

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

**March 8, 2012**

Pursuant to notice duly given, a meeting of the Council of the Business Law Section of the State Bar of Michigan was held at the State Bar of Michigan, Lansing, Michigan on Thursday, March 8, 2012. Council members present were Matthew Allen, Kevin Block, Judy Calton, James Carey, Matthew Case (via telephone), Jennifer Consiglio, Julia Dale, Marguerite Donahue, Edwin Lukas, Chris Maeso, Thomas Morris, and Douglas Toering, Committee members present were Diane Akers, Jane Forbes, Dee Dee Fuller, Mark High, Justin Klimko, Mark Peters, Jerome Schwartz, Dan Sharkey and Kim Yapchai (via telephone). Others present were Jeffrey Ammon, W. Jerry Byrd, Michael Khoury, John McNeu, Terri Shoop (via telephone), and John Stockdale, Jr.

1. Call to Order and Determination of Quorum. Section Chairperson, Edwin Lukas, called the meeting to order at approximately 3:00 p.m. and determined that a quorum was present.

2. Approval of Minutes of December 3, 2011 Council Meeting. Mr. Lukas called for a motion to approve the Minutes of the meeting of the Council from December 3, 2011. Pursuant to motion duly made and seconded, the Minutes were unanimously approved 12-0-0.

3. Treasurer's Report. A written Treasurer's Report is attached to these Minutes.

4. Chairperson's Report.

A. Update on SBM Social Networking Policy. Mr. Lukas reported that he advised Council of the SBM's proposed Social Media Policy at the December meeting and a draft of the Policy was distributed and comments were solicited. No comments to the Policy were received. The SBM reports that the Policy is being revised in light of comments received from other Sections. A revised draft Policy is expected sometime next week.

B. Section Development Outstate Representatives. Mr. Lukas reported that, at the December Council meeting, the Section Development Directorship suggested that the Section consider appointing liaisons in strategic locations throughout the State in an effort to assist the Section with section development activities. The Executive Committee discussed the issue thoroughly and supports the idea. The Section should identify candidates who are active in their local bar associations who would facilitate communication and planning on a local level. Mr. Lukas proposed that the Executive Committee work together with Section Development at identifying candidates in the following organizations: Genesee and Saginaw County Bar Associations (covering Flint, Saginaw and mid-Michigan); Grand Rapids and Kalamazoo County Bar Associations (covering the Southwest Michigan); Macomb County Bar Association; Ingham County Bar Association (covering Lansing); Grand Traverse/Leelanau/Antrim Bar Association (covering Northern Michigan); and the Washtenaw County Bar Association (covering Ann Arbor). At a high level, the liaisons would work together with the Section

Development Directors, communicate with them regarding presentations and programs, and ensure that the members of the local bar associations are kept apprised of Section events. The goal is to identify potential candidates within each of these organizations in advance of the May Council meeting and present them for Council's consideration and approval at that time.

C. Public Relations and Social Media Directorship. Mr. Lukas reported that, at the December Council meeting, the Section Development Directorship suggested that the Section consider hiring a new public relations firm in an effort to increase awareness of the Section's activities. The Section currently works with Mike Scott on a fairly limited basis. Mr. Scott has established and maintains the Section's Facebook page and LinkedIn site. He periodically supports the Small Business Forum, and assists with advertisements and public relations related to the Schulman Award. The State Bar of Michigan provides a host of complimentary event support services. For that reason, the Executive Committee is reluctant to pay another outside firm to assist the Section. The Executive Committee suggests, however, creating a directorship for the purpose of member relations and social media. The directorship would be responsible for developing a communications strategy and coordinating the distribution of information relating to programming, events and development. The director could provide details to the SBM liaison responsible for drafting and circulating press releases and coordinate with the respective committees on these matters. Mr. Lukas requested a motion (1) to establish, as a standing directorship of the Section, the directorship of Member Relations and Social Media, and (2) for the Council to delegate to the Executive Committee, subject to ratification by Council at the May Council meeting, authority to appoint the initial director of such directorship. The motion was made, seconded and passed unanimously 12-0-0.

D. Uniform Law Commission Business Entity Acts. Mr. Lukas reported that in February, the Section was contacted by a Uniform Laws Commissioner encouraging the Section to review and potentially enact one or more Uniform Acts dealing with business entities. The Unincorporated Enterprises Committee remains active on the LLC Act amendments. Among the other acts mentioned by the Uniform Laws Commissioner were the Revised Uniform Partnership Act and Uniform Limited Partnership Act. The Unincorporated Enterprises Committee will explore whether there would be any benefit to harmonizing the Michigan partnership act and limited partnership act with the respective uniform acts. The Committee will keep Council abreast of any related developments that come out of its meeting on April 24, 2012.

