

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

Thursday, September 16, 2020 at 2:30-4:00 pm
Via Zoom

The fourth regular meeting of the Debtor-Creditor Section Executive Committee in 2020 took place via Zoom on Wednesday September 16, 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 September 16, 2020 meeting via Zoom:

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, Douglas R. Ricks, Ava L. Schoen - and Karen Lee (OSB Liaison)

Members Absent: Rosemary E. Zook, Oren Haker, Colin Andries (BOG contact)

MINUTES

1. Call to Order

The meeting was called to Order by Chair Laura Donaldson at 2:34 pm.

2. Review and Approval of Minutes from June 18, 2020 meeting held by telephone.

The Committee received and reviewed the minutes in advance of the Committee meeting. Erich Paetsch moved and Britta Warren seconded a motion to approve the minutes. The motion passed unanimously.

3. Treasurer's Report: Section Reserves & Need for Request for Further Waiver: –
http://www.osbar.org/_docs/sections/financials/resources/SectionBudgetAccountCodes.pdf

The BOG has announced that it will suspend (for 2020) the new rule relating to the amount of reserves a bar section can carryover from year to year due to COVID. The EC does not have to find ways to spend down the account this year.

The Bar has announced that it is changing the per member assessment for the services it
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provides. It is increasing the assessment by \$1.50 per person.

Because everyone is unsure what 2021 will look like due to the effects of COVID, Erich suggested that the EC make minimal tweaks to the 2020 budget to finalize the 2021 budget. Erich suggests the following changes: 1) address the increased assessment by the Bar, 2) address the request the Pro Bono Task Force has received for the section to cover the expenses associated with updated legal aid pro bono materials (\$300 for an updated booklet and \$3,700 for a video), and 3) allocate funds for stipends the EC can use to entice newsletter articles from law students.

The EC discussed whether it should add modest revenue projections for NWBI for 2021. The consensus was that it should not.

The EC has not decided whether a Saturday Session will take place in 2021. Judge Brown suggests that the EC budget the revenue and expenses from 2020 in the 2021 budget. All EC members agreed.

The EC discussed whether section dues should be increased for 2021. The EC decided not to increase dues.

The EC discussed expensing the pro bono task force costs associated with updating legal aid materials this year versus budgeting those expenses for 2021. Bill Critchlow moved to approve amending the 2020 budget to include the expenses to be spent this year. Ava Schoen seconded the motion. The motion was unanimously approved.

The EC voted to include a \$5,000 line item in the budget for an event surrounding Judge Brown's retirement. Judge Brown left the meeting during this discussion.

Erich Paetsch will circulate a budget to the EC for a vote considering the above. The vote will take place by phone or Zoom in October.

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

Tom Stilley reached out to Sunriver to see if the Section's annual meeting could be rescheduled to 2021 or 2022. There was no availability in early October 2021 or October 2022. There is availability on October 29-30th, 2021. Sunriver was willing to reschedule to a different time or they were willing to cancel for \$2,500 (instead of the \$10,000 in the contract).

The EC discussed whether a force majeure clause may eliminate the cancellation charge- General Counsel and Tom Stilley have been working on this and have concluded that the section would need to pay the \$2,500 cancellation fee.

The EC agreed to move the Sunriver contract to October of 2021.

5. Committee Reports/Budget requests:

- a. **Annual Meeting Committee Report.** The committee is getting very close to being **September 16, 2020 EC Meeting Minutes**

ready for our 2020 Debtor-Creditor Annual Meeting & CLE. The Meeting is scheduled for the online, live platform for October 23, 2020. The virtual agenda is as follows:

2020 VIRTUAL CLE – 10/23/2020	
Update on Economy - Bill Rule	10:00 am (1:00 pm EST)
Ethics of Remote Working/Litigation - David Elkanich and Nik Chourey	11:00 am
Annual Meeting	12 pm -12:30 pm (followed by 30 minutes break)
PPP Loans / Small Business Update - Erich Paetsch, Conde Cox, Chris Coyle	1:00 pm
Emerging Consumer Issues and Covid-19 - Tara Twomey and Karen Oakes	2:00 pm (5:00 pm EST)
Judges Panel	3:00 pm
Breakout social – elective (tentative)	4:00 pm

The “Save the Date” went out late last month and the committee put information up on the D-C website as well.

