

Construction Law Committee

Memorandum of Committee Minutes

To: All Construction Law Committee Members
The Florida Bar: Real Property, Probate and Trust Law Section

From: Fred R. Dudley, Secretary

Re: Meeting Minutes – June 11, 2012

NEW RECORDATION OF ATTENDANCE: In an effort to conserve committee time for discussion of pending issues all attendance **must** be recorded BY EACH MEMBER through the use of Google Documents. Instructions for the use of this method of recording attendance will be given at the beginning of each meeting.

1. Opening: Chair, Arnie Tritt, called the meeting to order at 11:34 a.m.

A. The minutes for the committee's previous meeting of April 9, 2012, were approved as circulated.

B. Officers acknowledged, in addition to the chair were: Hardy Roberts, 1st Vice Chair; Lisa Colon-Heron, 2nd Vice Chair; Scott Pence, 3rd Vice Chair (and Chair of the Legislative Committee); and, Fred Dudley, Secretary.

2. Welcome New Members and Guests: Chair Tritt introduced and welcomed 5 new members, bringing the total committee membership to 563. Guest included: Tom Dart (also new members).

3. New Business: Chair Tritt announced that two (2) new subcommittees have been created: Technology and Jury Instructions.

4. Tech Report: Hardy Roberts announced that future CLE presentation would be conducted as Webinars (speaker with a video link for those interested) for up to 500 attendees. He also announced that the new list serve is now in place for those members who want to communicate with each other, in addition to the "official" list serve that will remain available only to the officers for committee notifications and meeting materials.

5. Subcommittee Reports:

A. **ABA Forum Liaison:** Cary Wright repeated the meeting dates for the Forum to include: the fall meeting to be held in Boston on October 18-19, 2012; the mid-winter meeting to be held in Naples on January 31-February 1, 2013, at the Naples Grand (which will include a reception sponsored by CLC); and, the annual meeting to be held in California on April 25-27, 2013.

B. **Construction Regulation:** Chair Fred Dudley distributed this month's report, and briefly discussed several of the state case decisions. He also announced that one of our committee members, Chris Cobb, has just been appointed to the CILB.

C. Publications: Vice-Chair Michelle reported that the PPP article by Brian Rowson is waiting on a publication date in the Florida Bar Journal, that a new article by Larry Leiby regarding prompt pay clauses has completed the peer review process, and that Ty Thompson has agreed to prepare an article on Insurance Solvency and Motions to Stay.

IMPORTANT REMINDER: Members are invited to submit proposed articles on a construction law topic for peer review and possible publication in The Florida Bar Journal.

D. 2012 Construction Law Institute: Chair Cary Wright reported that the committee is now planning next year's program to be held on March 7-9, 2013, at the Rosen Shingle Creek or Lakeside. He also reported that the topics have been mostly selected and they are now reaching out to prospective speakers.

ANOTHER IMPORTANT REMINDER: Members and their firms are invited to serve as sponsors this event for a cost of only \$2,000 each, which includes two (2) complimentary admissions and display of member or firm name in the program materials.

E. Certification Review Course: No report.

F. Certification Exam: Fred Dudley reported that of the 35 applicants have been approved to sit for the 2012 exam held on May 17th in Tampa, 23 showed up. All exams have now been graded, and are pending review before results are announced.

Members who are not yet certified have until the application deadline of October 31, 2012, in order to take the certification exam in May 2013.

G. Chinese Drywall: Chair Neal Sivyer reported that the global settlement has been approved, except as to Tshaun who objected to the court's jurisdiction, with a stay for all pending cases. The "opt-out" date is September 28, 2012, with a referee to determine claims at that time; Neal has been appointed to serve on the Allocation Committee, which will recommend how the settlement funds are to be distributed for valid claims that have not opted out of the settlement.

H. Green Building: Vice Chair Scott Pence reported that the committee meets via phone conference on the 1st Thursday of every month, and is currently working on a CLE presentation for Green Construction, as well as a "Green" topic to be presented at the 2013 Construction Law Institute.

I. Small Business Programs: Chair Lisa Colon-Heron reported that section 295.187 was amended, effective July 1, 2012, to extend program coverage to war-time veterans.

J. Surety and Insurance: No report.

K. Website: No report.

L. Legislative: New Chair Pence announced that members interested in serving on this subcommittee send him an e-mail request.

M. Jury Instructions: This new subcommittee will be chaired by Hardy Roberts, with Gary Brown, M. Meyers, Brian Wolfe and Neal Sivyver, and announced that any other committee members who wish to serve send him an e-mail request.

N. CLE: Chair Lisa Colon-Heron requested volunteers to serve as speakers for CLE presentations.

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

6. Continuing Legal Education Presentation: (Started at 11:54 until 12:29)

Daniel Wireman from Cleveland Construction gave the CLE presentation on "The Practical Challenges of Contracting with Small Business Entities," and distributed six-page outline describing SBA's mission statement, size limitations, common problems, allocation of contract funds (with various possible options), development of bid packages, contract provisions and issues, and legal pitfalls.⁸

NOTE: **Volunteer speakers for future CLE presentations are encouraged to notify Chair Colon-Heron as soon as possible.** Presentations should be in 25-minute segments, but may be continued to a subsequent meeting if more time is required, and may include more than one speaker; discussion and debate will be welcome.

7. Closing:

No further business appearing at this time, the meeting was adjourned at 12:30 p.m.

REMINDER: The next scheduled meeting of the committee will be held on **Monday, July 9, 2012**, beginning at 11:30 a.m., as a regular conference call.