

STATE BAR OF MICHIGAN - BUSINESS LAW SECTION
COUNCIL MINUTES

September 26, 2015

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 Amway Grand Plaza Hotel in Grand Rapids, Michigan on Saturday, September 26, 2015. Council members present were Kevin Block, Judy Calton, Jennifer Consiglio, Julia Dale, Mark Kellogg, Mark Peters, Richard McDonald, John Schuring, Aaron Silver, Douglas Toering, and Christopher Yates. In addition, Committee Chairs and Directors present were Marguerite Donahue, Dee Dee Fuller, Patrick Haddad, Mark High, Justin Klimko, Eric Lark, Richard McDonald (via telephone), and Daniel Minkus. Others present were James Carey, Lisa Geherin, Laura Johnson, Michael Houry, and Terri Shoop.

1. Call to Order and Determination of Quorum. Section Chairperson Douglas Toering called the meeting to order at approximately 9:02 a.m. and determined that a quorum was present.

2. Approval of Minutes of June 4, 2015 Council Meeting. Mr. Toering called for a motion to approve the Minutes of the June 4, 2015 Council meeting. Pursuant to motion duly made and seconded, the Minutes were unanimously approved, 11-0-0.

3. Treasurer's Report and Presentation of Proposed Budget. A written Treasurer's Report including a proposed budget had been previously provided to Council. A motion was made to approve the draft budget as presented for fiscal year 2015-2016. The motion was seconded and unanimously approved, 11-0-0. Ms. Calton reported that the current fiscal year end is September 30, 2015. All outstanding expenses should be submitted to Mark Peters as soon as possible, but no later than October 4, 2015.

4. Council Approval of Committee Chair, Directorship and Liaison Appointments. The proposed Chairs of the Section's Committees, Directors of the Section and Liaisons to the Section are:

- (i) Business Courts Committee. Douglas Toering.
- (ii) Commercial Litigation Committee. Douglas Toering.
- (iii) Corporate Laws Committee. Justin Klimko.
- (iv) Debtor/Creditor Rights Committee. Judy Calton and Judith Miller.
- (v) Financial Institutions Committee. DJ Culkar.
- (vi) In-House Counsel Committee. Vacant.
- (vii) Law Schools Committee. Mark Kellogg.
- (viii) LLC & Partnership Committee. Vacant.

- (ix) Nonprofit Corporations Committee. Jane Forbes and Jennifer Oertel.
- (x) Regulation of Securities Committee. Patrick Haddad.
- (xi) Small Business Forum. Bruce Haffey.
- (xii) Uniform Commercial Code Committee. Darrell Pierce.
- (xiii) Communication & Development Directorship. Kevin Block, Jennifer Consiglio, Julia Dale, Mark High, Edwin Lukas, and Justin Peruski.
- (xiv) Legislative Review Directorship. Eric Lark.
- (xv) Nominating Directorship. Dee Dee Fuller.
- (xvi) Programs Directorship. Dee Dee Fuller, Eric Lark, Christopher Maeso, Daniel Minkus, Mark Peters.
 - a. ICLE Liaison. Marguerite Donahue.
- (xvii) Publications Directorship. Richard McDonald.
- (xviii) Probate Section Liaison. John Dresser.

A motion was made and seconded to approve the Committee Chairs, Directors and Liaisons as presented. The motion was unanimously approved, 11-0-0.

5. Chairperson's Report.

A. Chair Vacancies.

(i) Financial Institutions Committee. Mr. Toering reported that the Financial Institutions Committee has been Co-Chaired by DJ Culkar and Amy Durant. Ms. Durant is now with the Consumer Financial Protection Bureau in Washington, DC and will no longer be able to serve as Co-Chair of the Committee. David Barton has expressed an interest in co-chairing the Committee and this opportunity is being explored.

(ii) In-House Council Committee. Mr. Toering reported that Bharat Gandhi has resigned his position as Chair of the In-House Council Committee. Mr. Toering will speak with Kim Yapchai regarding suggestions for a new Chair of the Committee.

(iii) LLC and Partnership Committee. Mr. Toering reported that Marla Carew has resigned her position as Chair of the LLC and Partnership Committee. Mr. Toering is seeking suggestions for candidates to chair the Committee.

B. Amicus Brief. Mr. Toering reported that on June 10, 2015 the Michigan Supreme Court invited the Business Law Section and the Family Law Section to prepare Amicus Briefs in Allard v Allard. The brief is likely to be due on November 11 (November 12 due to the

Veterans Day holiday), but may be extended by leave of the Court. The Section will take positions on several matters affecting this case, but will not address every issue before the Court in this appeal of a divorce decree. The Section will confine its brief to matters involving the ownership of property by limited liability companies (LLCs), the ownership and transferability (or lack of transferability) of LLC membership interests, and how charging orders can be used to allocate the economic value of one person's membership interests without needing to transfer the membership interests to another person because such transfers without member approval could be in violation of the statute and/or the LLC's operating agreement. James Carey has volunteered to chair the ad-hoc Amicus Brief Committee. James Cambridge, Daniel Minkus and Donald DeLong have agreed also be part of the committee.

