

**MINUTES OF THE EXECUTIVE COMMITTEE (“EC”) OF THE  
CREDITOR/DEBTOR SECTION OF THE WASHINGTON STATE BAR  
ASSOCIATION**

**DATE: September 14, 2012 at 3:00 P.M.**

**LOCATION: Cairncross & Hempelmann Conference Room**

**1. Introduction:**

The meeting was called to order by Outgoing Chair Gloria Nagler at approximately 3:00 p.m. Attendance at the meeting in person included Incoming Chair John Rizzardi, Incoming Chair Jim Hurley, Incoming Recorder Tom Linde, Board Members: William Malaier, John Knapp, Brett Wittner, Sheila O’Sullivan, Karen Gibbon and Erik Bakke. Also in attendance were guests Michael O’Meara, Patrick Layman, Daniel Gordon, John Ruhl and Stacy Holmes from the WSBA. Attending by telephone were EC Members: Mark Northrup and Russ Garrett.

**2. Approval of the Minutes:**

The Minutes of the last regular meeting held June 15, 2012, at Sun Mountain Lodge were approved without change.

**3. New EC Members:**

Gloria announced the election of the following EC members by members of the section:

Position No. 1 --- Eastern District of Washington - Kevin O’Roarke  
Position No. 2 --- Eastern District of Washington - Noel Pitner  
Position No. 3 --- Western District of Washington (Northern Division) - Karen Gibbon  
Position No. 4 --- King County - William Malaier  
Position No. 6 --- Western District of Washington (Southern Division) - Brett Wittner

Gloria announced that she was now officially Past Chair and handed the reins of Chair to John Rizzardi. Jim Hurley is now Chair Elect and Tom Linde is now serving as Recorder.

John Rizzardi’s first order of business was to thank Gloria for her excellent work as Chair over the last two years and this sentiment was shared by everyone present.

**4. Section Dues Increase:**

John reported that the section dues increase to \$27.50 per annum is now in place for the upcoming fiscal year. The increase was necessary to cover operating costs which can no longer be covered by WSBA in light of the member approved referendum to lower annual dues.

5. **Section Membership Report:**

John Rizzardi reported that WSBA has advised that the section currently has 665 members. Of these members, 301 are also on the Section's list serve hosted by WSBA. Efforts are underway to increase our list serve membership.<sup>1</sup>

6. **Financial Report:**

John Rizzardi reported on the Section's current financial status and a financial summary report through June 30, 2012 was reviewed. Given the relatively healthy financial status of the section, it was decided that there would be no change this year in the budgeted amount for our annual grants awarded by the Section.

7. **CLE Report:**

Gloria Nagler and Tom Linde reported that the Distressed Residential Real Estate CLE, which they co-chaired (co-sponsored with the WSBA and held in August 2012), was well attended and the Section is waiting for the final accounting from WSBA relating to the revenue generated from the CLE. The December Lien Seminar is also scheduled with WSBA, as a co-sponsor, for December 6, 2012. Gloria Nagler and Tom Linde will serve as co-chairs.

John Rizzardi reported that Chief Bankruptcy Judge for the Western District Paul Snyder expressed interest in coordinating with the Section a Trial Skills Seminar In Bankruptcy CLE . Judge Snyder advised that he would volunteer bankruptcy court judges to participate in the program. John will follow up on this.

Tom Linde reported that there would be a number of bench bar conferences with the bankruptcy bench and bar scheduled for December 2012 (in Vancouver and Tacoma) and January 2013 (Seattle). The conferences will be sponsored by the bankruptcy section of the Federal Bar Association.

8. **NWBI Report:** NWBI 2013 will be held at the convention center and hotel in Vancouver, Washington and is currently in its planning phase with the OSBA. It was announced that NWBI 2014 will be held at the Grand Hyatt in Seattle.

9. **Proposal for Legislative Action Relating to Consumer Collection Attorney's:**

**Guests** Dan Gordon, Patrick Layman and Michael O'Meara attended the meeting in part to report on recent decisions from federal courts in Washington which appear to conclude that consumer collection attorneys in Washington may be required to be licensed as collection agencies in spite of the exclusion of "lawyers" from the definition of collection agency under RCW 19.16.100(3). John Rizzardi advised that, (under the procedures in place governing sponsoring legislation by the Section) the time has passed for the Section to sponsor any legislation for the 2013 legislature. Attorneys Gordon and Layman advised that there is currently a proposed legislative bill being worked on by a collection attorney's association to clarify the exclusion for consumer collection attorneys and that as soon as it was in final form it would be presented to the Section board for review and comment.

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<sup>1</sup> According to the WSBA, only 13 of our members do not have email addresses.

10. **Sidney C. Volinn Award:**

Gloria Nagler reported that Ian Ledlin had requested the Section consider appointing a subcommittee to explore nominating a deserving person for the Sidney C. Volinn Award. It was so moved, and the creation of a subcommittee to explore making a nomination for the award was approved. Gloria Nagler, John Knapp and Ian Ledlin will make up this subcommittee.

