

CIVIL LITIGATION SECTION

MINUTES OF MEETING 09/17/09

Attendees:

Dan McGrath (chair)
Peter Carter (vice-chair)
Kevin Curry (treasurer)
Mary Vasaly (secretary)
Charlie Bird
Bruce Candlin
Mark Delehanty
Paul Godfrey
Hon. Jill Flaskamp Halbrooks
Hon. Gary Larson
Ed Mathews
Brett Olander
Bill Partridge
Galen Robinson
D. Clay Taylor
Ken Udoibok

Guests: Leo Brisbois (President, MSBA)
Melissa Wendland (New Lawyers Section Liaison, MSBA)

MSBA Staff:

Kim Basting
Greg Luce

I. Introductions

II. Approval of Minutes

The Council approved the minutes from the last meeting.

III. Treasurer's Report – Kevin Curry gave the treasurer's report. The Section's balance is \$58,224.96, through June 30, 2009.

IV. District Court opinions

Greg Luce provided a summary of the status of the project. The main stumbling block to achieving success for the project is the difficulty gathering opinions to post. He reported that the MSBA has contacted the Minnesota District Judges Association to determine whether they may be able to collect opinions more systematically for a fee. Judge Warren Sagstuen is heading up

that effort. However, the judges need to determine whether there would be any potential impropriety in the bar paying members of the bench for this work. They are researching the question.

Judge Halbrooks expressed a concern with having to buy opinions at \$15-20,000 a year. The Council discussed whether we would get real value for the amount we are paying and whether we would be paying for the MDJA's coordination, a certain number of decisions per year or something else.

Bruce Candlin moved to table the discussion. The motion died for lack of a second. Ed Mathews suggested that an email to bar members should go out to remind them of the need to provide opinions to the project. Judge Larson offered to forward such an email monthly to the judges. The Council also discussed having a website for attorneys where they could simply upload a PDF file.

There was also a concern discussed regarding protection of private data: old opinions are likely to contain such data. Ed Mathews moved to send an email blast to the section and Charlie Bird seconded. Clay Taylor moved to amend the motion to discuss the issue next time. Ultimately, all pending motions were withdrawn.

V. Statute of Limitations Manual

Melissa Wendland reported that she was in the process of updating the Times Up Manual. [Dan McGrath thanked her for making the annual meeting and mock trial a success.] The Council voted to update the manual. There are 500 new manuals ordered. The Council discussed how to deal with members who have outdated manuals. There are three alternatives: (1) provide a 3-ring binder and replace pages each year; (2) provide CDs and keep updates electronic; (3) provide a web page with an access code; (4) send a new manual to all members; (5) give manuals to just new members and provide an update insert for the old version. Discussion ensued on the pros and cons of these options. There was no current information available on the price of various options. Melissa will consider the options, including their cost, and make a recommendation to the Council at a subsequent meeting.

VI. Judicial Directory

Charlie Bird provided a report on the status of the judicial directory project. Judge Halbrooks is going to raise the issue for discussion with the MDJA. In addition, the Council discussed trying to find an attorney in each district to follow up on the project. Charlie reported that it will be a lot of work for those who volunteer. One way that made the form easier to complete was changing it to a multiple-choice format. It is much better/simpler that way. It would be even better to create a form that could be completed online and returned. We would simply need to send out 3-4 email reminders. Clay Taylor suggested combining the directory with a Secretary's Handbook but others pointed out that this was unnecessary because a very useful Handbook already exists. The subcommittee will contact MJDA about emailing the questionnaire. Greg Luce indicated that bar staff may be able to make the form electronically available for completion.

VII. Report on Changes in the Annual Meeting format

Leo Brisbois reported on the change from a single 2-3 day annual meeting in one location (as we have done for more than 100 years) to a new format. The new format will preserve the purpose of the meeting to promote collegiality, provide information, and encourage public relations. Attendance has been down – last year attendance was approximately 225. This results in diminishing the power of the voice of the bar on public issues.

The new format will be “9 Days in June.” It will be decentralized. The first 8 days will consist of 1 day of activity in each judicial district. The last day will be open to all of Minnesota and will be held in the Twin Cities. On the 9th day, the Chief Justice will give the state of the judiciary speech.

This idea builds on the Bench & Bar Conferences that have been held over the last couple of years. It will also coordinate with the judges’ meetings. In addition, it will answer the complaint that MSBA is a metro organization. Other advantages: the price is right, promotes meeting other lawyers/judges in the district, promotes recruitment of new members, provides free CLE programs (pay for lunch only). There will also be an event on the last day to benefit the Supreme Court Historical Society and the Bar Foundation. Also there will be a president’s reception at the end. There will be the traditional alumni gatherings, passing of the gavel awards and an ending that will be an “eye popper” that will make others see lawyers in a new light. If we just replicate the numbers from previous district programs, the convention will go from 220 in 2009 to 1500 in 2010. We have a goal of reaching 25% of the membership in 5 yrs (3500).

The sections need to help with CLE programming for the 1st 8 days outstate. We will create a menu of 15-20 1 hour CLEs that districts can choose from. The CLEs can be picked up and delivered by anyone.

Council members asked whether MSBA has enough staff to accomplish all of this. The answer was yes. The dates for many districts are already scheduled.

VIII. Section lunches

Clay Taylor volunteered to shepherd the section lunches with help from Paul.

IX. Legislative liaison

Dan will ask Marcy Wallace whether she will “re-up” as legislative liaison. Peter Carter remarked that it is important to keep abreast of statute changes. He wondered whether the Council members were aware of the change in the prejudgment interest statute before it was enacted. All agreed that we should not be taken by surprise by these changes. We should encourage our lobbyist to keep in touch with Marcy.

X. Miscellaneous new business

We need to update our website. Greg Luce mentioned that the Computer Law Section had started a blog. We already have a posting on Twitter and Facebook.

Dan reported that he had received a letter regarding our appointment to the certified trial specialist board. There was a motion made and seconded to nominate Brett for another term. The motion passed unanimously.

The Council discussed planning for the Section annual meeting and whether to once again host a 1/2 day CLE with a free lunch. We were also reminded to consider candidates for the advocacy award. Kevin agreed to head up a subcommittee to consider candidates. One idea for a subject for the meeting was the Coleman/Franken case with Joe Friedberg. There were also other ideas suggested and a reminder to keep new lawyers and law students in the loop.

The Council also discussed how to deal with requests for funds. There was a suggestion to form a committee to consider requests on an annualized basis. Paul volunteered to chair the committee. A motion was made, second and passed to create a committee chaired by Paul.

Announcements: Justice Gildea Gender Fairness Anniversary event on October 27, 2009 was announced and all encouraged to attend.

Meeting was adjourned.