

**MEETING MINUTES**  
**ABA SECTION OF LITIGATION**  
**CONSTRUCTION LITIGATION COMMITTEE**  
**Full Committee Membership Call**  
**July 26, 2012, 6PM-7PM EST**

- 1. Who are we and why are we here?** Co-Chair Ed Gentilcore welcomed all the membership in attendance and thanked them for taking the time to participate. Ed acknowledged Tom Dunn, the new Profession Education and Ethics Subcommittee Co-Chair (Ethics), who graciously offered to and did prepare these minutes. The conference call is also being recorded so that members who were unable to attend can get caught up in full if they so choose. Co-Chair, Drew Williams will join later in the call. Over the past several months, Co-Chairs have solicited feedback from its members on ways in which to improve services and deliverables of the CLC to its members. The focus of the CLC is on construction litigation issues in the trial and arbitration context. Gentilcore thanked Dave Kurtz (Construct!) and Pat Greene (Case Notes) for their leadership with the CLC's publications. CLC's goal is to be a strong platform for the distribution of information to construction litigators and provide resources and a forum for exchange of information that impact construction litigation practitioners.
- 2. AP Leadership Program and Experience**

  - a. Review of the Process.** AP Leadership Program has been around for a number of years. CLC just this past year decided to engage in the program. This process was an interactive, multi-month process.
  - b. Development of Three Year Plan, Vision Statement and SWOT Analysis.** It involved a SWOT (strengths, weaknesses, opportunities, and threats) analysis, refinement of the CLC vision statement, and development of a detailed, task oriented 3 year plan. The process concluded at a face to face meeting in Washington DC. But, the conclusion of the AP Leadership Program is simply the beginning of the implementation of the program. For any member who has an interest in reviewing the results of the SWOT analysis, vision statement, and 3 year plan, contact the CLC Co-Chairs and they will provide a copy -- those documents are open to all members.
  - c. Final Meeting and Development of Detailed Listing of 12-24 month targets/goals.** CLC has prepared a comprehensive schedule of events over the next 24 months. CLC wants to get programs sponsored at the Section Annual Meeting, ABA annual meeting, and Forum meetings. We want to get Construct! published on a regular basis. CLC, led by Melissa Beutler, is going to publish the second edition of the model jury instructions for construction litigation. This is an effort that will require the volunteer work of CLC members. Beutler points out that this task can be very discrete in that it would help if one jury instruction was prepared by a member. In addition, if a member just finished with a trial with jury instructions, provide them so that they can be considered for inclusion into this publication.
- 3. Subcommittee Restructuring and Appointments.**

- a. **Purpose and Roles of Chairs/Co-Chairs** The purposes of revamping the subcommittee structure were at least three-fold. First, CLC wanted to make sure the goals of the CLC were matched by the names and duties of the subcommittees. Second, CLC wanted to maximize the participation by the subcommittee co-chairs so that deliverables are produced. Third, CLC tailored specific subcommittees where members showed a strong interest. One example is the Green/Sustainability Subcommittee lead by Jeanne Barnum. The Co-Chairs invite the membership to review the subcommittee roster and contact the chairs with ideas (program ideas, articles, and webinars). The full roster of Subcommittees and Chairs follows at the end of these Minutes. The Co-Chairs acknowledged and thanked all of these CLC members for their leadership, energy and efforts to come on behalf of the CLC.
- b. **Emphasis on Collaborative Approach to Committee Leadership/Accomplishments.** Co-Chairs discourage the concept of only performing the certain tasks of each person's subcommittee. Rather, the members and subcommittee chairs should collaborate with each other and pitch-in wherever and whenever they can.
- c. **Subcommittee Responsibilities for Newsletter and Context for Meetings and Committee Calls (Rotation).** CLC is going to provide more content. CLC is setting a rotation schedule for future listserv calls that will make subcommittees responsible for content. There will be webinars, regional programs, as well as our submission of program ideas to the annual meetings.
- d. **Mentee Pilot Program/Appointments.** This is a pilot program. Currently, we have four mentees: Vanessa Serrano, Paul Rodrigues, Logan Hollobaugh, and Michael Kamprath. The purpose of the mentee program is to develop future leadership of the CLC from within. By having these members participate now in the leadership calls, they will become more familiar with how the CLC and ABA works. If this pilot program succeeds, then we will expand it so there is a mentee for each subcommittee.

4. **Membership Report and Growth Initiative.** CLC continues to be one of the largest committees of the Section of Litigation. CLC has in excess of 2,300 members. Our membership is strong. It has remained consistent throughout over the past few years when overall ABA membership was in a decline because of the economy. Co-Chair thanks the membership for its continued support, loyalty, and continuing to pay their dues.

