

**OREGON STATE BAR – DEBTOR-CREDITOR SECTION
EXECUTIVE COMMITTEE MEETING MINUTES**

Monday, May 4, 2020 at 12:00-1:00 pm
Via Telephone Only
(Call in: 1-888-684-8852 #3702597)

The second regular meeting of the Debtor-Creditor Section Executive Committee in 2020 took place via telephone on Monday May 4, 2020.

The Executive Committee for the Debtor-Creditor Section includes the following members for the 2020 term:

2020 Members: Laura L. Donaldson (Chair), Margot D. Seitz (Chair Elect), Britta E. Warren (Past Chair), Erich M. Paetsch (Treasurer), Cassie K. Jones (Secretary), Judge Trish M. Brown (Ex-Officio Member), Penny L. Austin (Member), William J. Critchlow (Member), Oren B. Haker (Member), Garrett Ledgerwood (Member), Douglas R. Ricks (Member), Rosemary E. Zook (Member), Ava L. Schoen (Member) - with Colin Andries (BOG contact) and Karen Lee (OSB Liaison).

A quorum of the following members participated at the May 4, 2020 meeting via telephone:

Members Present: Laura L. Donaldson (Chair), Margot D. Seitz (Chair Elect), Britta E. Warren (Past Chair), Erich M. Paetsch (Treasurer), Cassie K. Jones (Secretary), Judge Trish M. Brown, Penny L. Austin, William J. Critchlow, Garrett Ledgerwood, Rosemary E. Zook, Ava L. Schoen - with Colin Andries (BOG contact) and Karen Lee (OSB Liaison).

Members Absent: Oren B. Haker and Douglas R. Ricks (Member)

MEETING MINUTES

1. Call to Order

The meeting was called to Order by Chair Laura Donaldson at 12:08 pm.

2. Review and Approval of Minutes from February 22, 2020 meeting

The Committee received and reviewed the minutes in advance of the Committee meeting. The minutes were corrected to include the correct spelling of Cassie's name at paragraphs 9 and 10. Margot Seitz moved and Ava Schoen seconded a motion to approve the minutes as corrected. The motion passed unanimously.

3. Treasurer's Report with Overview of 2020 Budget/Saturday Session

results <http://www.osbar.org/docs/sections/financials/resources/SectionBudgetAccountCodes.pdf>

Erich Paetsch provided his update on the budget status and informed the Committee that the invoice for Saturday Session had been processed. This year's Saturday Session was a wash

from an economic prospective. The Committee asked whether there had been any losses yet from COVID-19 related event cancellations. To date, there has only been one known expense, a caterer's invoice, that the section had to pay relating to a cancelled pro bono event. Erich informed the Committee that as of the end of March the section had roughly \$60,000 in its account. Discussion was held on whether the section will need to reapply for a waiver from the BOG relating to funds retained in the account. Much will depend on whether the section will be able to hold the annual meeting, CLES, etc., this Fall. The Committee will need to follow-up on this topic.

4. Reminder re: Section Contracts for upcoming events and General Counsel approval, cancellation clauses

The Committee discussed the cancellation clauses in various contracts relating to upcoming events. The Committee needs to be mindful of the length of the cancellation clauses in each of the existing contracts and it was noted that some require cancellation much sooner than others. The Committee will need to make decisions regarding the Judge's Reception and the Annual meeting sooner rather than later with the terms of the cancellation clauses in mind.

5. Vote on OLAF Donation Request

Laura Donaldson led a discussion regarding the donation request the section received from OLAF. The donation request had been sent to the Committee for review prior to the meeting. OLAF is on the Bar's list of approved contributions. The Committee discussed the section's policy on charitable contributions and the prior decisions that contributions be debtor-creditor mission-specific. As a counterpoint, it was also highlighted that lawyer wellbeing is relevant to all section members. Historically, the section has provided \$1,000 to the bankruptcy moot court competition. It was decided that since this request was not time-sensitive, we should wait to see if we receive more mission-specific requests.

