

THE FLORIDA BAR ELDER LAW SECTION
Executive Council Meeting Minutes
Elder Law Annual Update
Loews Portofino Bay Hotel, Orlando
Thursday, January 16, 2020

I. Call to Order – Randy C. Bryan, Chair

Randy Bryan called the meeting to order at 6:04 p.m. and recognized guests in attendance.

II. Approval of October 4, 2019 Minutes – William Johnson, Secretary

Bill Johnson asked for a motion to approve the October 4, 2019, minutes. The motion was given, seconded, and **PASSED** unanimously.

III. Chair’s Report – Randy C. Bryan

Randy Bryan thanked CLE Committee Chairs and members of the Annual Update CLE Steering Committee. He praised all of the committee co-chairs who conduct the majority of the Section’s substantive business throughout the year.

IV. Immediate Past Chair’s Report – Jason A. Waddell

Jason Waddell announced the formation of the 2019-2020 nominating committee, comprised of himself, Randy Bryan, Steve Hitchcock, Carolyn Landon, Victoria Heuler, Bill Johnson, Emma Hemness, and Collett Small, and invited any other interested members to contact him. The committee will be nominating the slate of 2020-2021 executive officers and will submit their nominations to the Executive Council for email vote later this spring.

He also reminded members about the 2020 Pledge Form for the Florida Joint Public Policy Task Force and encouraged members to consider pledging. The Task Force is facing an increased financial burden for its legislative consultant contract and the implementation of an aggressive public relations campaign.

Jason concluded his report by discussing the Professional Fiduciary Council of Florida, which was recently formed. Jason serves as the ELS Liaison to the Council. He shared brochures with members and highlighted the upcoming Florida Fiduciary Conference 2020, scheduled on February 6, 2020, in St. Petersburg. He encouraged everyone to attend.

V. Chair-Elect’s Report – Steven E. Hitchcock

Steve Hitchcock thanked the members of the Annual Update CLE Steering Committee for their efforts on this year’s program, which was off to a great start. He announced that his major initiative moving into his year as Chair will be to work with the CLE Committee to produce board certification review content for members since the annual update is no longer a board certification review CLE. Since the members of the Elder Law Certification Committee cannot participate in this project, he is seeking other board certified attorneys to help, and asked anyone

interested to let him know. His goal is to have CLE content ready by the end of 2020 so that it is ready in time for the Spring 2021 exam.

VI. Treasurer's Report – Howard S. Krooks

Howie Krooks referred members to the November 2019 financial statements. He acknowledged and thanked section sponsors Elder Counsel and Guardian Trust, and reported that the Section is in good financial standing. The 2019 Annual Retreat performed \$8,300 better-than-budget. He also thanked Program Administrator Leslie Reithmiller for her efforts and assistance.

VII. Substantive Committee Report – Victoria Heuler, Substantive Vice Chair

A. Abuse, Neglect, and Exploitation Committee – David Weintraub and Ellen Cheek

David Weintraub reported that the committee's focus during the last few months has been on planning its panel of regulators and lawyers for Annual Update. The committee is enjoying a record number of committee members and engagement this year.

B. Estate Planning and Probate Committee – Horacio Sosa and Amy Collins

Horacio Sosa referred members to the committee's written report.

C. Ethics Committee – Steven Hitchcock

Steve Hitchcock referred members to the committee's written report.

D. Guardianship Committee – Stephanie Villavicencio and Twyla Sketchley

Twyla Sketchley reported that the committee recently reviewed proposed legislation dealing with guardians and DNRs. The committee opposes both the House and Senate versions of the bill because of the provisions related to extraordinary authority under FS 744. The proposed legislation could delay a DNR for as long as 6 weeks, which would adversely impact particularly frail wards who will be resuscitated in the time it takes to do this. The committee will be starting weekly meetings during the legislative Session.

E. Legislative Committee – Shannon Miller, William Johnson, and Travis Finchum

Travis Finchum reported that the committee is currently tracking approximately 33 bills, but that only about a dozen or so are being followed with serious attention. The committee continues to hold regular monthly calls with the RPPTL legislative committee, which have been constructive.

