

**Minutes**  
**Civil Litigation Section Council Retreat**  
**Minutes: September 16, 2011, 7:45 a.m.**  
**The Marquette Hotel, 710 Marquette Ave., Mpls.**

Members Present: K. Curry, C. Bird, G. Robinson, J. Bazis, Hon. T. Bransford, B. Candlin, Hon. R.Chu, A. Daley, D. Elsass, P. Godfrey, Hon. J. Flaskamp Halbrooks, M. Knobloch, Hon. G. Larson, D. McGrath, W. Partridge, J. Pederson, M. Wallace, M. Wendland, M Goodwin, and K. Basting.

Introduction and welcome of new council members – Kevin Curry had us introduce ourselves and report what we would be doing if we were not lawyers. Responses ranged from fishing guide to pro tennis player.

Kevin also reported on MSBA goals for the year: These include:

- A focus on funding for the justice system (judiciary, public defense and civil legal services.)
- Opposition of a sales tax on legal services.
- Judicial retention election issues.
- Streamlining MSBA governance by creating a council of sections.
- Membership issues to address a concern that many current members are nearing retirement while newer attorneys are not joining. They hope to get more new lawyers active in the MSBA within their first 36 months of practice.

Bruce Candlin reported that the voluntary funding for the State Bar Foundation has also been declining.

**Old Business**

1. Secretary Report (May Minutes) – Galen Robinson  
Minutes seconded approved subject to corrections as reported.
2. Treasurer Report – Charlie Bird  
For the period ending 6/30/2011 we ended with a balance of \$34,415.86.  
This reflects slightly higher expenses and lower revenue after our decision to reduce section dues last year.
3. District Court Opinions – Practicelaw.org –  
Ed Matthews and Greg Luce are no longer involved in these. While many things have been tried it has been hard to get opinions for the system. MSBA cannot pay judges for opinions. It was reported as an ongoing effort at the State Judicial conference and Judges were encouraged to participate, but it is still difficult. A question was posed whether we want to continue to pursue this project.

C. Bird proposed we switch to a system where attorneys are allowed to submit significant trial court opinions they believe worth posting. These would be submitted to a committee of the council. Not every opinion would be posted- rather we would need to establish a protocol for deciding which ones to post.

There were questions as to whether the opinions are useful. It was noted that other attorneys already have some of these and not all judges find another district judge's opinion helpful. On the other hand, some feel the opinions would be helpful in assisting an attorney how to advise a client.

Another question was raised about continuing to publish in Practicelaw.org.

A new subcommittee was formed to continue to work on this. Judge Chu, Galen Robinson and Annamarie Daley will look at what is currently available and recommend next steps to the Council.

#### 4. Judicial Directory – Update and recommendations – Judge Halbrooks

This has been a success. We continue to collect courtroom preferences from Judges. The directory is updated quarterly. J. Halbrooks gets a list of new judges and retirements. Kim sends the survey to new Judges and updates the database when responses are received. The next update should occur by the end of September. The next update will occur in the second Quarter of next year.

Bench and Bar published our notice of the directory in the current issue- they did this at no charge to the Council.

Kim also agreed to send an annual reminder to judges to see if they would like to update their directory listing.

Kim will also send an e-mail to section members about the availability of the directory. Kevin will see if we can give this information to the new lawyers section as well. It helps demonstrate the relevance of the MSBA.

#### 5. Statute of Limitations Manual – Update – Melissa Wendland

Melissa agreed to work on updates to the manual. During each of the last two years we mailed a free CD with the manual to all section members, and Minnesota Judges. Members who want a hard copy can purchase a book; updates are sent at a nominal fee to members. Non-members of the section are charged \$110 for the manual.

Final updates should be available by the next meeting. We will discuss then whether to continue making them available as we have in the past.

### **New Business**

#### 1. MSBA Council Handbook – Kim Basting called our attention to the contents of the

handbook. (meeting dates, roster, minutes and annual report and the section profile report.)

## 2. Committees

- (a) Section CLE Lunches – Bruce reported.  
Clay and Bruce will continue to coordinate these.  
Bruce reported a robust year last year- 6 CLE's which were all free to members and well-attended. He welcomes suggestions for this year's CLE lunches.

Suggestions included: Spoliation, Discussion of Class Action issues once the MN Supreme Court rules on the *Altria* case argued this month,

Another suggestion encourages us to try and conduct these in Greater MN.

Doug Schmidt, a PI attorney, currently coordinates free CLE's on the second Wed. of each month in Excelsior.

- (b) Legislative Liaison – Marcy Wallace  
Mary Knobloch and Galen Robinson agreed to assist Marcy in reviewing legislative proposals that are of interest to section members.

Last session the Council took a position as a group opposing an increase in conciliation court limits.

Jeanette reported on the Minnesota Supreme Court Judicial Reform Task Force. It was created by Justice Gildea. and consists of 29 members. They meet monthly. The goal is to make the justice system more efficient. The committee looked at other states- notably California and Oregon. The committee was divided into three groups: case management, specialty courts, and rules. Each group brainstormed proposals.

Among items discussed by the committee include:

- An expedited litigation track- mandatory
- Complex case program (similar to California model)
- Blocking cases to a single judge
- Continue to permit cases to commence with service but require filing within one year.

A final report will be available for comment soon.

- (c) Annual Meeting CLE –  
Charlie Bird, Paul Godfrey and Will Partridge volunteered to plan and coordinate this.
- (d) Advocate Award –

Mary Knobloch and Judge Bransford agreed to collect and review nominations for this year's award.

- (e) Council Nominations –  
We are currently full. We need to keep it full. If a vacancy appears we should consider adding a representative from Duluth.
- (f) Requests for Section Funds - Galen Robinson & Bruce Candlin  
Galen and Bruce will continue to review and present request for section funds.

J. Halbrooks reported on the Supreme Court Historical Society project that we supported. They selected the 9<sup>th</sup> Judicial District for this year's essay contest. The topic will be Judicial Retention Elections. The winners will receive a scholarship. They collected enough funds to make several awards.

- (g) New Business: E-discovery committee. This is not a Council committee. Emily Duke is coordinating it to consider a Minnesota model for E-discovery best practices. Charlie Bird volunteered to be a liaison from the council.

### 3. MSBA Section 2011-12 Goals

- (a) We need to brainstorm to determine what our next project will be.
- (b) Civil Jigs. Committees will be formed again to review and draft revisions to these. The council has the power to appoint a "Special Master" to help form the committees. We will reach out to George and Terry to see if they are interested in doing this again. Judge Larson said the work of the committees themselves involves intensive wordsmithing. Kevin will send out the roster and we should think about it for the next meeting.
- (c) Ken Baylis was nominated to serve on the Civil Trial Certification Board. This was moved, seconded and approved.