**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 – September 9, 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.

Vice-Chairs are Bruce Partington and Elizabeth Ferguson. Secretary is Robert Doan.

The minutes from the August 12, 2024, meeting were circulated before the meeting by Sanjay. Minutes were approved with a correction noting Sanjay was present and presided over the meeting.

**2. Subcommittee Reports:**

A. ABA Forum on Construction Law Liaison: Tony Lehman ([alehman@hlpwlaw.com](mailto:alehman@hlpwlaw.com)) is the Forum Liaison. Claramargaret and Sanjay reported today.

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.

December 5 will be a four city, concurrently held group of meetings on infrastructure. (Boston, Chicago, Los Angeles and New Orleans.)

January 15-17 will be the mid-Winter meeting in Tampa and will focus on representation of Owners. “Maximizing Returns: Proven Strategies for Owners and Developers.”

There is a book coming out on Design Build and EPC contracting. It will be available through the ABA website.

If you’d like to learn more about getting involved in the Forum generally, including sponsorship opportunities, 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 Oblow and Bryan Rendzio reported: MEAC Opinion 2003-009 re: whether mediator has a duty to inquire about a party’s “full settlement authority.” Rule 1.720 is relevant to the discussion. The panel concluded that a mediator does not have a duty to inquire about authority at the outset. The other situation involved was whether a mediator has a right to compel participation in a future mediation session if one party wants to declare an impasse. The answer is that a mediator does not have the authority to compel participation at a continued date without the party’s consent.

C. Certification Exam: Bruce Alexander ([bruce@bgalawadr.com](mailto:bruce@bgalawadr.com)) and Dara Lindquist ([dlindquist@carltonfields.com](mailto:dlindquist@carltonfields.com)) are the new chairs. Results were released recently. Congrats to the newly certified members. The application deadline for the 2025 exam is October of this year. No report this month.

D. Certification Review Course: Scott Pence ([spence@carltonfields.com](mailto:spence@carltonfields.com)) and Greg Hutt ([ghutt@trenam.com](mailto: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](mailto:brad@bmwlawyers.net)) is the current Chair. Trevor Arnold reported: March 6-8 will be the dates in 2025. This is a week earlier than last year. It will still be at the JW Marriott Grande Lakes. They are actively working on programming at this time. (3/6 is just golf and welcome reception for the CLI side)

F. Construction Litigation: Jason Lambert ([jason.lambert@hwhlaw.com](mailto:jason.lambert@hwhlaw.com)) Michael Feinberg ([Michael.feinberg@ansbacherlaw.net](mailto:Michael.feinberg@ansbacherlaw.net)) are the co-chairs. Ryan reported: The Litigation Subcommittee continues to conduct monthly telephonic meetings on the first Thursday every month at 1130AM. The September meeting is cancelled in lieu of the section meeting at the Breakers. Jason Lambert and Michael Feinberg will take over next month as chairs.

G. Construction Regulation: Chris Cobb is the chair (CCobb@cobbgonzalez.com) and James Gonzalez (jgonzalez@cobbgonzalez.com) is co-chair. James reported that there are new certified specialty license types. They are working on the tests for these areas. There are also exemptions for licensure if criteria is met.

H. Construction Transaction Subcommittee. Claramargaret Groover (cgroover@beckerlawyers.com) is chair. Alex Leon is a new co-char ([aleaon@haberlaw.com](mailto:aleaon@haberlaw.com)).

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. No report this month.

1. Contractor’s University: Chair, David Zulian ([dazulian@napleslaw.com](mailto:dazulian@napleslaw.com)) reported. James Barlow is co-chair (jbarlow@careyomalley.com). David reported previously in they are still struggling getting the courses renewed with the Bar (due to 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 James or David if you would like the zoom link for the next meeting. They are still having difficulty with the Bar on getting programming re-certified.

J. Legislative Subcommittee: Sean Mickley (smickley@whitebirdlaw.com) and Nick Elder ([nelder@cobbgonzalez.com](mailto:nelder@cobbgonzalez.com) ) are Co-Chairs. Sean reported. The Real Property Round Table passed our legislative initiative regarding 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.) It is moving forward with our lobbyist upon receiving RPPTL support at the last section meeting.

