**Construction Law Committee**

**Memorandum of Committee Minutes**

To: All Construction Law Committee Members

The Florida Bar: Real Property, Probate and Trust Law Section

From: Robert E. Doan, Secretary

Re: Meeting Minutes – May 13, 2024

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**RECORDING ATTENDANCE:** NOTE: Recording your attendance helps track participation and gives you a record to look back on when reporting CLE. Use the link distributed by Sanjay Kurian to record your attendance for this meeting.

**1. Opening:** Chair, Sanjay Kurian called the meeting to order at 11:32 a.m.

Chair, Sanjay Kurian was not able to attend. Vice-Chairs are Bruce Partington and Elizabeth Ferguson. Secretary is Robert Doan.

The minutes from the April 8, 2024, meeting were distributed by Rob Doan after the meeting on April 8 and this morning by Sanjay. Minutes were approved.

**2. Subcommittee Reports:**

 A. ABA Forum on Construction Law Liaison: Tony Lehman (alehman@hlpwlaw.com) is the Forum Liaison.

Upcoming national meetings will be held as follows:

The fall meeting will be in Pittsburg in late October from October 23-25. The focus will be on representing and advising design professionals.

January 15-17 will be the mid-Winter meeting in Tampa and will focus on representation of Owners.

If you’d like to learn more about getting involved in the Forum generally, feel free to reach out to Tony. If you are interested in being published in one of the periodicals, he can assist.

B. ADR Subcommittee: Reese Henderson and Bryan Rendzio are the co-chairs. Anyone who is interested in participating, please contact reese.henderson@gray-robinson.com or bryan.rendzio@ansbacher.com. There will be a CD mediator panel for the CLE in February.

C. Certification Exam: Joe Passeretti (jap@beggslane.com ) is the new chair. 39 people signed up and 34 took the test. Grading has now begun and results will be published around August 1. The last time the pass rate was 54%. 68 people were up for recertification this year. The application deadline for the 2025 exam is October of this year.

D. Certification Review Course: Scott Pence (spence@carltonfields.com) and Greg Hutt (ghutt@trenam.com) are the co-chairs. March 6-8 will be the dates in 2025. No report this month.

E. Construction Law Institute: Brad Weiss (brad@bmwlawyers.net) is the current Chair. March 6-8 will be the dates in 2025.

F. Construction Litigation: Ryan Sullivan (Ryan.Sullivan@hwhlaw.com) Lucien Johnson (Lucien.johnson@foley.com) are the co-chairs. Lucien reported: The Litigation Subcommittee continues to conduct monthly telephonic meetings on the first Thursday every month at 1130AM. The last meeting was May 2. If you would like to receive the emails, email Ryan or Lucien at the email addresses above. If anyone is interested in presenting, please let them know. The next meeting is June 3 at 1130.

G. Construction Regulation: Chris Cobb is the chair (CCobb@cobbgonzalez.com) and James Gonzalez (jgonzalez@cobbgonzalez.com) is co-chair. James reported. This subcommittee will continue to work on presenting new construction licensing issues related to contractors, architects, engineers, mostly at the state level, as well as changes to the administrative code related to licensure. CILB May meetings took place in Melbourne. The June meetings are June 10 in Safety Harbor.

H. Construction Transaction Subcommittee. Claramargaret Groover (cgroover@beckerlawyers.com) is chair. Claire previously reported that G729 will be issued in 2024. Claire mentioned that the ABA Forum is a great way to interact with AIA and provide comments on existing and new contract forms as well as Consensus Docs.

The goal of this subcommittee is to provide a practical resource to construction transactional attorneys to refer to when drafting / updating / customizing standard AIA docs. There will be an annual or semi-annual report form the subcommittee that notes which cases related to certain sections of the standard AIA docs.

1. Contractor’s University: Chair, David Zulian (dazulian@napleslaw.com) reported. Debbie Crockett is co-chair (dscrockett@napleslaw.com). Peter Vilmos reported that they are working on getting the courses renewed with the Bar. They will be setting up regional workshops and moving forward and looking for new members to get involved as well. The goal is to host several intimate seminars across the state for contractors on various topics such as lien law and contract clause tips. Email Debbie or David if you would like the zoom link for the meeting.

J. Legislative Subcommittee: Sean Mickley (smickley@whitebirdlaw.com) and Bret Henson (bhenson@shumaker.com) are Co-Chairs. Brett reported. The subcommittee has been working on an effort to fix a problem with the newest language in 95.11(3)(b) which leaves certain types of projects unaddressed, specifically with respect to projects where there is no certificate of occupancy or final inspection for certain types of projects (renovations for example, horizontal improvements under FDOT jurisdiction where “final acceptance” is the ending benchmark but unmentioned by the statute.) There is a white paper in play that has been evolving since the CLI. The subcommittee did reach unanimous approval at the last subcommittee meeting. In addition to “trigger gaps” there may be a constitutional issue with a lack of preambular fact findings which are likely required in those versions that shortened the time period.