Cassie moved to table the discussion and Margot seconded. The motion passed unanimously.

6. Committee Reports/Budget requests (30 mins):

- a. **Annual Meeting Report:** Britta is the new chair of the Annual Meeting CLE committee, taking over for Teresa Pearson. Britta will be getting going in the next couple of weeks. The first few meetings will focus on brainstorming topics and individual presenters. As the event draws near, they will work on materials and logistics. The Committee has been discussing a plan for the event in October given the Covid-19 crisis. Karen gave an update on what the bar has done regarding advance planning. There are a couple of surveys that have been completed by other bar groups that indicate people are concerned about in-person events and travel. Other sections have started cancelling events, or moving events later in the year and typically the hotels have been flexible. However, cancellation is a bit harder for events farther down the road, such as our Annual Meeting. There is going to have to be changes to spacing, catering, etc. There is a force majeure clause in the section's contract with Sunriver and a sliding scale cancellation policy. Rose suggested the Committee poll the section about postponing. She also noted that the Committee should monitor the 90-day cancellation deadline, which would require the section to pay Sunriver 90% of the budgeted amount for the annual meeting, rather than the 80% the section would owe if the event was cancelled now. Colin mentioned

that Bar Counsel should be consulted regarding the contract negotiation. Things that need to be decided: Should the Annual Meeting be postponed? Can the Committee offer the event for free? Can the Committee offer the event without a location? Decision: Rose and Britta will develop a poll for all section members regarding a possible virtual meeting.

- b. **Consumer Bankruptcy Report.** Future meetings are being pushed out. Last meeting was held in February.
- c. **Legislative Committee Report.** Motion for reconsideration was filed on *Lash* case, which was granted. The Committee is of the view that *Lash* represents a hole in the legislation which the Court of Appeals picked up on, and still feels that carrying forward with legislative proposal makes sense. Gary Blackledge will appear at the Board of Governor's committee. If the BOG approves, it will go forward relating to the 2021 session.
- d. **Newsletter Committee Report-** The Newsletter lost its student editor at the end of the last edition (graduated). Successfully found a new student editor from University of Oregon. The first edition of 2020 is in process - most of the submissions have been received by the editors. The Committee has a good amount of content for the next edition as well. The Newsletter Committee may need to consider going to a different format, such as a blog. Some people want to draft articles on very time sensitive material (i.e, PPP loan). Because there is a delay in the newsletter process, the content gets stale before it goes out. If the section were to switch to a blog format, Members would receive a notice when new content is posted. A concern was raised regarding the new requirement that the Bar review content before it is posted. One other section does do a blog format already. The Committee will follow up with the Bar Communications section.
- e. **Nominating and Award of Merit:** Nothing substantive to report until the Executive Committee's September meeting. Britta will send an email to the membership regarding nominations as things get closer. There are several people who have expressed interest in serving on the Executive Committee. Last year the section had the first nomination from the floor, Judson Carusone. Multiple other people have been suggested. Most work will take place in July-September.
- f. **NWBI:** The April event was cancelled. Almost all presentations had materials completed at the time of cancellation. All sessions, with the exception of the Judge's panel and audience participation CLES, have been audio recorded. Those sessions will be posted for Oregon and Washington section members. The Bar is working on special pricing for section members. The section has a contract with the Portland Hilton for next year. This has been organized as an in-person event. Committees are being asked to plan the program so that it can be pivoted to remote delivery if required.
- g. **Pro Bono: Portland:** Penny spoke with Rich Parker and learned that the Portland Pro Bono Clinics were cancelled for March-May. June has not been cancelled yet. Legal Aid is referring individuals directly to attorneys for assistance. People are still receiving assistance.