E. Michigan Community Resources. Mr. Lukas reported that, since 1998, Community Legal Resources (CLR) has been providing pro bono legal and technical assistance to nonprofit organizations that serve low income individuals and communities. Since that time, CLR has grown from 4 to 17 employees, relocated their Detroit office, and added a Lansing branch. They also offer new ways to help their clients by providing technical, planning and educational assistance in addition to their legal services. CLR recently changed its name to Michigan Community Resources in an effort to better use a name that better represents its more diversified role and expanded geographic service area.

F. Invitation to Comment on Proposed Amendments to Michigan Court Rules. Mr. Lukas reported that the Section was invited to comment on or support proposed court rule amendments. The proposed amendments were distributed in January and essentially address matters such as electronic filings, the garnishment rule, and reproduction fees. Mr. Lukas stated

that he asked the Commercial Litigation Committee to provide a brief summary of the proposed amendments and recommend a position for Council's consideration.

G. Co-Sponsorship of Luncheon with Michigan Liquor Control Commission. Mr. Lukas reported that the Administrative & Regulatory Law Section invited the Section to co-sponsor a luncheon with the Michigan Liquor Control Commission on Feb. 22, 2012. The Section declined the invitation. However, flyers for the event identifying the Section as a co-sponsor were created based on a misunderstanding. That Section requested permission to e-blast the flyer to our membership. After consulting with a few committee chairs, it was concluded that, despite the absence of any financial or programming commitment by the Section, some Section members may be interested in the event. Therefore, permission was granted to the Administrative & Regulatory Law Section to send the flyer electronically to Section members.

H. Meeting with Engineering Society of Detroit Institute. Mr. Lukas reported that he and Ms. Donahue met with the Engineering Society of Detroit Institute (ESDI) in January. The ESDI reaches 60,000 professionals including over 3,000 companies and 50 unions. They frequently host symposia and publish reports outlining their findings. The Section was invited in an effort to explore with ESDI whether there are any immediate opportunities for the Section to co-sponsor programs and actively participate in committees that may develop in the future. It was concluded that the Section should refrain from pursuing joint activities with ESDI at this time. To the extent that the Section desires to reach out to the greater business community and engage in crossover programming, the ESDI would be a fine organization to consider for this purpose.

5. Committee/Directorship Reports.

A. Standing Committees.

(i) Commercial Litigation Committee. A written report of the Commercial Litigation Committee is attached to these Minutes. Mr. Sharkey gave a summary of the proposed court rule changes. He stated that there are three very routine main changes. One change is that, in every instance where documents are mentioned, the rules make it clear that electronic records are included. The signature rule is changed so “/s/” is acceptable. The second change involves access and reproduction fees and states that a cost must be related to the actual cost of labor and supplies. The third change involves the garnishment rule and states that the court form must be used and that a plaintiff may send documentation to a garnishee defendant. The Committee supports the proposed changes. A motion was made for Council to support the proposed amendments as written. The Section will report back to the SBM regarding its support. The motion was seconded and passed unanimously 12-0-0.

Mr. Sharkey reported that the Committee is monitoring amendments to the service of process rules. The proposed update makes it clear that a corporation and limited liability company can be served by certified or registered mail.

(ii) Corporate Laws Committee. A written report of the Corporate Laws Committee is attached to these Minutes. Mr. Klimko discussed proposed Amendments to the Business Corporation Act. He indicated that the Committee would like to engage Karoub Associates to have a bill introduced as soon as possible in the 2011-2012 legislative session that would implement the Section's requested legislative changes regarding amendments to the Michigan Business Corporation Act and Professional Service Corporation Act. The fee for Karoub's lobbying services is \$5,000. The proposed Agreement for Services with Independent Contractor with Karoub was distributed to Council before this meeting. A motion was made to approve the Section entering into the Agreement. The motion was seconded and passed unanimously 12-0-0.

(iii) Debtor/Creditor Rights Committee. A written report of the Debtor/Creditor Rights Committee is attached to these Minutes. Ms. Calton reported that the Committee is co-sponsoring an event with the Federal Bar Association – Eastern District of Michigan Chapter, Bankruptcy Committee on the March 21, 2012 where the Honorable Steven Rhodes will speak on his new book, *The Ponzi Book: A Legal Resource for Unraveling Ponzi Schemes*.

(iv) Financial Institutions Committee. A written report of the Financial Institutions Committee is attached to these Minutes.

(v) In-House Counsel Committee. A written report of the In-House Counsel Committee is attached to these Minutes. Ms. Yapchai reported that the Committee has finalized a webinar on April 18, 2012 regarding optimizing LinkedIn presence. The date of the Crain's event has been moved to April 25, 2012.