Travis asked for clarification regarding the process for obtaining formal Section approval for a legislative position in a time sensitive scenario. Randy praised the legislative committee for its efforts over the last couple of years to develop the Section into a substantial voice on legislative issues. He noted that the Bylaws require Executive Council approval for legislative positions, which is not always practical during legislative session.

Recently, there have been several bills that the Section did not know were coming or could not prepare for in advance. When a matter is time sensitive, the Executive Committee has authority to approve a position, then report it to the Executive Council at its next meeting. Discussion followed regarding the Bylaws procedures. Randy noted that the Section will soon be undertaking a Bylaws revision to provide more clarity on the issue. Travis concluded the committee report by providing a short summary on the bills the committee is actively monitoring.

F. Medicaid/Government Benefits Committee – John S. Clardy, III and Heidi Brown

Heidi Brown referred members to the committee’s written report. She added that the committee unequivocally opposes the proposed bill that would permanently revoke retroactive Medicaid.

G. Special Needs Trust – Howard S. Krooks and Amy Fanzlaw

Howie Krooks referred members to the committee’s written report, but noted that a number of committee members have submitted articles for the *Elder Law Advocate*, and that the committee is in charge of the Annual Convention CLE this year. They are in the planning stages now and have drafted an agenda.

H. Veterans Benefits – Teresa Bowman and Jack Rosenkranz

Teresa Bowman referred members to the committee’s written report.

VIII. Administrative Committee Reports – Carolyn Landon, Administrative Vice Chair

A. Budget Committee – Howard S. Krooks

Howie Krooks reported that Jason brought to the Executive Committee’s attention the fact that the Section has not made a contribution to the Task Force since 2013. At that time, the Section was in a different financial position which made contributions difficult. The Budget Committee recently met to discuss this issue and how best to resume contributions to the Task Force and communicate to AFELA that the Section is committed to the joint mission. Howie Krooks made the following motion:

Move to enter into an agreement with the Academy of Florida Elder Law Attorneys (AFELA), authorizing the Elder Law Section to:

- a) Make a \$5,000 annual contribution toward the activities and mission of the Florida Joint Public Policy Task Force.**
- b) Contribute an additional discretionary amount annually, to be determined and approved by the Elder Law Section Executive Committee based upon the profitability of the Section and the demonstrated financial need of the Task Force.**

The motion was seconded, and discussion ensued regarding its condition of “demonstrated financial need” by AFELA for the discretionary contribution. It was determined that an appropriate procedure for obtaining the necessary information from AFELA would be agreed upon between the Section and AFELA at a future date. Steve Hitchcock called to amend the language of the motion to read:

Move to enter into an agreement with the Academy of Florida Elder Law Attorneys (AFELA), authorizing the Elder Law Section to:

- c) **Make a \$5,000 annual contribution toward the activities and mission of the Florida Joint Public Policy Task Force.**
- d) **Contribute an additional discretionary amount annually, to be determined and approved by the Elder Law Section Executive Committee. [Removed phrase: and the demonstrated financial need of the Task Force.]**

The amended motion was seconded and **PASSED** with four votes opposed.

B. CLE Committee – Danielle Faller and Marjorie Wolasky

Danielle Faller asked for volunteers to assist with the board certification review CLE content project.

C. Membership Committee – Donna McMillan and Mike Jorgensen

Mike Jorgensen reported that the Committee sent messages to non-renewed ELS members last fall and gained some members back through that effort. The Section also gained several new members this year.

D. Mentoring Committee – Dayami Sans and Jodi Murphy

No report was given.

E. The Advocate Committee – Heather Samuels and Genny Bernstein

Committee Co-Chairs Heather Samuels and Genny Bernstein thanked the contributors to the most recent issue of *The Advocate*, which was just delivered to section members. They also requested volunteers to take over the Fair Hearings column.

