

Oregon State Bar
Business Law Section Executive Committee
Meeting Minutes

March 8, 2017
12:00 p.m.

Meeting Location: Sussman Shank LLP, 1000 SW Broadway, Suite 1400, Portland, Oregon, 97205

Present in Person: Valerie Sasaki, Jeffrey Tarr, Tyler Volm, Benjamin Lenhart, Kenneth Haglund, David Post, Kara Tatman, Justin Denton, Genevieve Kiley

Present by Phone: Lorie Harris Hancock, Kyle Wuepper, Benjamin Kearney

Also Present: Dale Higer, Idaho Commissioner on the Uniform Law Commission, Lane Shetterly, Oregon Commissioner on the Uniform Law Commission, Susan Grabe, OSB Liaison, Chris Hall, Carole Barkley (by phone)

Absent: Douglas Lindgren, Thomas Tongue, David Ludwig, Tom Peachy, BOG Liaison

A quorum was present. Mr. Denton called the meeting to order at 12:05 p.m.

Mr. Denton welcomed Susan Grabe from the Oregon State Bar, Dale Higer from the Uniform Law Commission, and Lane Shetterly from the Uniform Law Commission to the meeting.

1. Approve Prior Minutes

The Committee reviewed the draft minutes for the monthly meeting held on February 8, 2017. Mr. Haglund previously provided Ms. Kiley comments. After motion duly made and seconded, the Committee approved the minutes subject to Mr. Haglund's changes.

2. Bar Liaison Report

Dani Edwards was unable to attend the meeting so Ms. Grabe reported that a new Business Law Section member list has been provided to the Committee, including a list members that did not renew Section membership. Section membership declined by a few members. The Committee discussed sending personal letters to members who did not renew and discussed soliciting feedback on what services the Section can provide to members, which falls within the scope of the Outreach Subcommittee.

3. Subcommittee Reports & Discussion

a. CLE Committee Report

Mr. Volm reported that the annual Business Law Section meeting will be held on Friday, November 3, 2017 at the Multnomah Athletic Club. The subcommittee plans to meet before the next monthly Committee meeting to brainstorm CLE topics for the annual meeting. Mr. Volm welcomed all Committee members to provide CLE ideas to the subcommittee. An Oregon legislative update and incentive compensation were suggested for a stand-alone quarterly CLE topics.

b. Outreach Subcommittee Report

Mr. Tongue was unable to attend the meeting, but reported via e-mail prior to the meeting that the subcommittee had nothing to report.

c. Communications Subcommittee Report

Ms. Sasaki reported that she will chair the subcommittee, rather than have co-chairs with respect to the newsletter and website groups.

Ms. Sasaki also reported that the newsletter group has not convened yet, but that the subcommittee is committing to two issues in 2017.

Mr. Tarr reported that he and Ms. Barkley conferred regarding the Section website. The subcommittee intends to update the website to show prior Castles Award winners, however, when the website was revamped two years ago such information was not moved to the new website. Ms. Barkley is working to locate prior Castles Award winners and bios. Mr. Tarr will continue to serve as a liaison between the Committee and Ms. Barkley. Ms. Barkley also reported that she is reviewing other section CLEs and selecting topics to populate the Section's audio CLEs on the website.

d. New Business Lawyers Subcommittee Report

Mr. Wuepper reported that Mr. Tongue has sent information regarding Section scholarships to the Oregon law schools. Otherwise, nothing new to report.

e. Legislative Subcommittee Report

Mr. Lenhart and Mr. Hall met and will again before the next monthly meeting to set a subcommittee plan for the year. The subcommittee will begin planning for potential updates to the Oregon Business Corporation Act and Limited Liability Company Act. Mr. Hall reported speaking with Michael Levelle, Oregon State Bar, Board of Governors, President on how to productively collaborate with potential legislative proposals. Mr.

Levelle requested an outline of issues and will get together again, potentially with Oregon State Bar staff, to discuss the issues further.

Mr. Hall reported on HB 2191 being considered this legislative session. The bill is in effect three bills in one: (1) setting requirements for registered agents; (2) requiring reporting for identities of beneficial ownership holders; and (3) providing the Attorney General and Department of Revenue broader enforcement powers for failure to cooperate with investigations, such as the authority to involuntarily dissolve an entity. The legislature heard testimony last week and HB 2191 will likely progress. Mr. Hall will likely go down to Salem with Ms. Grabe to discuss issues and potential concerns with the bill. Mr. Shetterly commented that many states have enacted something regarding disclosure of beneficial ownership except Oregon and Delaware.

A brief discussion regarding when the Committee became less involved with the legislative process. Ms. Grabe believed HB 2191 is a good opportunity for the Committee to reestablish relationships and the process. However, it can still be difficult because legislative counsel has ultimate authority regarding what is included in the bill. Ms. Grabe suggested that working through a larger stakeholder group or with other players, such as legislators, would be helpful. Mr. Shetterly also suggested inviting legislative counsel to discussions earlier in the process and include in the preliminary drafting process.

4. Uniform Law Commission Special Guests

Mr. Denton recapped the discussions at the Committee's annual retreat regarding potential legislative updates, and invited Mr. Higer and Mr. Shetterly as a follow up.

Mr. Higer provided a history of the Uniform Law Commission and limited liability company statutes generally. The first generation of the Uniform Limited Liability Company Act was adopted in 12 states in or around 1994. Work began on the Revised Uniform Limited Liability Company Act in 2002 and was promulgated in 2006, to which there have been two amendments in 2011 and 2013 respectively. Mr. Higer described some of the more significant changes in the ULLCA, as amended, and provided a comparison of the ULLCA and the Oregon Limited Liability Company Act.

Mr. Denton asked how the Uniform Limited Liability Act handled the transition of old limited liability statutes with new statutes. In some states, there is a one or two-year transition period. Other states have two acts on the books and/or old limited liability companies can opt into the new act.

Ms. Sasaki asked what concerns legislators may have or what other predictable speed bumps may be, and asset protection issues were identified. Mr. Higer indicated that Arizona has been working on its revised act for approximately five years, Pennsylvania took three to four years, and Idaho took two years because the committee met once per month.

Mr. Tarr asked what the process generally was to draft new legislation. Mr. Higer and Mr. Shetterly explained that most committees go through each act section by section to discuss. In Idaho, specific articles were assigned to members of the drafting committee to research existing law and report back to the committee and approximately five to six people attended each meeting.

Mr. Lenhart raised political considerations. Ms. Grabe reiterated that a larger workgroup through the Oregon Law Commission process may be beneficial. A discussion ensued regarding various potential stakeholders including Business Litigation Section, law professors, Secretary of State, and the Committee. Mr. Shetterly indicated that workgroups typically consist of 15 to 18 people and that Oregon Law Commission staff can help with the facilitating the process. The Committee discussed strategies regarding how to approach the process.

The Committee thanked Mr. Higer and Mr. Shetterly for attending the meeting. Guests left the meeting at 1:24 p.m.

Remaining Committee members and Ms. Grabe discussed potentially working with the Oregon Law Commission because it can provide scheduling and other resources. Any proposal would be developed with the Oregon State Bar and then submitted to the Oregon Law Commission.

5. Adjournment

There being no further business, the meeting adjourned at 1:34 p.m.