11. **News Letter Report:**

Mark Northrup reported that the first all electronic version of the newsletter is now available on-line by section members upon entry of a password. The password for downloading the newsletter was recently e-mailed to all section members. A discussion followed regarding whether the board could determine the percentage of section members who have email and the percentage of members who may not. Stacy Holmes of the WSBA stated she would see if WSBA could provide this information.

12. **Updating Receivership Statute Task Force:**

John Rizzardi indicated a task force is working to consider and/or propose amendments to the RCW 7.60, the receivership statute. John Rizzardi and task force member John Ruhl advised that preliminary inquiries had been made to attorneys and judges across the state to make suggestions and suggestions and ideas are just coming in and being processed. John Rizzardi and John Ruhl thought that any proposed changes to the receivership statute would not be presented until the 2014 legislative session at the earliest.

13. **Changes to Attorney Lien Statute:**

No formal legislative proposal has been received from attorney Mike Caryl. Given the lack of movement on this issue, the matter is being removed from the board's agenda unless we are asked to consider it again by Mike Caryl in the future.

14. **Response to Collection Attorneys and Creation of Collection Attorneys Sub Committee:**

Tom Linde reported that the task force created by the EC to address the issues raised by the petition of state court collection attorneys for the formation of a new bar section drafted a report to the EC of its initial thoughts which are summarized below:

In response to the petition by over 100 of our Section members who were interested in possibly forming a new Bar Section that would serve the needs of those attorneys who primarily do state-law collections, this task force studied ideas and alternatives that could be achievable in a reasonable time frame that would address what is perceived as being most critical to the petitioners:

Representation of their interests on the EC;

Early awareness of issues or legislation affecting their field of practice;

A voice in the ongoing discussion of legislation;

Meeting their needs and the needs of their colleagues in continuing legal education.

After reviewing the by-laws of other WSBA sections and meeting via telephone conference, the task force initial thoughts were:

1. The task force would identify several logical subcommittees such as “state law collection lawyers”, etc. after a discussion by the board as a whole on preferences.
2. The board would ask that the board identify who would be the liaison for a subcommittee that is similar to their law practice. For example, Gloria would be the natural liaison for subcommittee of consumer debtor lawyers.
3. The board would then draft certain basic governance documents for the subcommittees and how they interface with their board liaison and the board itself.

In this way, when issues arise, the board liaison can communicate with the subcommittee about pertinent topics. Legislation that is more interesting to a subcommittee can be communicated and discussed more efficiently. Section members have a platform for introducing their view, and subcommittees have a board liaison for bringing the matter to our meetings.

This proposal may not require a bylaws amendment since the bylaws allow the Chair to appoint committees “to perform such duties and exercise such powers as the Executive Committee may direct”. We have an article in our bylaws allowing for a special appointment to the Executive Committee to make a “unique contribution” which maybe could be used in this process.

A discussion regarding these ideas from the task force was had by the members of the EC and the others present. The EC voted to create an initial sub-committee of state court collection lawyers which would be lead by attorneys Patrick Layman and Michael O’Meara. Michael O’ Meara and Patrick Layman would report back at the next meeting regarding organization and basic governance documents on how the new subcommittee would interface with the EC. A discussion of a change to the by-laws to add an EC member from each subcommittee created was had. In the interim, pending any change to the by-laws, it was decided that an EC member liaison would be chosen for each subcommittee (preferably based on if it appeared that there was an EC member who would be a natural liaison based on practice area). Additional possible sub-committees of Section members based on practice area which were discussed (in addition to State Court Collection) were: Consumer Bankruptcy; Commercial Bankruptcy; Foreclosure and Eviction. It was also noted that due to this decision there is no need for the EC to meet on October 18, 2012.

**15. Request to Volunteer to Head Grant Program:**

Chair John Rizzardi asked for a volunteer to head the annual grant program by reviewing the applications received and reporting recommendations to the EC. Bill Malaier volunteered to head the grant program for the upcoming year.

16. **Report of Legislative Liaison:**

John Knapp reported that there are no pending legislative proposals that have been forwarded to him yet by Kathryn Leathers, lobbyist for the WSBA. He stated however that this will be changing shortly as the new 2013 legislative session approaches.

17. **New Business:**

The EC previously had approved Marti McCaleb as the Young Lawyers Liaison to the Section. Marti will be invited to attend the next EC meeting. Gloria Nagler also asked if anyone from the EC would be interested in volunteering to work with the WSBA on the regulation of legal technicians under a newly approved program. Gloria Nagler and Brett Wittner expressed interest in volunteering.

18. **Next Meeting Date:**

The next meeting date of the Section's EC was set for December 7, 2012, at 3:00 p.m. at the WSBA offices in Seattle.

19. **Adjournment:**

There being no further business, the meeting was adjourned at approximately 4:30 P.M.

Respectfully submitted,  
Thomas S. Linde, Recorder