Christopher Yates reported that the Business Court judges are interested in a further training program with the Section. This could possibly occur with MJI or ICLE. The Section will consider pursuing further training for the judges.

C. Timing for Event Advertising. Mr. Toering reported that the State Bar of Michigan has adopted new procedures with respect to events. Please allow 30 days lead time for all future events in which SBM assistance is required.

Mr. Toering reported that the Section will be partnering with the ADR Section to host *Business Courts and Early ADR: The Latest From Bench and Bar* on November 12 in Troy. Seven judges from Wayne, Oakland, Macomb and Kent Counties and three attorneys will sit on the panel.

Mr. Toering commented on the importance of recruiting new attorneys for the Section. The Communication & Development Directorship will head up this effort. Mr. Toering indicated that it is important for senior partners to encourage newer attorneys at their firms to engage with the Section.

Mr. Toering reported that Hugh Makens asked that the Section consider some type of recognition or award in Alan Schenk's name. A discussion ensued regarding possibilities in connection with this idea.

Mr. Toering reported that he was approached by an attendee at the BLI, Fang Liu. Ms. Liu presented an issue regarding Chinese nationals not being able get driver's licenses in Michigan. She asked the Section to address this hardship. A discussion ensued. Mark High will follow up with Ms. Liu.

6. Committee/Directorship Reports.

A. Standing Committees.

(i) Business Courts Committee. A written report was provided by the Business Courts Committee. Mr. Toering and Judge Yates discussed the amendment to the Business Court Act.

(ii) Commercial Litigation Committee. A written report was provided by the Commercial Litigation Committee. Mr. Toering reported that the Committee has established various subcommittees.

(iii) Corporate Laws Committee. A written report was provided by the Corporate Laws Committee. Mr. Klimko reported on *Frank v Linkner*.

(iv) Debtor/Creditor Rights Committee. A written report was provided by the Debtor/Creditor Rights Committee. Ms. Calton reported on the amicus request in connection with MCR 2.622. Ms. Calton reported that the Committee will co-host with the Eastern District of Michigan bankruptcy judges a seminar on December 1, 2015 regarding the amendments to the court rules and bankruptcy forms.

(v) Financial Institutions Committee. No report.

(vi) In-House Counsel Committee. No report.

(vii) Law Schools Committee. A written report was provided by the Law Schools Committee.

(viii) LLC & Partnership Committee. A written report was provided by the LLC & Partnership Committee.

(ix) Nonprofit Corporations Committee. A written report was provided by the Nonprofit Corporations Committee. Michael Khoury reported that the Committee recently distributed a survey to Committee members to understand what they want most from Committee membership. Survey results demonstrated that members value educational opportunities, quarterly meetings, and periodic gatherings with other lawyers practicing in the nonprofit sector.

(x) Regulation of Securities Committee. A written report was provided by the Regulation of Securities Committee.

(xi) Small Business Forum. A written report was provided by the Small Business Forum.

(xi) Uniform Commercial Code Committee. No report. Mr. Khoury reported that the UCC Committee had a conference call meeting three weeks ago. Topics discussed were current developments and CLE.

B. Directorship Reports.

(i) Communication & Development Directorship. A written report was provided by the Communication and Development Directorship. Kevin Block reported that on October 24, 2015 the Section will host a social event in connection with the A (Habeas) Chorus Line production. Registration for the

event includes dinner and drinks at Crispelli's before the show and a ticket to the event.

(ii) Legislative Review Directorship. A written report was provided by the Legislative Review Director.

(iii) Nominating Directorship. A written report was provided by the Nominating Director.

(iv) Programs Directorship. A written report was provided by the Programs Directorship. Feedback on the Business Law Institute has been positive. The format for the 2016 program will mirror the 2015 format. Lisa Geherin indicated that available dates for next year's program are September 30-October 1 at the JW Marriott or October 6-8 at the Amway.

a. ICLE Liaison. A written report was provided by the ICLE Liaison. Marguerite Donahue reported that ICLE has asked the Section to co-sponsor the following webcasts at no cost to the Section:

- i. Changes to the Nonprofit Corporation Act – November 2015.
- ii. Trends in Business Court Practices – January 2016.
- iii. International Business – April 2016.

Co-sponsorship of the above webcasts was approved by consensus.

(v) Publications Directorship. A written report was provided by the Publications Director.

C. Liaisons.

(i) Probate Section. No report.

7. Announcement of December 5, 2015 Council Meeting at Butzel Long in Bloomfield Hills. The next meeting of the Business Law Section Council will take place on December 5, 2015 at Butzel Long in Bloomfield Hills at 10:00 a.m.

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 11-0-0, the meeting was adjourned at approximately 10:40 a.m.

Respectfully submitted,

By: _____
Kevin Block

Secretary