unanimously at its November 18, 2019 meeting to remove those provisions so there would be less controversy about passage of the bill, and the relative priority would be determined by other statutes and case law. The Committee is seeking authority to advocate passage of H.B. 5086 without the provision. A motion was made to advocate passage of H.B. 5086 without the Section 5, subparagraph (5) provision. The motion was seconded and passed, 9-0-0.

(v) Financial Institutions Committee. A written report has been provided by the Financial Institutions Committee.

(vi) In-House Counsel Committee. No written report. Mr. Segal reported that he has reached out to ACP regarding developing programs and co-sponsoring events. The Committee hopes to host its first event by year's end.

(vii) Law Schools Committee. Written reports have been provided by the Law Schools Committee.

(viii) LLC & Partnership Committee. Written reports have been provided by the LLC & Partnership Committee. Mr. Kalliantasis reported that a first quarter meeting will be scheduled to review the LLC Act.

(ix) Nonprofit Corporations Committee. Written reports have been provided by the Nonprofit Corporations Committee.

(x) Regulation of Securities Committee. Written reports have been provided by the Regulation of Securities Committee.

(xi) Small Business Forum. Written reports have been provided by the Small Business Forum.

(xii) Uniform Commercial Code Committee. No report.

B. Directorship Reports.

(i) Communication & Development Directorship. Written reports have been provided by the Communication & Development Directorship.

(ii) Diversity & Inclusion. A written report has been provided by the Diversity & Inclusion Directorship.

(iii) Legislative Review Directorship. A written report has been provided by the Legislative Review Director.

(iv) Nominating Directorship. Written reports have been provided by the Nominating Director.

(v) Programs Directorship. Written reports have been provided by the Programs Directorship.

a. ICLE Liaison. Written reports have been provided by the ICLE Liaison. ICLE requests that the Section co-sponsor the following webcast at no cost to the Section:

i. Form a Non-Profit (available date of March 18, 2020).

A motion to approve Section co-sponsorship of the referenced webcast was made, seconded, and passed, 9-0-0.

(v) Publications Directorship. No report.

D. Liaisons.

(i) Probate Section. No report.

(ii) Young Lawyers Section. No report.

6. Other Business and Announcements. Ms. Dale reported on various leadership changes at the State. Mr. Toering raised the topic of free Section membership for up to two in-house attorneys per company. A discussion ensued regarding this topic.

7. Announcement of March 12 Council Meeting. The next Council meeting will take place on March 12, 2020 at 3:30 p.m. at the State Bar of Michigan in Lansing.

8. 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 9-0-0, the meeting was adjourned at 11:07 a.m.

Respectfully submitted,

By: _____
Mark Kellogg
Secretary