

**Minutes of the Monthly Meeting of the  
MSBA Antitrust Law Section Governing Council  
MSBA Offices  
August 11, 2010**

- I. Attendees:** Please see the attached attendance list.
- II. Approval June 10, 2010 Minutes.** The Council approved the minutes of the June 10, 2010 meeting.
- III. Chair's Report.** Mr. Coleman reported that the MSBA's legislative staff had advised sections of their ability to comment on pending legislation. Mr. Coleman was uncertain whether the Antitrust Section had ever done it, but he pointed out that it would be worthwhile to be aware of the deadlines. Mr. Marth asked whether the Antitrust Section could comment on antitrust legislation only, or on other topics. Mr. Coleman responded that the Section could comment on both. Mr. Coleman also noted that he Section can file amicus briefs, subject to the MSBA's approval process. Mr. Ralph asked whether other sections identified opportunities to file amicus briefs or merely responded to requests to file them. Mr. Coleman could not say, but he believed the MSBA usually only files amicus briefs when they relate to the legal profession in general.
- IV. Treasurer's Report.** Due to a delay in financial reporting related to the Section's fiscal year, the Treasurer's Report was deferred to the September meeting.
- V. Program Planning.**
- Mr. Coleman stated that the Council was presently intending six programs for the coming year, three in the fall and three in the spring;
  - Mr. Marth reported that Rich Feinstein, the Director at the FTC's Bureau of Competition, was confirmed for a Sept. 29 program at Robins on FTC enforcement and Section 5 of the FTC Act (Agenda Item A.). Mr. Marth noted that this program should be inexpensive because the FTC will not allow reimbursement of Mr. Feinstein's transportation costs and Mr. Feinstein is not staying overnight.
  - Mr. Marth reported that the individuals who had volunteered to form a committee to prepare a program on the intersection of intellectual property and antitrust (Agenda Item F.) should meet soon, shortly after Labor Day. In response to questions, Mr. Marth reported that the proposed program would be a half-day CLE held at the Minnesota CLE Center in Spring 2011, to be followed by Professor's Program.
  - The Council discussed a panel devoted to antitrust class actions (Agenda Item B.). Mr. Bruckner agreed to coordinate with Mr. Marth the participation of a Robins

partner on the panel. Since the proposed panel would be flexible to schedule and easy to assemble, the Council agreed it would not be scheduled until other programs are nailed down. Mr. Marth suggested that the Council identify several potential dates for panelists to hold open. Ms. Peterson asked whether it makes sense to combine the class action panel with the judge's panel into 2-hour panel on pre-trial procedural issues. Mr. Marth noted that it is more difficult to obtain attendees for two-hour programs.

- Mr. Bruckner reported that Judge Montgomery has agreed to participate in a judge's panel on pleading requirements (Agenda Item C.). Mr. Ralph reported that he had been referred to Judge Bye of the Eighth Circuit, had drafted a letter of invitation, and had received feedback from Messrs. Coleman, Marth and Bruckner. Mr. Bruckner noted that Judge Montgomery was excited about the prospect that Judge Bye would be on the panel.
- Mr. Coleman reported on the status of the proposed panel on legislative developments (Agenda Item D.) Sen. Franken's office had responded to the inquiry with a variety of questions about the Council and its audience and had not provided either a firm yes or no. Mr. Coleman reported that he would follow up in the fall. Assuming a senator were unavailable, Mr. Coleman suggested that a program involving a senator's aide who works on antitrust would still be worthwhile.
- Mr. Marth reported that he had contacted Deputy Assistant Attorney General for agricultural enforcement, Mark Tobey, who expressed willingness to summarize the results of the DOJ's agricultural workshops at a January or February program (Agenda Item E.). Mr. Coleman asked Council members to think about potential attendees for this program.
- Mr. Coleman noted that Council members had generated a number of other topical panel ideas, including how to advise clients on the Robinson-Patman Act, the Merger Guidelines, exclusive dealing, and resale price maintenance. The Council agreed it would be good to prepare such a program as an additional or fall-back program depending upon how the year developed.
- Mr. Marth commented that he liked the idea of a program on the DOJ's business review letter process and the FTC's advisory opinion process (Agenda Item G.). Mr. Ralph said he would report back at the September meeting with more concrete ideas for a program.

**VII. New Business.** None

**VIII. MSBA Section Website.** Mr. Marth asked why the website is an agenda item every month. Mr. Coleman stated that it was probably intended to remind Council members to populate the website with materials but that the point was well-taken. Mr. Bruckner observed that the agenda item was more meaningful when changes to the website's features were pending. Mr. Coleman said he would reach out to Brian Fisher, the point

person on the website, about whether to continue discussing the website at Council meetings

**IX. Future Meeting.** The Council will next meet September 8, 2010 at MSBA.

**Minutes prepared August 11, 2010 and presented by:**

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**Attendees for the November Meeting of the  
MSBA Antitrust Law Section Governing Council  
August 11, 2010**

Attendees

Craig Coleman

Ryan Marth

Joe Bruckner

Tom Sheran

Heidi Siltan

Carol Peterson

Matthew Ralph

Ashley Hacker, MSBA Section Liaison