**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 – June 10, 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:** Vice**-**Chair, Bruce Partington 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 May 13, 2024, meeting were distributed by Rob Doan after the meeting on May 13, revised, and circulated last evening 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:

There is a planning retreat in Anchorage, AK in July. This is for leadership only.

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

 December 5 will be a four city, concurrently held group of meetings on infrastructure.

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. There is a new book coming out on procurement this summer, and a book on representing owners around the time of the mid-winter meeting. 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. Bryan reported an update to a case about conflicting ADR / forum provisions.

C. Certification Exam: Joe Passeretti (jap@beggslane.com ) is the new chair. 39 people signed up and 34 took the test. Grading essays has now begun and results will be published around August 1. 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. Ryan reported: The Litigation Subcommittee continues to conduct monthly telephonic meetings on the first Thursday every month at 1130AM. The last meeting was attended by 19 people on June. 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 July 2 at 1130. 2024 WL2226302 is a new case where 57.105 fees were awarded against a firm for bringing a claim on behalf of an unlicensed contractor. There was also a 4th DCA case on 713.21 due to a technical issue due to the language “properly perfected,” and therefore finding the statute was not available to defeat a claim of lien where the NTO was not properly served. Bruce also noted a rules opinion that came out on Friday stating the ultimate facts must be pled in affirmative defenses.

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 June meetings are currently taking place in Safety Harbor. James noted that people are lifting digital signatures from public records and using them to “stamp” plans in permit applications.

H. Construction Transaction Subcommittee. Claramargaret Groover (cgroover@beckerlawyers.com) is chair.

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 in May 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 and that was done.

Brett also reported they are working on deleting the words “properly perfected,” from 713.21 in response to recent case law.

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 two months ago. 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 1000-3000 words. Nick reported: July 15 will be the next ActionLine deadline. 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. Klarica reported that they are uploading caselaw updates from the litigation subcommittee. The Bar is still behind on updating CLE approvals.

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. Hilary at the Bar is now helping and Sean expects an update soon. 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:**  Brett Henson reported there will be a new subcommittee within the CLC for In House Counsel. Our future co-chairs, Joe Darr (jdarr@brasfieldgorrie.com) and David Ehrlich (dehrlich@tcco.com) reported they will do meetings every other month, with the first meeting being in July. Membership is limited to those who currently serve as in-house counsel.

4. Continuing Legal Education Presentation:

 Our CLE presentation for this meeting will be on The Economic Loss Rule, presented by Hugh Higgins of the St. Pete office of Bachara Construction Law Group. The CLE began at 12:00 p.m. and concluded at 12:36 pm.

**5. Closing:**

The meeting was adjourned at 12:36 p.m.

**REMINDER:** The next regularly scheduled meeting of the committee will be held on Monday, **July 8, 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 12:36pm was:

|  |  |  |  |
| --- | --- | --- | --- |
| 6/10/2024 10:50:07 | Todd A MacLeod | tmacleod@bacharagroup.com |  |
| 6/10/2024 10:50:13 | Chris Bracken | cbracken@thefund.com |  |
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