

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

Saturday, April 8, 2017 at 12:21 p.m.

The second regular meeting of 2017 was called to order at approximately 12:21 p.m. by E. Clarke Balcom, Chair at the Hilton Hotel, Vancouver, Washington. Members were not permitted to attend by phone as no phone access was available.

Current members attending were Richard J. Parker (Past Chair), E. Clarke Balcom (Chair), Justin D. Leonard (Chair Elect), Britta E. Warren (Treasurer), Laura L. Donaldson (Secretary), Judge Thomas M. Renn (ex officio), Jordan S. Hantman (2017), Kent Anderson (2017), Michael Fuller (2018), Mark B. Comstock (2017), Conde T. Cox (2017), Alexzander C.J. Adams (2018), Carla G. McClurg (2018), Margot D. Seitz (2017), W. George Senft (2018), and Cassie K. Jones (2018).

The Section's OSB liaison Karen Lee was also in attendance as was John Bachofner, Oregon State Bar Board of Governors liaison.

**1. Approval of Minutes.** The minutes from the Executive Committee meeting of February 25, 2017, held at the Salem Conference Center were approved with no further changes. (The Executive Committee ratified this approval by email vote on April 11, 2017, due to the out of state location of the April 8, 2017 meeting.)

**2. Committee Reports.**

**Annual Meeting:** Alexz reported that the proposed dates for the annual meeting are October 20 - 21, 2017 at the University of Oregon with a suggested price of \$275.00 to \$295.00 to attend the meeting. There were no home games so that helped to narrow the meeting date. Clarke emphasized the importance of the liaisons to the committee explaining that when Alexz reached out to the committee, Thomas Stilley was still looking at multiple locations and didn't realize the location has been narrowed down to Eugene. Alexz will advise the committee of the chosen date once known.

**CLE:** Mark reported he is still waiting on selection of the annual meeting date. The committee is considering further discussion of the national Chapter 13 plan but aren't sure if the CLE date will be too late to opt-in or out for the comment period. Judge Renn noted that the opt-in decision should happen before 10/20/17. Conde suggested proposed topics for the CLE committee might include suggested trial practices for practitioners on effective ways to present a case or electronic presentation of evidence. Mark indicated that all suggestions are welcome by the CLE committee and can be made via email to him.

**Consumer Bankruptcy:** Laura reported that the next Consumer Bankruptcy meeting will be held on May 11, 2017 at 4:30 p.m. at the United States Bankruptcy Court in Portland. Michael added that a presentation was held about legislative updates and Rich mentioned future events were discussed like NACBA and NACTT.

**Legislative:** Mark reported that of all the bills discussed at the last meeting, the interest rate bill will not be going anywhere. One of the debt buyer bills is still moving forward. The current version has negotiated changes (Version 7) which takes out the affidavit which would be required at initiation of the case involving the debt buyer and includes identification of the prior debt by truncated number (who has the debt, etc.) which must be in initial pleading. Additional negotiated changes include changing the effect of a judgment that was entered in violation of the provisions of the Act; rather than void it would be voidable on the motion of an affected part or courts motion (ORCP71 – standing). Other clarifications include language for lawyers who are debt buyers. If lawyers are subject to the Act, debt buying must be more than an incidental part of their practice. The data matching bill appears important to the Dept. of Justice and Dept. of Revenue and is going forward despite the committee’s comments. The bill for sale of judgment debtor redemption rights is not going forward. Everything that the Committee has requested has made it through Public Affairs.

**Newsletter:** Carla reported that Editor Rachel Wolfgang was waiting on article submissions for the Newsletter to get a draft to the Bar for printing and then editing. Rich suggested an article for a future edition of the Newsletter might be written by Michael O’Brien concerning the Watt case (issue is forced vesting of real estate). The case is set for hearing in July.

**Nominating:** Rich reported he will start collecting names from last year and ask for additional nominations. He will have an announcement prior to the annual meeting to everyone.

