

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

Thursday, June 29, 2017 at 4:00 p.m.

The third regular meeting of 2017 was called to order at approximately 4:05 p.m. by E. Clarke Balcom, Chair at the US Bankruptcy Court, 8<sup>th</sup> floor conference room, Portland, Oregon Members were also permitted to attend by phone.

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 – appearance by telephone), Michael Fuller (2018), Mark B. Comstock (2017), Conde T. Cox (2017), Alexzander C.J. Adams (2018), Carla G. McClurg (2018), Margot D. Seitz (2017), and W. George Senft (2018).

The Section's OSB liaison Karen Lee was also in attendance. Members not present were Cassie K. Jones (2018).

**1. Approval of Minutes.** The minutes from the Executive Committee meeting of April 8, 2017 held at the Hilton Hotel, Vancouver, Washington were approved with one change reported by Britta changing a last name from "Cover" to "Cober" with no further changes. (The Executive Committee ratified this change and 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 scheduled dates for the annual meeting are October 20 - 21, 2017 at the University of Oregon. A meeting was held in May at Sussman Shank to discuss topics for the annual meeting. The meeting will have one hour of ethics, case law updates, legislative updates, breakout sessions, a program on perfecting liens and collateral, and the intersection of debtor/creditor law with admiralty and litigation.

**CLE:** Mark advises he has no other report on CLE other than just reported by Alexz for the annual meeting.

**Consumer Bankruptcy:** Laura reported that the Consumer Bankruptcy meeting was held on May 11, 2017 at 4:30 p.m. at the United States Bankruptcy Court in Portland. Michael Fuller is doing a great job leading the group discussions. Rex Daines provided a very informative discussion for the judges and attendees as to why tax refunds are not disposable income in Chapter 13 bankruptcy. There was a lively discussion but no Chapter 13 Trustees or staff in attendance with input. Judges Hercher, Renn and Brown were there and contributed to the discussion. The next Circle meeting is August 10, 2017 at 4:30 pm.

**Legislative:** Mark reported that not much is happening. All of the three bills that the section was watching are still alive. All other bills are dead or have passed. Alive is the ninth

iteration of the debt buyer bill. The receivership bill was signed by the Governor and that is all that has happened.

**Newsletter:** Carla reported that we still need a new Editor. Laura sent an email to the section advertising the position. Two attorneys checked in with Rachel Wolfgang and decided they didn't want to apply due to the time commitment. No other applications were received. Rachel indicates the time commitment is about 80 hours beginning to end. Currently the employment agreement with Rachel is between The Scott Law Group and the Oregon State Bar and her time is effectively their time. Professor Coles-Bjerre provided the name of Aaron Haines, a third year law student for the position. It was suggested that the position should be split between Rachel and Aaron. This would require an increase in the position's salary and creativity in the employment agreement. Rich advised the section used to allot more money for this position when newsletter was being mailed so money should be available. Carla discussed other issues including reimbursement of travel expense for Aaron to attend newsletter meetings. An alternative was to advertise the position in law schools or career centers, listserves, Multnomah Lawyers. Carla noted a timeline, Rachel either needs help or will resign fully by 7/24/17. Rachel is working on the current issue to be completed by September. Karen Lee reported there are no contract problems with the proposal to utilize Aaron's services. Carla recommended the increase in pay and allowing Aaron mileage pay for distance from here to Eugene. Britta noted the section's net revenue is sufficient to cover the increase in funds for the position. Justin moved to increase the funds to \$6,400 annually. The committee approved.

**Nominating:** Rich reported he will start collecting names from last year and ask for additional nominations. There are five spots to fill. A few positions may be filled internally. Kent, Mark, Jordan and Margot are leaving the committee. Judge Renn asked that the names on the list be more inclusive of Eugene names. Names suggested include Pat Wade, Rex Daines and Andrea Breinholdt. Rich will send an email blast in August or late July to the section for further nominations.

**NWBI:** George talked to Dave Foraker about the committee and planning for the next Northwest Bankruptcy Institute meeting. They are going to start planning in the fall, so there is nothing new to report. For the committee, Professor Coles-Bjerre is leaving. Todd Trierweiler has agreed to fill the position. Judge McKittrick mentioned that it is important to maintain the balance between Oregon and Washington for the membership of this committee.

**Pro Bono:**

**Portland:** Rich discussed the clinic is going well. At the last session, all of the lawyers appeared as promised, but many of the scheduled clients failed to show up. The program itself is still doing well.

**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 has a new Executive Director so they are experiencing increased placements. The task force is expanding to Salem, with a proposal to begin January 2018. If the proposal is accepted, the section will work on recruitment and making sure that attorneys understand the functions of the clinic and the community based support. The Committee is enforcing to attorneys that the clinic doesn't impact those attorneys firms who

practice in debtor/creditor work. For funding, the American Collection of Bankruptcy Foundation has previously provided funding and the task force is hopeful they will continue to do so.