The committee is in the process of scheduling a meeting with Judge McKittrick to go over technical logistics shortly. Materials are due no later than September 23, 2020. They are also planning a test-run with all of the speakers in early October to ensure all speakers are adequately set up.

b. **CLE Taskforce.** Judge Renn and Judge McKittrick are working with the committee to extend the program providing pro bono counsel in bankruptcy (broader than student loan issue representation). They will be seeking volunteer attorneys sometime soon. Anyone who is interested in the committee should let Laura Donaldson know. It was noted that the OSB Barbooks has not been updated in a long time. If anyone is interested in updating sections of the book, let Laura Donaldson know.

c. **Consumer Bankruptcy Report.** A Circle of Love meeting was held on September 10th attended by 37 people from throughout the state. The judges commented on evidentiary hearings by Zoom - a little of what is and isn't working. Charlene Hiss gave updates on local rules/procedures changing as a result of the virtual platform and other changes at the Court. The UST's office reported on updates there, including their new location by end of December in downtown Portland as well as the good and bad of 341 hearings by telephone. The Chapter 13 Trustee's updates included the requirement to move forward with dismissals if parties are delinquent or have a statement of failure to comply despite COVID. Jeff Werstler of the IRS also commented about loss of staff, how they are behind due to that loss of staff, and how that will affect practitioners, claims, and their clients.

d. **Legislative Committee Report.** There have been several special sessions of the Oregon legislature. The speed and lack of advance information or public input due to COVID-19 prior to each session precluded the opportunity for meaningful input by the

committee. The committee did provide comments to its Bar contacts after the fact, particularly about liability concerns for lawyers acting as a Trustee of a Deed of Trust under the wording of House Bill 4204. Separately, the sections proposed legislation is pending before the Board of Governor's for review. No meetings have been scheduled to discuss the draft legislation with the Board of Governors. The Oregon Court of Appeal ruled in favor of the motion for reconsideration in the underlying case which may impact support for a further legislative solution. The committee is going to gear up for the next regular session as it approaches.

e. **Newsletter Committee Report.** The second edition of the Debtor-Creditor newsletter is scheduled for publication in early November. We have a particularly good slate of articles set for this edition, due to some last minute volunteers. This year we have been working on replacing our case notes authors. We had one author retire – Dick Foley - and two others announce that they would like 2020 to be their last year of drafting case notes. Margot has located two replacement authors and have identified a potential third that she has reached out to. Margot is looking for one additional author so she can focus her efforts on the EC next year and step down as a case notes author. If anyone has ideas, please send them her way.

Lastly, Margot proposed adding a \$2,000 line item to the budget for next year to fund a student writing award. This would not only encourage law students to learn about issues relevant to our bar section and become more involved, it would also generate (hopefully) interesting content for our newsletter.

f. **Nominating Committee Report.** The committee has met via email over the last few weeks. The committee solicited nominations from the section. Britta has put together a summary of all the nominees, and the nominations committee will be putting out the final information. Doug Ricks has been nominated as the next Secretary. Doug has accepted the nomination. There are four slates this year and voting will happen electronically 14 days before the Annual Meeting.

g. **NWBI Committee Report.** Karen Lee needs a volunteer for the 2021 planning committee. The committee is made up of three Oregonians and three Washingtonians. Two members are judges, two members are from the business side and, two members are from the consumer side. It is a 3-year commitment. Need someone on the consumer side. The committee-member can come from the general membership. Meetings will be by phone. Karen believes that while the committee has a contract with the Hilton for the 2021 event, this will likely be a virtual event. If anyone has a nominee, tell Laura before the first week of October.

