

# MINUTES OF THE OREGON STATE BAR DEBTOR-CREDITOR SECTION EXECUTIVE COMMITTEE MEETING

Thursday, November 10, 2016 at 4:30 p.m.

The fourth and final regular meeting of 2016 was called to order at approximately 4:37 p.m. by Richard J. Parker, Chair, at the United States Bankruptcy Court for the District of Oregon in Portland, Oregon, with Eugene members appearing via video conference from the United States Bankruptcy Court at 405 E. Eighth Avenue, Eugene. Members were also permitted to attend by phone.

Current members attending were David W. Hercher (Past Chair), Richard J. Parker (Chair), E. Clarke Balcom (Chair Elect), Justin D. Leonard (Treasurer), Britta E. Warren (Secretary), Judge Thomas M. Renn (ex officio) [via video link], Joseph M. VanLeuven (2016), C. Casey White (2016) [via telephone], David A. Foraker (2016), Kent Anderson (2017) [via video link], Mark B. Comstock (2017) and Laura L. Donaldson (2017).

The Section's OSB liaison Karen Lee was also in attendance.

Not present were Stephen Raheer (2016), Timothy A. Solomon (2016), Jordan S. Hantman (2017) and Margot D. Seitz (2017).

- Approval of Minutes.** The minutes from the Executive Committee meeting of September 16, 2016 at Hood River were approved, subject to a clarification from Justin Leonard related to the minutes from the Pro Bono Task Force report.
- Welcoming of Incoming Members.** The Executive Committee welcomed new members for the term expiring December 31, 2018, including: Michael Fuller, Carla G. McClurg, Cassie K. Jones [via video link], Alexzander C. J. Adams (not present) and Wolfgang G. Senft (not present). The Executive Committee also welcomed Conde Thompson Cox, new member for the term expiring December 31, 2017.

### **Committee Reports.**

Annual Meeting: There was no report.

CLE: Mark Comstock reported that this year's CLE program at Hood River went well, and that the CLE Committee received positive feedback from attendees. However, it was reported that there were only 81 attendees, which is significantly less than past years. Clarke Balcom reported that traditionally the next venue for the Annual Meeting and CLE is the Oregon Coast. However, after reviewing the Treasurer's Report, which demonstrated the Section suffered a loss from this year's program due to the drop in attendees, the Executive Committee voted and approved holding next year's CLE and Annual Meeting in Eugene. The Executive Committee agreed that Eugene is a good option for next year's program because it saves Section resources and is done in conjunction with University of Oregon Law School. Mark Comstock reported that the CLE Committee already has 5-6 potential ideas for next year.

Consumer Bankruptcy: Laura Donaldson reported that the next Consumer Bankruptcy meeting will be held on January 19, 2017 at 4:30 p.m. at the United States Bankruptcy Court in Portland. Laura Donaldson reported that Pam Griffith from the United States Trustee office discussed active shooter training at the last Consumer Bankruptcy meeting. Laura Donaldson also reported that she is talking to the United States Bankruptcy Court in Portland to see if the training program can be offered to Section members, and may consider sending a poll to the Section to see if there is any interest in another presentation. Laura Donaldson reported that the Consumer Bankruptcy Committee is still in need of a new Chair. Rich Parker stated that he will likely chair the next meeting if a replacement is not found.

Legislative: Mark Comstock reported that the Legislative Committee is currently inactive. The filing deadline for new bill proposals expires in December 2016, after which early drafts of proposals of new bills will be circulated and discussed by the Legislative Committee during its regular meeting sessions. Mark Comstock reported that the Oregon Law Commission's Receivership Bill will likely be circulated in late November 2016 for comment and will be submitted in the 2017 legislative session.

Newsletter: Joe VanLeuven reported that the Newsletter Committee remains on track. Rachel Wolfgang was awaiting several articles from contributors for the Winter Edition of the Newsletter, which she anticipated receiving by the end of November 2016. After the articles are submitted, Rachel will schedule an Editorial Board meeting. Dave Foraker suggested posting on a notice on the list serve to see if any members are interested in authoring articles, rather than relying on members of the Editorial Board for regular contributions. Rich Parker suggested having guest writers from other OSB Sections. Joe VanLeuven clarified that so far there has not been a problem in soliciting authors or receiving articles on time. Justin Leonard reminded the Executive Committee that there is also a notice in every newsletter encouraging members who are interested in authoring an article, or who have suggested topics, to contact the editor.

Nominating: New members of the Executive Committee were welcomed at the beginning of the meeting and are listed above. Rich Parker reported that he will retain the list of section members who previously expressed interest in serving on the Executive Committee for use by the Nominating Committee in the future.

NWBI: This year the 30<sup>th</sup> Annual Northwest Bankruptcy Institute ("NWBI") is scheduled to be held in Vancouver, Washington on April 7-8, 2017. Dave Foraker reported that the NWBI Committee is in the process of finalizing the agenda. Dave Foraker reported that there are several well-known national speakers lined up to present this year. The speakers will be announced when the OSB sends out the initial brochure and registration information.

