

WSBA CONSTRUCTION LAW SECTION COUNCIL MEETING

November 14, 2018 @ Noon

NOVEMBER MEETING
STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, WA 98101
Cascade Conference Room

CALL IN INFORMATION
Dial In # is: 1-866-577-9294
Participant Code: 501655
Moderator Code: 5016559

AGENDA

1. Welcome – A. Hardwick
2. Approval of October 2018 minutes – A. Hardwick (See Attachment 1)
3. Financial Report – J. Beyerlein
4. Midyear Meeting/CLE – J. Beyerlein
 - a. Proposed Agenda (See Attachment 2)
 - b. No On-Demand (See Attachment 3)
5. Fall Forum – Amazon Spheres Review – J. Beyerlein/A. Hardwick
6. Winter Forum – B. Reed
7. Deskbook – A. Hardwick (See Attachment 4)
8. Spring CLE in Spokane set for March 22, 2019 – B. Hill
9. Writing Competition – S. Millstein/A. Hardwick
10. Legislative Review/Keywords – B. Hill (See Attachment 5)
11. For the Good of the Order

Construction Law Section
Meeting Minutes
October 10, 2018

Jason Piskel
Jennifer Beyerlein
Amber Hardwick
Paige Spratt
Brett Hill
Amber Hardwick
Rick Wetmore
Eleen Trang, WSBA

Ron English
Bryce Sinner
Bryce Sinner;
Lena Holohan
Seth Millstein
Colm Nelson
Alex Jouravlev

Not participating: Zak Tomlinson, Todd Henry, Bart Reed

The meeting commenced at 12:00 pm at the law offices of Stoel Rives, and recessed about 1:15 p.m. Jason Piskel chaired.

Discussion

1. Welcome: Jason introduced the two new members of the Council, Lena Holohan and Paige Spratt, who each described her background and practice.
2. Approval of May and September Minutes - Minutes for May and September were presented and approved except that in the May minutes the name of Kerry Lawrence was misspelled and the reference in the September minutes to an “eblat” should be “eblast”.
3. Section Membership and member survey: Jason reported we have 506 members, which is down about 100 members from 2 years ago. He reported that there are about 230 members from Seattle, with 40 from Portland and 25 from Bellevue. Jason said that even though our numbers have not dropped dramatically, we should look for ways to encourage lawyers to join. We should offer an discount for seminars and events equal to the section membership. Add this information to the newsletter and section website and registration materials for eblast. Jason asked that the agenda for next month include a discussion of the fee structure for the midyear next June.
4. Financial – Jennifer reported that revenue from section dues is down, but the seminar revenues was nearly \$8,000, compared to the budgeted amount of \$4,000, and typical revenues of \$6,500. Expenses are below budget. Even though the year ended September 30, we should not get a final fiscal year report until December or January. She projects our total loss for the year should be about \$2,000, less than the planned loss of \$5,800.
5. June 2019 Midyear CLE: Ron reported that the co-chairs for next year’s seminar, himself, Jason, Jennifer and Brett, along with Athan, Amber and John Evans, had a conference call on September 27 to plan the seminar. The primary issues are (1) whether to continue to use WSBA facilities and services or to go separately; and (2) selecting a topic for the seminar.

Regarding the seminar location, Jennifer has indicated that Lane Powell can host the seminar and provide webinar capability, as well as handle registrations. Given that WSBA takes over 50% of all revenues, and the co-chairs recommend going to Lane Powell next year and not using WSBA's services to produce the seminar. Ron made a motion to that effect. Jason noted that the facilities charge was \$2,000 last year. It will be \$1,500 next year. WSBA also takes a percentage of the revenues for the services they provide for set up, and holding the seminar. Jennifer pointed out we should work to make the webcast available for purchase from WSBA. Kevin Plachy, WSBA, offered to work with the Section to get a product available on the WSBA website. Following discussion it was agreed that because the seminar will be at Lane Powell, and they are collecting registrations, they will be the official sponsor of the seminar and fill out the CLE application.

After discussion, the Council approved the motion. The Council also discussed the date and picked June 7 for holding the seminar. The co-chairs will proceed to make arrangements for the seminar in at Lane Powell. The Council will discuss at the November meeting how to provide copies of the webcast for sale at the WSBA's on demand product store.

Regarding the topic for the seminar, Jason discussed using presentations of various legal doctrines common to construction law. The discussion will be referred to the ad hoc panel for the seminar.