h. **Pro Bono Committee Report.** The Pro Bono Committee met and determined that no judges reception would be held this year. Instead, subject to executive committee approval, \$20.00 gift cards would be sent to participating attorneys. A thank you letter would be sent out on legal aid letter head with the signature of one or more judges and will include information regarding statistics and the names of the volunteers. Rich Parker and Laura Donaldson will be reviewing clinic materials and to add some design contact to break up the written materials. The student loan subcommittee of the pro bono committee has met and is still in stages of development. Volunteer recruitment has been slower than usual. The clinic is asking volunteers to sign up for direct referrals requesting the volunteer accept two cases per month. Clinics have been cancelled since March of this year, however, legal aid will start

scheduling clinics at the three sites commencing the 2nd quarter of 2021. The next meeting is October 1, 2020 at noon.

i. **Pro Bono Task Force Committee Report.** Ava Schoen reports that she has been in touch with Jill Mallery and that she has requested funding to hire a graphic designer to (i) update printed/electronic materials and (ii) create a short video on the consumer bankruptcy process. The quotes for the bankruptcy video range from \$2,200 to \$3,700 and the quote for the bankruptcy consumer booklet design is \$300. The EC voted to approve covering these expenses in 2020 if they are ready to go forward.

j. **Saturday Session/Other CLEs Committee Report.** No substantive update for this meeting. EC just needs to determine whether to have a 2021 Saturday Session. The EC will discuss at the meeting scheduled for November.

k. **Public Education Committee Report.** No substantive update for this meeting.

l. **New Lawyers.** No substantive update for this meeting.

m. **Website Committee Report.** The Debtor-Creditor website has had many updates due to parties at the Court and miscellaneous practitioners reviewing content. An Annual meeting link has been added to the website to provide updates to the annual meeting information. The calendar has been updated and green has been added to the format to make things stand out. The Resources page for attorneys has been updated to update links to the Bankruptcy Court's website as well as to other materials helpful to lawyers new to insolvency practice. The Bankruptcy Clinics page has been updated to provide links and useful information for individuals by County. If anyone would like to see any further information on the site or changes, please email Laura or Kent Anderson. Judge Brown is working on updating the Judge's memo on the website. The Judges are currently reviewing a draft.

n. **Local Rules and Forms Committee Report.** On August 27, 2020, the Local Bankruptcy Rules and Forms Committee submitted its 2020 Report of Local Bankruptcy Rule and Form Change Suggestions to the United States Bankruptcy Court for the District of Oregon. Major suggestions included a re-work of the relief from stay procedures and forms for general applicability in all cases, revisions to the chapter 13 plan form consistent with *In re Orozco*, and updated chapter 11 discharge procedures for subchapter V cases. The Committee does not have any budget requests.

o. **Award of Merit Committee Report.** The Committee consists of all of the past chairs of the EC. Last month all members were asked via email whether the award should be presented this year. The consensus is that the award should not be presented this year due to the inability to gather in person.

p. **Federal Bar Association Rep. Report.** The Debtor-Creditor Section has not scheduled a joint CLE with the FBA as of this date. The plan had been to do a co-sponsored webinar, but folks have appeared to be tired of webinars. Also, given the Annual CLE will cover the same COVID-related content, nothing further is planned at this time. Conde Cox has suggested the EC Chair be the FBA representative each year.

p. **Donation Request Report.** The EC has received a few requests from the Campaign for
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Equal Justice and others. Along the lines of our prior meetings, the donations were not directly related to the mission of our Section, so they have not been brought to the EC. If the Section has additional funds in the budget that it is required to spend next year or risk waiving, the EC may want to consider its guidelines for donation.

6. Reminder Future Meeting Dates and Locations.

- Brief meeting in October to approve the budget will be announced separately
- TENTATIVE: November 12, 2020 at 4:00 pm - 5:00 pm at ZOOM (Tentative telephone meeting to discuss annual meeting, welcome incoming members, tie up 2020 matters) – Budget and Annual Report due to OSB by December 1, 2020.
- Everyone should think about Saturday Session and come ready to discuss.

7. Other New Business /Adjourn.

There was no new business.

The meeting was adjourned at 4:00 pm.