- h. **Pro Bono: Eugene:** Bill reported that Lane County Legal Aid screens clients, and keeps a list of attorneys who can assist. Bill asked for statistics, but did not receive them. Around 5 or 6 attorneys take cases. Bill averages 3-4 cases a year. Legal Aid did not have any interest in funds from our Section. A question was posed about a gathering honoring those that volunteer for the Eugene program. Bill will contact those that participate and will report back, though he doubts there will be interest.
- i. **Pro Bono Task Force:** Ava spoke to Ed Marks in March. Ed was retiring. Ava has not heard from his successor and does not know if he or she has been hired yet. Ed is interested in more accessibility and awareness about the legal aid clinic. Discussed whether there are ways to make legal aid clinics available via technology. May need funds for the technological support to make that happen.
- j. **Saturday Session** – This year’s Saturday Session took place on February 22nd and was the best turn out in a long time. Materials from Saturday Session have been uploaded to the website. Loren Scott is transitioning the leadership of the Saturday Session committee to Elayna Matthews (based in Salem). By the Fall, Loren would like feedback about whether the Executive Committee wants to put on a Saturday Session in 2021, or whether it makes sense to skip a year. If the Executive Committee decides to hold Saturday Session in 2021, Loren Scott will organize the Saturday session committee with Elayna to discuss topics and will report back to the Executive Committee.
- k. **Public Education** – Cassie reported that she presented 3 CARE presentations in Eugene to about 100 students in the Fall. Judge Brown and her clerk completed CARE presentations at Coffee Creek.
- l. **New Lawyers** – The Oregon New Lawyer’s Division reached out to the Section about presenting Debtor-Creditor topic CLES right before the shutdown. No plans had been made before everything was put on pause.
- m. **Website** – No substantive update. As always send any requested changes or updates to Laura or Kent Anderson.
- n. **Local Rules** – No Report this month.
- o. **FBA Representative.** Conde has agreed to be the representative.

7. Section Reserves in Light of Covid-19

Erich posed a question about the BOG’s position on the section account balance in light of Covid-19. Colin informed the committee that the BOG has not had a chance to fully address this yet as the BOG has only had one meeting since the pandemic arose. Colin is confident that the BOG will be understanding if sections are having trouble spending their money this year. There will be more upcoming meetings where guidance will hopefully be developed. Colin encouraged the Committee to spend its money on the members – free CLEs are a great use of the funds. The BOG’s next full meeting is in June.

Colin informed us that the policy change was about five years in the making. The BOG discovered that some sections had up to seven years of reserves in their reserve fund. For the

Debtor-Creditor section, the reserves have gone up while the membership has come down. The BOG is trying to prevent sections from charging dues and not spending the money. Therefore, Sections that have more than two years of reserves, will not get the subsidy from the Bar.

Erich suggested that we apply for a waiver again. Laura reported that her understanding is that we can push out the waiver until September and has asked Colin to keep us updated.

8. CLE's/Task Force

Approach the EC if you have ideas for CLEs/webinars/Zoom meetings etc. It does not necessarily need to be for CLE credit, but could just be helpful information for members.

Update on the Task Force- the goal is to have a representative of each type of party involved with the upcoming fights anticipated to result from the pandemic. The task force would be helpful in proposing how disputes could be resolved. Would like to have a future CLE with a presentation of the likely issues and possible resolutions. The goal is to facilitate settlements, keep litigation at a minimum. The task force is still looking for more volunteers with different stakes in the potential resulting litigation. Laura has reached out to real estate section. Please give webinar topic ideas to Laura.

9. Reminder Future Meeting Dates and Locations

- Thursday, June 18, 2020 at 4:00 pm – 5:30 pm (telephone meeting)
- September 16, 2020 at 2:30 pm - 4:00 pm at Gleaves Swearingen, LLP, 975 Oak Street, Suite 800, Eugene, OR 97401) if social distancing order has been lifted – members can evaluate as date draws closer.
- November Budget Meeting: (Tentative telephone meeting to finalize budget if needed, budget and Annual Report is due December 1).

10. Other New Business

Our Judges have been meeting once a week via Zoom. Judge Brown suggested that Circle of Love meetings be reinstated virtually. The Judges are willing manage that. Could begin holding meetings via Zoom next month.

Margot moved and Cassie seconded to adjourn the meeting at 1:18 pm.