Another pilot project the task force is looking at is Upsolv, a nonprofit company from New York that provides software that replaces the pro-bono attorney. This is an innovative system of self-help for internet access to file documents and file your own bankruptcy petition. The current model includes how to use the software with attorney participation. In places where attorneys are not available for filers, they could do things online and the attorney could assist them from a distance.

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

**New Lawyers:** Cassie was not present but provided her report to Laura to relay to the group. Cassie reports no real substantive updates on the New Lawyer committee. She is working with the New Lawyers to plan an event in conjunction with the Debtor-Creditor Annual meeting in October, such as a lawyer specific social or an after-hours event. Notice would come via the ONLD if it is scheduled. She would chat with the group and determine interest.

**Saturday Session:** Judge Renn stated there was nothing new to report.

**Public Education (fka CARE):**

**Portland:** Public Education – Britta reported the committee met in both April and June. Most efforts were directed at student loan specific education to bring into high schools. On July 18, 2017, Michael Fuller and Mica Child will present educational materials to a focus group in SAGE regarding student loans. Ward Greene is also involved. A formal roll out of the materials will be presented at the next Circle of Love on August 10, with the hope of enlisting volunteers. The next meeting is 8/1/2017. Tony Cullen, Carla, Britta and Judge McKittrick were meeting to review the budget and crediting in current materials and discuss a recommendation for materials to use in schools. Colin Cole was nominated to update the website. October is student loan month per Judge McKittrick. Washington State Bar Cents program is also working with Portland on a joint student loan education program.

**Public Education-Eugene:** Laura reported on behalf of Cassie that CARE will be revamping over the summer to begin again in the fall. There is nothing else new to report.

**Website:** Kent continues to communicate with the Oregon State Bar about plugins for the website. They have now provided a tool to restrict access for users to the website. Kent will be sorting out the tool and then reaching out to various section chairs for undertaking of responsibility for their web pages. He also added on the student loan issue, there was a bill announced at NACBA (National Association of Consumer Bankruptcy Attorneys) this May to again allow discharge for student loans.

**Local Rules:** Margot noted that their meetings are held on the second Wednesday of each month and they are always looking for interested parties to join the committee. The 2017 interim report includes the proposed Chapter 13 plan with a comparison of the national vs. local plan form, and an overview of the comments received on whether there should be a move towards use of the local plan form. A variety of the bankruptcy rules are also changing, that

process generally takes three years to complete. The Supreme Court has recommended some rule changes to Congress. At the last meeting Charlene Hiss discussed how those changes will require additional changes to the local rules.

**Award of Merit:** Rich noted there is nothing new to report. An email blast for nominations will be sent out at the same time as the other email blast for nominations.

**Federal Bar Association:** Conde reported that bankruptcy bar participation has increased. October 6, 2017 is the big annual conference for FBA which will be held at OMSI. Topics include the intersection of bankruptcy and criminal law. Rich mentioned the historical group meeting is coming up, and Conde noted that each group is separate and has separate CLE events and dinners scheduled. The annual picnic is scheduled for 8/6/17 at 1:00 pm at Judge Leavy's farm. Registration is available on the FBA Oregon website.

**Donation requests:** Jordan noted there have been no further donation requests and we already spent the money we had set aside for donations on the debate group. There was nothing further to report.

3. **Treasurers Report/Budget:** Britta noted the section has over \$10,000 in net revenue as of May 31, 2017. The revenue is from membership fees and Saturday Session. Expenses are about \$1,000 for executive committee reimbursement, \$2,000 for pro-bono Portland related to reception for volunteers, \$700 for the internet (website), \$2,100 for conferences from Saturday Session (convention center), \$550 for the newsletter, \$200 for telephone and conference calls, and \$4,300 for the Oregon State Bar annual assessment. Membership this year was at 540 members. Last year at this same time we were at 587 so membership is down.

4. **Future Meeting Dates:** Clarke noted that our next meeting will be set for Friday, October 20, 2017 likely in a classroom on campus prior to the annual meeting. Alexz will talk to Sussman Shank to see if they can arrange for us to have a classroom from 10:00 am to noon with access to a phone line if possible. Karen indicated the budget has to be to the bar by November 15, 2017 so we have to have one more meeting to discuss the budget for next year, approve it, and submit it by the deadline. Clarke indicated it seems unnecessary to have an additional meeting in November merely to discuss budget. We should discuss the budget at the October meeting, and follow up with phone or email to approve as necessary. The committee agreed that October will be the last meeting of the year and we will discuss budget at that meeting.

5. **Other New Business.**

Clarke requested the committee discuss any new business, for which there was none.

6. **Adjournment:** The meeting was adjourned by motion at approximately 4:55 p.m.

Submitted by:

Laura L. Donaldson, Secretary