**NWBI:** George reported that the next NWBI will take place at the Renaissance Hotel in Seattle on April 13-14, 2018. Karen reported for the April 7 & 8 2017 NWBI meeting, attendance was down more by approximately 40 people, with a total of 201 attendees. She noted considering the state of bankruptcy practice it was not surprising. Karen felt that the Washington bar should be engaged to have more members attend. Clarke might reach out to section members and see if there is something that would change member’s disposition to attendance of the event. Suggestions were surveys to section members. Karen did this for the securities section and the results were interesting. Rich suggested cost may be a factor and other programs are available. Clarke commented that some feedback from attendees was that they didn’t like having the Oregon year in Vancouver. Karen noted that hotel availability, space and resources all play a factor in booking. Oregon’s convention center is an issue due to lack of lodging and the Hyatt wasn’t available due to a labor dispute. John suggested Spokane, but Karen indicated the Spokane conference didn’t hit the numbers for that year and it is hard for Portland people to make a six hour drive. Clarke suggested Astoria as a location. Karen noted suggestions should be circulated to determine interest. It isn’t wise to alienate those members who always come to the meetings by utilizing too remote of a location.

**Pro Bono:**

**Portland:** Rich discussed proposed changes to the student loan clinic including making a video and having a triage to get people focused. All is going well with the clinic itself. Judge Perris settled her first student loan case.

**Other Bankruptcy Clinics & Pro Bono Task Force:** Justin reported on the task force and other clinics. He talked to Heather Kemper, statewide pro-bono manager for Legal Aide for the

State of Oregon. She noted that Bend lost their Executive Director and their new director is on maternity leave so they are off to a slow start. The clinic closed 21 bankruptcy cases last year, 11 were discharged with 15 cases still open. Pendleton has 4 open cases. Pendleton would like to recruit more attorneys but feel pretty satisfied with the success of the clinic overall.

The Portland clinic continues to be a success. In 2016, 171 cases were closed. Of those cases, approximately 40% had kids under 18, 20% were single member households, and three quarters of the closed cases resulted in discharge. They currently have 197 cases open. Since 2010, the clinic has closed approximately 900 cases.

Judge Renn reported that there is no Eugene report at this time.

**New Lawyers:** Cassie reported things are going well. Judge Peter McKittrick is going to have a lunch session with the new lawyers. She could not report on the date as it had not been scheduled yet. She is happy to hear topics or ideas that people have for the new lawyers section.

**Saturday Session:** Judge Renn reported that Loren Scott was able to obtain approval from the Bar for 2.75 CLE credits for Saturday Session. Further, that the session reported a profit this year (\$29.14).

### **Public Education (fka CARE):**

**Portland:** Public Education – Britta reported that she is getting positive feedback from those who have participated in Financial Beginnings program, and it is working well for members using it. The last meeting was held in February and members were interested in a presentation regarding student loans. Materials from CARE were reviewed and the committee is still trying to determine how to best utilize those materials. Mike and Alexz are in talks with Marilyn Cover from The Classroom Law Project to request her assistance to get a foot in the door at local high schools. The next meeting is April 13, 2017.

**Public Education-Eugene:** Cassie reported they are looking at the CARE materials and she still was having some problem getting information from Financial Beginnings. The committee is looking at working with law students and lawyers to do presentations. They are also trying to get a new list of participants in Eugene. There are only 3 people currently doing all of the presentations. The goal is to get that list done in the next couple of weeks.

**Website:** Kent continues to communicate with the Oregon State Bar about plugins for the website. The status is the same as previously reported, with everyone currently having full access to the calendar which is a problem. Kent continues to do the web updating. Staff at the Oregon State Bar are overwhelmed at the current time which is impeding movement of the website forward. Kent is hoping by our next meeting he will have new news to report on that front. Karen said the Bar is looking at plug-ins but there are 43 sections with websites and they are trying to find something to work for everyone on WordPress. Looking at it from a holistic standpoint (solution applicable to everyone across the board), that is the holdup with moving things forward.

**Local Rules:** Margot noted the Local Rules committee is working through many items the most recent of which is a possible proposal for update to Chapter 13 LBF 1305 (attorney fees) to increase the no look fee to \$5,250.00 up from \$4,500.00. There is ongoing discussion

about the opt-out for the national Chapter 13 Plan and changes to the local form and using NWBI and the Saturday Session to obtain comments on those forms. The committee will now follow up on items in connection with Saturday Session along with other issues/changes such as 1) summary judgment rules to be more consistent with federal rules 2) different methods to show amendments when you file documents to easily identify those amendments and 3) addressing inconsistencies between LBF 5005 (Electronic Filing Declaration) and FRBP 1007(f) (Statement of Social Security Number). The committee continues working on proposed rules and forms.