K. Membership Subcommittee: The chair is David Zulian ([dazulian@napleslaw.com](mailto:dazulian@napleslaw.com)). Co-Chair is Mark Smith ([msmith@careyomalley.com](mailto:msmith@careyomalley.com)) David reported there are currently 555 members, up one from the last report. 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. They will do another annual audit/cleanup of the roster.

L. Newsletter: Peter Kapsales (pkapsales@milnelawgroup.com) is chair and Hilary Morgan ([hmorgan@shermanhoward.com](mailto:hmorgan@shermanhoward.com)) is co-chair of this committee. Brett Henson reported: 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 Natalie if you are interested in submitting.

M. Pro Bono Subcommittee: Pamela Holcombe (pamela@anastasialaw.net) is the chair of this subcommittee and Hardy Roberts ([hroberts@careyomalley.com](mailto:hroberts@careyomalley.com)) is co-chair. 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. There are two cases needing help coming up. So far they have had 100% placement and hope to keep it up. Pam and Hardy reported. Hardy pointed out that the idea is to make construction lawyers available in a geographically relevant case by case basis. They are looking for relationships in areas across the state with pro bono organizations.

N. Publications: Andrew Foti ([afoti@stearnsweaver.com](mailto:afoti@stearnsweaver.com)) is the chair. Mike Rothfeldt ([mrothfeldt@carltonfields.com](mailto:mrothfeldt@carltonfields.com)) is co-chair. Andrew encouraged people to submit articles or ideas for articles. Articles for Action Line should be 1000-3000 words. October 15 will be the next ActionLine deadlines. The deadline for the spring edition is January 15. 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 Mike 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 4th Friday of the month at noon. 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 a case the Supreme Court recently granted cert on regarding the Federal act that imposes liability for fraud involving government funds. Oral arguments are in October.

P. Website: Jack Taylor ([jtaylor@angius-terry.com](mailto:jtaylor@angius-terry.com)) and Klarika Caplano ([klarika@coats-schmidt.com](mailto: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.

Q. In-House Counsel: David Ehrlich and ([dehrlich@tcco.com](mailto:dehrlich@tcco.com)) and Joe Darr ([jdarr@brasfieldgorrie.com](mailto:jdarr@brasfieldgorrie.com)) are the chairs. The first meeting was on July 30th. Will meet on the last Tuesday of every other month. They are up to 30 members and would like to see that increase. The next meeting is September 24. If anyone knows any in-house that might be interested in joining, let David or Joe know by email. The next meeting will be on ESI programs, and it will take place later this month.

R. CLE: Sean Sullivan ([ssullivan@beckerlawyers.com](mailto:ssullivan@beckerlawyers.com)) is chair along with Jill Dutmers ([jdutmers@shutts.com](mailto:jdutmers@shutts.com)) as the new co-chair. Sean reported that they are still working on the backlog of approvals with the Bar and another batch is forthcoming. If you are presenting, please submit the information to Jill or Sean as soon as possible in advance so that the CLE number is available right away. Sean reported they have open spots early 2025 – Summer 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](mailto:jdarr@brasfieldgorrie.com)) and David Ehrlich ([dehrlich@tcco.com](mailto: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 “2024 Legislative Update,” from the CLC’s own C. Ryan Maloney, a partner at Shutts (Jax office). The CLE began at 12:05 p.m. and concluded at 12:36 pm.

**5. Closing:**

The meeting was adjourned at 12:37 p.m.

**REMINDER:** The next regularly scheduled meeting of the committee will be held on Monday, **October 14, 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 12:38 pm was:

|  |  |  |  |
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| 9/9/2024 8:32:23 | Brian Oblow | brian.oblow@arlaw.com |  |
| 9/9/2024 9:41:32 | Jason Handin | jhandin@kaufmanlynn.com |  |
| 9/9/2024 10:31:00 | Hugh Higgins | hughdhiggins@gmail.com |  |
| 9/9/2024 10:51:25 | Alan Lubitz | lubitzlaw@gmail.com |  |
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