(vi) Law Schools. A written report of the Law Schools Committee is attached to these Minutes.

(vii) Nonprofit Corporations Committee. A written report of the Nonprofit Corporations Committee is attached to these Minutes. Ms. Forbes reported that on February 23, 2012 the Committee approved the proposed amendments to the Nonprofit Corporation Act and the amendments to the related statutes. A motion was made for Council to support the proposed amendments to the Nonprofit Corporation Act and related statutes. The motion was seconded and passed unanimously 12-0-0.

(viii) Regulation of Securities Committee. A written report of the Regulation of Securities Committee is attached to these Minutes.

(ix) Uniform Commercial Code Committee. A written report of the Uniform Commercial Code Committee is attached to these Minutes. Mr. Lukas reported that it appears that revised Articles 1, 7 and 9 of the UCC will be enacted by the Michigan legislature sometime this year. If and when that happens, the UCC Committee proposes that the Section hold a seminar on the new legislation

soon after its enactment. The Programs Directorship was consulted and the Directorship thought that such a seminar would be a good idea. ICLE will be consulted regarding a potential co-sponsorship.

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

B. Ad Hoc Committees.

(i) Business Courts. A written report of the Business Courts Ad Hoc Committee is attached to these Minutes. Ms. Akers reported that the Governor is asking for Council to support the Business Court Bill. The revised Bill is much improved from the version shown to Council in December. The Committee conveyed concerns to Mr. Gadola with respect to the previous bill. The new Bill indicates that every circuit in the state with at least three judges is required to have a business docket. E-filing will not be mandatory and the docket will be left to each individual circuit. Each circuit must write its own plan for the business court. The opt-out provision is no longer part of the Bill. This will bring uniformity throughout state. A detailed discussion ensued regarding the particulars of the Bill.

(ii) Diversity. A written report of the Ad Hoc Diversity Committee is attached to these Minutes.

C. Directorship Reports.

(i) Legislative Review Directorship. A written report of the Legislative Review Director is attached to these Minutes.

(ii) Nominating Directorship. A written report of the Nominating Director is attached to these Minutes.

(iii) Programs Directorship. A written report of the Programs Director is attached to these Minutes.

a. Small Business Forum. A written report of the Small Business Forum is attached to these Minutes. Mr. Toering reported that the Forum and Commercial Litigation Committee will jointly sponsor a sequel seminar on Business Courts on March 29, 2012 in Troy.

b. ICLE Liaison. A written report of the ICLE Liaison is attached to these Minutes. Ms. Donahue reported that the Section has been asked to sponsor the Solo and Small Firm Institute. Two hundred sixty-five solo and small firm practitioners attend this meeting, and approximately 10% of participants are business lawyers. The Institute includes breakout sessions and Mr. Ammon will present a business law update. A discussion ensued regarding the Section's potential sponsorship. A motion was made to sponsor the Solo and Small Firm Institute at the \$2,500 level with monies being allocated first to

business lawyer scholarships, second to other scholarships, and third to the event in general. The motion was seconded and passed unanimously 12-0-0.

(iv) Publications Directorship. A written report of the Publications Director is attached to these Minutes.

(v) Section Development. A written report of the Section Development Director is attached to these Minutes.

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

D. Liaisons.

(i) Probate Section. No report.

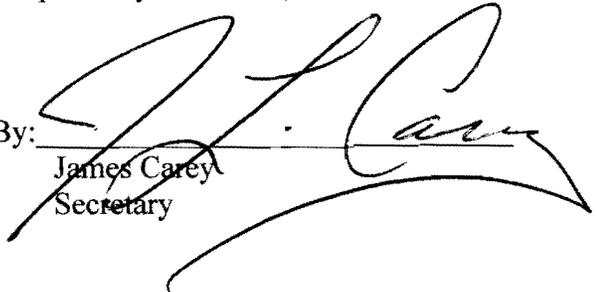
(ii) Environmental. No report.

6. Other Business and Announcements. Ms. Dale reported the Corporation Division is implementing a new database. This will result in the termination of the Mich-Elf filing system and will be replaced with an online filing system. The target date for this change is June.

7. Announcement of May 4, 2012 Council Meeting. The next meeting of the Business Law Section Council will take place on Friday, May 4, 2012 at 11:00 a.m. at the Amway Grand Plaza Hotel in Grand Rapids. Reports for this meeting will be due by April 26, 2012.

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 12-0-0, the meeting was adjourned at approximately 4:35 p.m.

Respectfully submitted,

By:   
James Carey  
Secretary