- a. **Recruit One More Member Campaign.** Bill Bay, the Chair of the Section of Litigation, has led a campaign to recruit more members. CLC is asking each of its current members to just recruit one new member. If we were successful in achieving half of that goal, then CLC's roster could grow well over 3,500 making it close to the largest committee.
- b. **Efforts to Increase Membership Diversity Underway.** Diversity of membership and leadership of the CLC one of our continuing goals. CLC has a wide diversity of membership now and wants to expand it. Toshikazu Desaki, with Navigant Consulting, is providing leadership on the diversity initiative for the CLC as a part of the

Membership, Diversity and Outreach Subcommittee. We want to increase representation in all areas (race, gender, etc.) but also “West of the Pecos” membership. CLC’s membership seems to more heavily concentrated on the East Coast to the Midwest. The greater we can expand membership in the Western states the better content we will be able to provide.

## **5. Professional Education Efforts, Opportunities and Deadlines**

- a. ABA Forum Meeting (April 2013/Dana Point, CA) Plenary 9 Status Report.** Co-Chair describes the “trial of the future” program involving impact of real time monitoring devices during the project and predictive coding for document discovery. He thanked the Professional Education and Ethics Subcommittee Co-Chairs, Tom Dunn, Mike Gordon, Fred Hedberg and, particularly, Karen Layng, for putting this program together. The Co-Chairs also thanked Charlotte Wiessner and Pat Greene for their efforts in coordinating this opportunity with the ABA Forum on the Construction Industry.
- b. Section of Litigation Annual Conference Program Submission Deadline is August 24, 2012.** The Co-Chairs called for program suggestions on for this Conference. It was mentioned that collaboration with other committees to come up with an idea will likely yield the greater success. The Co-Chair described the insurance defense concept for a program -- including the ethical representation issues involved -- and the to-date development discussions with Mary Craig Calkins, the Chair of the Insurance Coverage Litigation Committee
- c. “Big” ABA Annual Meeting Program Proposal Deadline is August 24, 2012.** The CLC needs ideas for this Program, which must have broad reaching appeal to have any consideration for selection. Collaboration with other Groups, Committees and Sections will also be key..
- d. Proposed Webinars.** The Co-Chairs mentioned this is an initiative being pressed strongly by Section Leadership. Past Section Annual proposals are being considered as topics for these webinars, including Aaron Silberman’s proposal on practice before the Federal Court of Claims, the CLC’s prior program proposal on a significant SCOTUS personal jurisdiction opinion from late last year, and green construction litigation program proposal developed by Jeanne Barnum. Please send ideas to the Co-Chairs or the Professional Education and Ethics Subcommittee Chairs. Ideas particularly dealing with ethics should go to Tom Dunn.
- e. Regional Programs/Opportunities.** These are in the works. Ideas are always welcome.

## **6. St. Louis Leadership Meeting-September 27-29, 2012**

- a. Grand Renaissance, St. Louis.** In addition to the Co-Chairs and publication editors, 10 subcommittee members are going to attend this leadership meeting.

- b. Opened dialog with Missouri Construction Law Committee for Meet and Greet.** This will involve a tour of a facility and a reception of some form. For CLC members in the St. Louis area, information will be circulated and it would be great to have a more CLC members attend and participate in this meet and greet. More details will be circulated in the month to come.

**7. Upcoming Calls.** This membership call was more of a potpourri call going over the developments of the CLC in the past months. Future calls will be more targeted and substantive based on rotation appointments to the CLC Subcommittees. Co-Chair, Drew Williams, adds that CLC has been directed to deliver some form of content to its members every month. These calls will be one part of serving that purpose.

- a. Subcommittee/Mentee Calls**

- b. Full Committee Calls**

**8. Our Written Communications: Web/CaseNotes and Construct!**

- a. Creation and Appointment of an Editorial Board.** CLC is considering forming an Editorial Board to help develop, collect and edit consistent content for the CLC members. Contact Drew Williams or Ed Gentilcore about interest on being on this Board. This would be good “stepping stone” for those members who are looking to get more involved in the CLC.

- b. Call for Authors.** “Content, content, content . . .” is always an asset to the CLC members as a whole and to the individual member who provides it. If you have a shorter case note summary, send it along to Pat Greene. If you have a longer article, reach out to David Kurtz, if you have a Web posting, send it along to David Frommell, and if you can assist on the Second Edition of the Model Jury Instructions for Construction Litigation, reach out to Melissa Beutler.

- c. Practice Toolbox/Construction Litigator 101 Articles Needed.** These articles are needed from our experienced members and are very helpful to newer construction litigation attorneys. The Section leadership has emphasized the importance of developing this content

**9. Miscellaneous Committee Business Old and New**

- a.** In response to Drew Williams’ call for ideas from membership, Aaron Silberman expressed that he would like to see more events planned among the CLC membership at the ABA Annual meeting, Section Annual meeting, and Forum on the Construction Industry meetings. For the upcoming ABA Annual Meeting, Karen Layng offered to coordinate a get together in Chicago.

**10. Adjourn**