After a thorough explanation, the CLC committee approved moving the proposed bill forward to the RPPTL Committee meeting at the end of May as an informational meeting. Next steps will be discussed after that.

K. Membership Subcommittee: The chair is David Zulian. His email address is dazulian@napleslaw.com. David previously reported there are currently 553 members, up one from last month. If you are aware of anyone that would like to become a member of the committee, let David or an officer of CLC know. You must be a member of RPPTL to join.

L. Newsletter: Peter Kapsales (pkapsales@milnelawgroup.com) is chair of this committee. They are always looking for new articles. Articles should be at least 750-1000 words and have far less formal requirements than Action Line or the Bar Journal. Send submissions of ideas to Peter or Ben if you are interested in submitting. No report this month.

M. Pro Bono Subcommittee: Elizabeth Ferguson (ebferguson@mdwcg.com) is the chair of this subcommittee and Pamela Holcombe is co-chair (pamela@anastasialaw.net.) Anyone interested in joining the subcommittee or in receiving referrals for pro bono assignments should contact Elizabeth or Pam for more information. Volunteering attorneys work in conjunction with legal aid counsel on cases. Pam pointed out that you do not necessarily take on a case 100%, but rather can advise and consult a legal aid organization. They recently placed two cases.

N. Publications: Nick Elder (nelder@cobbgonzalez.com) is the chair. Andrew Foti (afoti@stearnsweaver.com) is co-chair. Nick encouraged people to submit. Articles for Action Line should be 3000 words. Andrew reported: July 15 will be the next ActionLine deadline (1000 - 3000 words). Florida Bar Journal feature articles should be 7000 words or less and columns should be 4500 or less. If you have any ideas for articles or would like to peer review articles of others, please email Nick or vice-chair Andrew Foti for ideas or to volunteer to peer review.

O. Government Contracts: Lisa Colon Heron (lcolon@smithcurrie.com) is the chair. Lisa reported on a few matters: Meetings are the 3rd Wednesday of the month at lunchtime. Lisa welcomes help in working on this subcommittee, which focuses on tracking case law as well as regulatory and administrative changes and cases that affect government contracting, including small business and MBE/WBE programs. Lisa mentioned Tower Hotel v. City of Miami case, regarding demolition notice / compliance agreement issues. In 3 of 4 projects, the city approved the agreements but did not issue permits withing the time in compliance agreement. City sought to move forward with demolition. Ultimately, the 3rd DCA, held in favor of the project owners on the grounds of equitable estoppel. There is a Westlaw citation.

P. Website: Jack Taylor (jtaylor@angius-terry.com) and Klarika Caplano (klarika@coats-schmidt.com ) are the co-chairs. Visit rpptl.org and you can then access the CLC webpage. Email either one of them if you’d like to be involved. All CLC course numbers are updated on the website when available. No report today.

Q. CLE: Jade Davis (jdavis@hallboothsmith.com ) is the chair. Sean Sullivan (ssullivan@beckerlawyers.com) is joining the committee as a co-chair. Sean reported that they are still working on the backlog of approvals with the Bar. If you are presenting, please submit the information to Jade or Sean as soon as possible in advance so that the CLE number is available right away. They are booked through February 2025.

**REMINDER: Each committee member is responsible for posting their own CLE credits on TFB website; neither the committee nor subcommittee can do so.**

**3. New Business:**  None.

4. Continuing Legal Education Presentation:

 Our CLE presentation for this meeting will be Creative Ways to Resolve Construction Litigation: A Case Study presented by Peter Vilmos. The CLE began at 12:10 p.m. and concluded at 1:01 pm.

**5. Closing:**

The meeting was adjourned at 1:01 p.m.

**REMINDER:** The next regularly scheduled meeting of the committee will be held on Monday, **June 10, 2024,** beginning at 11:30 a.m., via Zoom. The Zoom link and dial in information will be distributed by email from Sanjay Kurian to the construction official business listserv prior to the meeting, but unless there is an unexpected change, should be: Zoom Link

Join Zoom Meeting  <https://beckerlawyers.zoom.us/j/82503132938>

Meeting ID: 825 0313 2938

The attendance list as of 3:15pm was:

|  |  |  |  |
| --- | --- | --- | --- |
| 5/13/2024 9:32:25 | Alexander Leon | aleon@haber.law |  |
| 5/13/2024 9:34:11 | Chris Bracken | cbracken@thefund.com |  |
| 5/13/2024 9:36:23 | Nicholas Elder | nelder@cobbgonzalez.com |  |
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