



Alternative Dispute Resolution Section

Washington State Bar Association

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2012 Executive Committee

Rina M. Goodman, Chair
Anamaria Gil, Chair-Elect
Courtland Shafer, Treasurer
Lish Whitson, Secretary
Jeff Bean, Past Chair

Alan Alhadeff
Hon. Paris K. Kallas
Paul McVicker
Adrienne Keith
Kathleen Wareham
Mark Baumann
Sherman Knight

Minutes of the Regular Meeting of the Executive Committee

Friday, December 16, 2011 12:00 p.m.

St. Helens Room, WSBA

The meeting was called to order by Rina Goodman, Chair, at 12:15 p.m. With six voting members a quorum was not present.

Roll Call/Introductions.

Members: Rina Goodman (Chair), Mark Baumann, Anamaria Gil, Jeff Bean, Paul McVicker, Adrienne Keith (by phone), Alan Alhadeff (arriving later).

Guests: Helen Ling (WYLD Liaison), Kathryn Leathers (WSBA Legislative Director)

Approval of Minutes. A quorum not being present, and not all members having opportunity to review, approval of minutes from the regular meetings in September and November was deferred.

Report of the Nominating Committee. Rina presented the report of the committee formed to address issues regarding appointment of new Executive Committee Members; that the committee had considered various qualities thought to be most important in recruiting a new Executive Committee Member. Paul expressed his opinion that the most important quality is enthusiasm. Ana expressed concern that the process not cumbersome and should be simple; that the priority should be finding a member who is enthusiastic and willing to lend a hand; that we not get too hung up on finding the perfect candidate; and that we choose someone who is willing to volunteer their time. Rina said there was still a bigger conversation to have; that the committee has made no decision to recommend that the bylaws should change; and that it reflects how she intends to approach appointments as Section Chair. Rina said the committee will present a prioritized list of qualities for new Executive Committee members and names of candidates to be considered at the regular Executive Committee meeting in January. Ana expressed concern over the time being spent, with two committee meetings of four attending, equaling eight hours of work. Rina affirmed that the Executive Committee will have the opportunity to suggest candidates.

Promoting Informed Use and Best Practices of ADR

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Report of the Legislative Committee. Paul presented the report of the legislative committee. He offered a resolution regarding the eligibility of independent professional mediators to mediate foreclosure cases under the Foreclosure Fairness Act which was deferred as there was no quorum present. Paul presented a report regarding the activities of the committee and the action taken by the legislature on the issue of mediator immunity from liability in FFA mediations. Kathryn reported regarding the amendments made to the original bill to limit immunity to DRC employees and volunteers only. She noted that this “amazing” group of stakeholders had come to unanimous consent on the ADR Section’s proposal to provide immunity for all mediators, when she was originally concerned that the stakeholder group would be able to agree on anything. So it was the “first miracle” that the stakeholders were unanimous on mediator immunity and that it was an emergency, as a lack of immunity has a chilling effect on mediators to participate in the program. It was a “second miracle” that the proposal was introduced and considered by the legislature in the special session. The legislative leadership had been clear that it would not consider any policy bills in this special session that were not necessary to implement the budget. She noted that efforts were hampered in addressing the concerns of Rep. Jamie Pederson, Chair of the House Judiciary Committee, who it appears was most responsible for the amendment limiting immunity, because she was unable to have a conversation or meeting with him to address his concerns. Rep. Tina Orwall has said that immunity for all mediators will be addressed the next regular session. Kathryn noted that the need now is to get a meeting or conversation with Rep. Pedersen. Kathryn asked if the lack of mediator immunity in the FFA as statute could be solved in a mediation agreement; Jeff noted that it would not be enough for him anymore, that he had returned his FFA cases to the Department of Commerce and won’t be accepting referrals until there is statutory immunity. There was some general discussion of whether an “unintended consequence” of the amendment creating a double-standard was that other mediators may pull-out of the program as well. Paul affirmed that the stakeholder workgroup is still unanimous in wanting immunity for all mediators. Paul noted that our section’s level of participation in the stakeholder workgroup is because of Jeff’s involvement and investment of time. Rina expressed appreciation for the incredible amount of time the committee has spent on this matter.

(1:00 p.m. Alan Alhadeff joined the meeting, providing a quorum.)

Introduction of Helen Ling, WYLD Liaison. Rina took a break in Paul’s Legislative Committee report to introduce Helen Ling to those attending as our new liaison with WYLD. Helen will be working closely with Adrienne and the Membership Committee.

Report of Legislative Committee (con’t.). Paul reported on the committee’s work on the UCLA, with Jeff presenting the ADR’s section’s position on the UCLA and on the Open Public Forum the committee hosted to

the House Judiciary Committee at its work session December 2. Paul noted that though the UCLA may be introduced in the session in 2012, with the work that needs to be done to determine whether and how much of it may be adopted by rule, it may not be passed until 2013. Paul noted that the Early Mediation Task Force is still active and issues regarding it, the FFA and UCLA will be addressed at the committee's next meeting later in December.

Media & Communications Committee Report. Mark presented a report, asked questions of the Executive Committee and demonstrated elements of the website. Jeff noted that as committee member, he had not seen the report beforehand, had not had the opportunity to discuss it with Mark and that it would be helpful if they could talk. There was some discussion regarding possible training sessions and about how to use the website. Jeff noted he disagreed with the report, expressed the concern that subjects were not appropriate for discussion by the Executive Committee for policy-making, and needed to be addressed first in the M&C committee. Alan expressed concern that the report lacked coherence for Executive Committee action. Ana and Paul shared ideas with Mark about how to recruit committee members, communicate with them and bring committees to decisions.

(At 1:30 p.m. Adrienne Keith left the meeting, so no quorum was present. At 1:32 p.m. Anamaria Gil left the meeting.)

Discussion continued regarding the website and the work of the committee. Mark expressed concern that he could not move forward with the Ning website without getting clarity on the issues raised in his report. Rina encouraged Mark to have a committee meeting.

At 1:45 p.m. the meeting was adjourned.

Respectfully submitted,

Jeff Bean