IX. Special Committee Reports

A. Certification Committee – Amy Fanzlaw and Laurie Ohall

Amy Fanzlaw reported that there were between 16 and 18 elder law attorneys sitting for the exam this spring.

B. Law School Liaison Committee – Enrique Zamora and Max Solomon

Enrique Zamora reported that the committee is finalizing its advertising materials for the section's student essay contest. They are also looking forward to St. Thomas Law University's 4th Annual Elder Law Symposium.

C. Sponsorship Committee – Jill Ginsberg and Jason Waddell

Jill Ginsberg reported that twelve sponsors were present at the Annual Update this year. Sponsorship package prices will be increasing next year, and the committee is already looking for new and additional sponsors for next year's program.

D. UPL Committee – John Frazier and Leonard Mondschein

Len Mondschein reported that the committee is working on an informational brochure regarding UPL. He referred members to the committee's full written report.

E. Technology Committee – Alison Hickman and Lawrence Levy

Alison Hickman reported on the Section's Facebook page status (500 likes), and that social media efforts continue to go well. The co-chairs are seeking additional committee members and are working with AFELA to post local rules to the web.

F. Strategic Planning Committee – Jill Ginsberg, David Hook, and Collett Small

Collett Small reported that the committee has identified a potential strategic planning consultant for this year's strategic planning meeting.

G. Litigation Committee – Ellen Morris

No report was given.

H. Disability Law Committee – Steven Hitchcock

Steve Hitchcock announced that Melissa Lader-Barnhardt had joined the committee.

X. Board of Governors Report – James G. Vickaryous

BOG Liaison James Vickaryous was not present.

XI. Liaison Reports

A. AFELA – Twyla Sketchley

Twyla Sketchley promoted the upcoming Elder Law Concert, scheduled on February 21, 2020, in Fort Lauderdale.

B. FSGA – William Johnson

Bill Johnson reported on the 1st annual Ethics Symposium, which was held on January 10, 2020, in Kissimmee.

C. RPPTL – Marjorie Wolasky and Travis Finchum

No additional report was given.

D. NAELA – Howard S. Krooks

Howie Krooks reported that NAELA has downsized to one annual event per year. The next NAELA Conference will be held in Seattle, WA from April 30 – May 1, 2020.

E. Task Force – Ellen Morris

Ellen noted that she presented a Task Force Update during *Essentials of Elder Law* that day and would be presenting again on Friday during day one of the *Elder Law Annual Update*.

XII. New Business

Randy Bryan announced the formation of a Bylaws Revision Subcommittee and appointed Jason Waddell as Chair. Victoria Heuler will serve on the committee as well.

XIII. Adjournment

There being no further business, Randy Bryan adjourned the meeting at 7:45 p.m. The next meeting of the Elder Law Section Executive Council will be held in conjunction with The Florida Bar Annual Convention on Friday, June 19, 2020, at the Hilton Orlando Bonnet Creek resort (date and time to be confirmed by The Florida Bar).

Attendees:

Genny Bernstein
Sam W. Boone, Jr.
Teresa K. Bowman
Heidi Brown
Randy C. Bryan, Chair
Ellen Cheek
John Clardy
Danielle Faller
Amy Fanzlaw
Travis Finchum
John Frazier*
Jill Ginsberg
Victoria Heuler, Substantive Vice Chair
Alison Hickman
Steven Hitchcock, Chair-Elect
William Johnson, Secretary
Mike Jorgensen
Howard Krooks, Treasurer
Carolyn Landon, Administrative Vice Chair
Lawrence Levy
Shannon Miller
Leonard Mondschein
Ellen Morris
Heather Samuels
Twyla Sketchley
Debra Slater

Collett Small
Horacio Sosa
Jason Waddell, Immediate Past Chair
David Weintraub
Enrique Zamora
Scott Anderson, Guest
Britton Swank, Guest*
Jonathan Gigele, Guest
David Lillesand, Guest
Evet Simmons, Guest
Aubrey Posey, Guest
Jana McConaughay, Guest
Leslie Reithmiller, Program Administrator

**attended by phone*