**Award of Merit:** Judge Dave Hercher is the chair of the committee and Rich is currently learning the ropes. Rich noted that comments on nominations should be given to Rich, Dave or Caroline Cantrell.

**Federal Bar Association:** Conde reported that there is a FBA Oregon chapter website and there is a calendar of events for anyone who wishes to attend posted there. FBA newsletters are also on that site, they issue every quarter. The Magistrates are active in FBA section luncheons which are a good way to meet and network. On May 25, 2017 there is an annual FBA dinner. FBA has an award of merit as well, and they do two, one for the civil category and one for the criminal category. Conde encouraged all to join the FBA.

**Donation requests:** Justin reported for Jordan. Justin noted there have been no further donation requests and we already spent the money we had set aside for donations on the debate group. That donation was tied into the section's mission and we always support that group which is why it was approved. Clarke noted that to be approved donations must have some connection to debtor/creditor law.

3. **Treasurers Report/Budget:** Britta noted that she has been processing check requests each week and things are going smoothly. In reviewing the financials for the end of February 2017, we have over \$18,000 in revenue from membership fees which according to the bar is 522 members. We were at 582 members last year. The section had \$5,514 in expenses. A large amount of that was an OSB support services assessment. Karen noted that is an annual assessment based on the number of section members we have. That expense alone was over \$4,000. All else is going well.

4. **Future Meeting Dates:** Clarke noted that our next meeting will be set for June 29, 2017 at the US Bankruptcy Court, Portland, 8<sup>th</sup> floor conference room at 4:00 pm. Telephone conference will be available for those who cannot attend in person. Video conference will also be available. Carla will secure the meeting room. Clarke stated that once the next annual meeting date is determined in October, we will set the next Executive Committee meeting. November's final meeting is not yet scheduled. Final dates will be determined at the June meeting.

5. **Other New Business.**

Clarke noted that memberships are down for the section. Karen suggested using Survey Monkey or another survey service to send out questions about 1) annual meeting and 2) Northwest Bankruptcy Institute. Surveys about the NWBI must include the Washington bar as well. Karen suggested a survey of the annual meeting first. Rich suggested questions relate to topics of location, cost, and CLE content. Sarah Hackbart at the Oregon State Bar sends out a list to the section of those members who have not renewed. Karen reminded the EC to send an email

to those on that list as it generally gives a bump to section membership. John suggested separating different people from the committee to contact those who haven't renewed. Conde suggested that those who are involved with receiverships should be brought into the bankruptcy fold even though they don't consider themselves bankruptcy practitioners. Conde will forward a list of practitioners to Clarke to possibly contact for membership. Karen said the OSB won't help with membership recruitment. Recruitment is up to each section and there is no Bar outreach program.

Clarke also welcomed John Bachofner to our group. He is the Oregon State Bar Board of Governors ("BOG") liaison. John noted he is impressed with the Executive Committee and glad to see us active. Currently the BOG is actively looking at all sections, how active or in-active they are, and the balances in their bank accounts. He noted that our section and balance in our account is not a concern given the size of our section. At the House of Delegates they are looking at CLE sponsorship issues and there is a controversy about sections allowing the Bar to co-sponsor CLEs. The BOG pulled back and is now at a point with a recommendation which hasn't yet been adopted. That recommendation is to every three years allow co-sponsorship with the Bar. This would allow the Bar to still have resources available to outlying areas with videos and access to CLEs.

Karen noted that the CLE planning committee for the NWBI has a three year rotation in Oregon. Someone from Oregon may be rotating off. Karen will email Clarke the information so if a new representative is needed it will need to be made before the June meeting. Not everyone has to vote on the person and it is a three year commitment. Typically, the committee contains six members with one judge, one consumer practitioner, and one business practitioner from each state.

There was no other new business discussed.

6. **Adjournment:** The meeting was adjourned by motion at approximately 1:35 p.m.

Submitted by:

Laura L. Donaldson, Secretary