Pro Bono:

Portland: Rich Parker reported that the Portland Pro Bono Clinic continues to operate as usual. However, the clinic is in need of additional volunteers and is sending email blasts to solicit more involvement from Section members. Rich Parker also reported that the volume of low income participants utilizing the clinic has dropped, and as a result, two sessions have been canceled.

Rich Parker reported that the speaker presentation has been modified to include information on student loan repayment programs. He also reported there is a need for volunteer speakers at the Portland Pro Bono Clinic who have expertise in student loan issues. In order to screen participants with student loan repayment problems, Legal Aid Services of Oregon has revised the initial questionnaire submitted to participants to include specific questions on student loans. Participants are then routed to attorneys specializing in student loan issues.

Eugene: Judge Renn reported that Steve Berhands has been working diligently to revitalize the Eugene Pro Bono Clinic. Steve Berhands is coordinating closely with Amy Scotts, a staff attorney for Legal Aid of Lane County, who has a background in bankruptcy.

Justin Leonard reported that the Eugene Pro Bono Clinic has yet to use any funds budgeted in 2016. Judge Renn responded that the Eugene Pro Bono Clinic does not have as many expenses as the Portland Pro Bono Clinic, meaning funding is not necessarily an issue. Judge Renn reported that the bigger problem has been that the attorney volunteer pool is more limited than larger metropolitan areas. Judge Renn reported that the Eugene Pro Bono Clinic is looking at other ideas to generate involvement and improve the infrastructure of the program, including coordinating with the University of Oregon Law School and seeking students to act as volunteers. The Eugene Pro Bono Clinic also has a need for more Spanish speaking attorney volunteers. Judge Renn also reported that Kent Anderson and Cassie Jones have been working hard to provide a range of pro bono services in the Eugene area.

Bend and Pendleton: Justin Leonard reported that Legal Aid Services of Oregon is pleased with how the newest pro bono clinics are functioning. Justin Leonard reported that the Bend Pro Bono clinic is operating smoothly, and that, although the Pendleton Pro Bono clinic has fewer volunteers, the clinic has been able to keep up with demand and is operating successfully. Justin Leonard reported that the Pro Bono Task Force would like to honor volunteer attorneys from Bend and Pendleton. Judge McKittrick may write an article in the Newsletter or the Pro Bono Task Force may present volunteers with plaques to show appreciation, similar to what is done for volunteer attorneys who participate in the Portland Pro Bono Clinic.

Pro Bono Task Force: Justin Leonard reported that the Pro Bono Task Force and Legal Aid Services of Oregon is planning to open the next pro bono clinic in Marion County in early 2017. Programming for the newest clinic is hoped to begin in early 2017, after the new executive director for Marion County's Legal Aid Services office is appointed.

New Lawyers: Clarke Balcom reported that the New Lawyers Committee remains inactive and is in need of a new Chair. Judge Renn commented that perhaps the New Lawyers Committee should interface with other existing programs, such as the the MBA Young Lawyers Program, to offer bankruptcy related events across multiple sections. It was also reported that Cassie Jones is a member of the Oregon New Lawyers Executive Committee, which could serve as an existing new lawyer program with which to integrate the Section's New Lawyer Committee. The Executive Committee agreed that the goal should be to offer bankruptcy related events and resources to a wider segment of young lawyers.

Saturday Session: Judge Renn reported that Loren Scott has done an excellent job acting as the Chair of this year's Saturday Session Committee. Judge McKittrick, Judge Renn, and Kent Anderson have also been involved in the Committee. Judge Renn reported that this year's Saturday Session is scheduled on February 25, 2017 at the Salem Conference Center and will likely include a discussion of the National Bankruptcy Plan and modifications that need to be made to the local Chapter 13 Plan form, as well as a discussion whether to incorporate conduit mortgage payments into the local Chapter 13 Plan. The committee is also working to provide other topics for those members not focused on Chapter 13 related cases. The United States Bankruptcy Court will send out a survey to section members, similar to past surveys, to solicit feedback on possible topics. Judge Renn reported that the majority of costs for the event relate to food. In the past, attendees have received both breakfast and lunch as part of the registration costs. The Saturday Session Committee will likely consider offering only breakfast to lower registration costs and conserve Section resources.

Public Education (fka CARE):

Portland: Britta Warren reported that the volunteer training program offered by Financial Beginnings at the CLE in Hood River was well attended. Volunteers are now able to access Financial Beginning's online course material and to schedule volunteer teaching sessions in participating schools. Judge Renn reported that he had not received any follow up material or log-on information from Financial Beginnings after the training session. Britta Warren agreed to follow up with Financial Beginnings to make sure Public Education Committee members who attended the training session had access to the online program and volunteer calendar. Britta Warren also reported that the Public Education will meet on November 30, 2016 to discuss the recent revisions to the existing CARE program materials and whether to utilize portions of the CENTS program related to student loans in future volunteer programs. CENTS is a nonprofit focusing on financial literacy that works closely with the Washington State Bar.

Eugene: Casey White reported that she continues to be involved in the Junior Achievements program in Medford.

Website: Kent Anderson reported that there are ongoing issues with the conversion of the Section's website to WordPress. There are significant security concerns with allowing various committee chairs/liaisons access to the website because there is no restriction to the data that can be modified. Kent Anderson reported that the Website Committee needs to coordinate with the OSB to install a plug-in to limit access. The Website Committee also needs to clearly delineate each committee chairs/liaisons' roles in updating the website. Kent Anderson also reported that the new software and calendar system adopted by the OSB creates a blog article page for every event, which is archived in the database. This is creating a backlog and making the website difficult to navigate. Kent Anderson suggested installing a plug-in to automatically delete unnecessary or expired information. Much of the content of the website needs to be update or replaced with current information. Kent Anderson stated that he anticipates training committee chairs and liaisons sometime in 2017.

Local Rules Committee: Dave Hercher reported that the Local Rules Committee will resume activity in 2017. The main agenda topic will be whether to recommend that the District utilize conduit mortgage payments in chapter 13 plans.

Judge Renn reported that the 2016 revised Local Rules and Forms were recently posted on the website for the United States Bankruptcy Court and will become effective December 1, 2016.

Award of Merit: Dave Hercher reported that the Award of Merit Committee will begin discussions in late spring or early summer 2017.

Federal Bar Association: Dave Hercher reported that he and Judge McKittrick have recently been asked to join the Board of Directors for the Federal Bar Association. As a result of their involvement, the Federal Bar Association is going to sponsor a CLE on bankruptcy topics for non-bankruptcy lawyers. The CLE program will be two hours long and will be held at the United States Bankruptcy Court in Portland. The content of the CLE program is still being developed, but the goal is to attract Federal Bar Association members and other attorneys not regularly practicing in bankruptcy.

Judge Renn commented that Dave Hercher and Judge McKittrick's involvement on the Board of Directors represents a significant change from past years in which bankruptcy practitioners and judges were largely absent from the Federal Bar Association. Judge Renn commented that the Federal Bar Association now also has traveling programs throughout the state from which practitioners outside the Portland metro area can benefit greatly.

The Federal Bar Association also has attorney representatives who assist each district and appear at the Circuit conferences. Judge Renn reported that Thomas Stille of Sussman Shank was recently appointed as the District of Oregon's attorney representative. Dave Hercher commended Judge Renn for his work in encouraging all chairs to become more involved in the Federal Bar Association.

Donation Requests: Justin Leonard reported that there were no donation requests. The Executive Committee clarified that to be considered, the donation request must be bankruptcy or debtor-creditor related.

#### **4. Treasurer's Report/ Budget**

The remainder of the meeting was spent reviewing the annual Treasurer's Report and discussing the 2017 Budget. The discussions were led by Justin Leonard, the Section's Treasurer.

Justin Leonard reported that he worked with the bar to combine and/or rename several line items in the budget to track revenue and expenses more clearly. Justin Leonard also reported that the Section's membership has gone down to 589, and that, based on this trend, next year's budget should include estimated revenue from fewer membership dues to be conservative.

Other sources of revenue for the Section include the Annual Meeting and CLE, the NWBI and the Saturday Session.

Justin Leonard reported the Section suffered an approximately \$2,000 loss from this year's Annual Meeting and CLE, and funds were not generated from NWBI. Karen Lee reported that the Section typically breaks even when the NWBI is held in Seattle, but receives modest

revenue when the event is held in Vancouver as planned in 2017. Justin Leonard reported the Section did not generate any funds from the Saturday Session because it was decided to take a break and not hold it in 2016.

The Executive Committee then voted to approve holding the 2017 Annual Meeting and CLE in Eugene because the venue at the University of Oregon Law School is less expensive, which will likely result in more revenue for the Section. The Executive Committee also commented that lodging in Eugene is generally less expensive and means less travel time and costs for members from Southern Oregon.

After reviewing the various expenses and projecting expenses to come in before year-end, Justin Leonard reported that the Section will likely have a surplus of nearly \$35,000 at the end of 2016.

The Executive Committee then discussed whether the \$35,000 surplus may be problematic for the OSB Board of Governors. Karen Lee reported that other sections have similar surpluses and that OSB is more considered that sections provide regular programming and meaningful content to members, which the Debtor-Creditor Section has consistently done. Mark Comstock commented that he recalled in the 1980s and 1990s the Section had \$40,000 surplus, which was not problematic with the OSB Board of Governors.

**5. Future Meeting Dates.** Rich Parker reported that the next meeting will be held on Saturday Session, February 25, 2017 at the Salem Convention Center.

**6. Other New Business.**

Clarke Balcom suggested the Executive Committee create a manual of past practices and bar requirements for use by future officers of the Executive Committee. Clarke Balcom then presented Dave Hercher with a clock, as is customary to show appreciation for each past-Chair's service to the Section.

**7. Adjournment:** The meeting was adjourned by motion of Dave Foraker at approximately 6:11 p.m.

Submitted by:

Britta E. Warren, Secretary