6. Fall Forum: Amber reported that an eblast will go out in a day or two for the November 1 Fall Forum to review the Amazon Sphere facility. It is all set up, and maximum attendance is 75. Presenters will include lead architect, structural architect, and head horticulturalist. The Section budget includes \$2,000 for this event; we anticipate spending \$4,200, for an overspend of \$2,200.
7. Spring CLE: Spokane: Jason asked if we should hold a seminar, given that there are only 22 members from that area. Council members indicated we should hold it, probably in early April. The topic will be the Deskbook.
8. Deskbook – Ron reported that all chapters are complete, but that WSBA is still working on the front end materials and the index and table of citations. WSBA has not provided a schedule for publication.
9. Writing Competition: Seth Millstein reported that a topic could be lost profits. A decision will be made shortly, then we need to figure out how to publicize the competition to law students. Amber offered to provide the information on past years. This subject will be placed on the agenda for next month to vote on topics and whether to give one or two awards.. There is \$1,000 budgeted for outreach, and \$2,500 for prize money.
10. Sections Issues: Jason reported that there is ongoing discussion of governance of the Bar, and potential bifurcation of WSBA. Justice Fairhurst has written a letter taking authority from the BOG for decisions whether to change administrative responsibilities. Jason stated that we don't have to take any action, just be aware of developments.

ATTACHMENT 1

11. Annual report: Jason reported he has drafted a report, to identify Section accomplishments last year and plans for next year. The report includes five goals for next year: publish the Deskbook, outreach to lawyers outside King County and new lawyers; participate with young lawyers meeting; issue three newsletters; present a successful mid-year CLE. Promote existing documents and investigate form for residential subcontracts.
12. Fall Seminar: Bryce reported that scheduling with the Oregon Bar works better in spring.
13. Open Sections Night: Eleen reported that the next open Sections Night will be January 21, 2019 at WSBA.
14. New Business – None.

NEXT MEETING IS NOVEMBER 14
AT STOEL RIVES

END OF MINUTES

ATTACHMENT 2

Title: _____ (Special Doctrines for Construction Lawyers?)

Three 45-75 minute panels, totaling 180 minutes:

Damages: betterment and economic waste (Rob Crick),
spoliation, common fund, (60)

Claim Preclusion: Equitable Estoppel, frustration of purpose (45)

Construction Specific: Independent Duty, Claim Notice, work-
made-for-hire (75)

(Note: I reorganized Amber's list somewhat)

Please recommend speakers

Standard Presentations (2.5 Hours): Case Law and Legislative
updates, Ethics

Judicial Panel (1.25 hours) Andrus and others TBD, topic TBD

Cheers,

Ron

ATTACHMENT 3

From: Kevin Plachy kevinp@wsba.org
Subject: RE: WSBA Construction Law Section Mid Year

Date: October 30, 2018 at 11:24 AM
To: Jason T. Piskel jason@pyklawyers.com

Cc: Jennifer Beyerlein BeyerleinJ@LanePowell.com

Hi Jason,

Since the time of the last call I have had time to do further analysis of the request to take an on-demand recording from a live seminar that isn't sponsored by WSBA-CLE and convert it to a WSBA CLE on-demand seminar for sale on the WSBA CLE Store.

The new fiscal policy that took place at the beginning of FY19 was based on the requirement that WSBA CLE produce a minimum of 400 live credit hours and convert those to on-demand seminars.

The production of the 400 live credit hours (which includes section and non-section programs developed by WSBA CLE) is critical to keep the cost basis as low as possible for all of the sections because we allocate indirect costs under the policy based on credit hours developed.

Focusing our staff on the development of those 400 live credit hours is our paramount priority because we have communicated a certain per credit hour cost that will be allocated to section programs and we must maintain that cost basis. Because of this we need to focus all of our resources internally on maintaining that level of live programming and won't be able to take on-demand recorded seminars developed outside of our WSBA-CLE model and put them on the WSBA CLE Store.

If you would like discuss this further or would like me to join your next executive committee call to talk through it I am happy to do so.

Thanks.



Kevin Plachy, JD, MBA | Education Programs Manager

Washington State Bar Association | 📞 206.727.8203 | kevinp@wsba.org

1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org

For the latest CLE seminars and products, go to www.wsba.org

The WSBA is committed to full access and participation by persons with disabilities. If you have questions

about accessibility or require accommodation please contact janeym@wsba.org.

From: Jason T. Piskel [<mailto:jason@pyklawyers.com>]

Sent: Tuesday, October 30, 2018 10:34 AM

To: Kevin Plachy

Cc: Jennifer Beyerlein

Subject: WSBA Construction Law Section Mid Year

Kevin:

Thanks for attending our meeting this Month and filling us in on WSBA cle issues. I wanted to follow up about arranging an on-demand product of our “off-site” mid year CLE “sponsored” by Lane Powell. Any thoughts or insights you gained since our meeting? If so, I want to share those with the board at our next scheduled meeting in November.

Thanks.

-JTP

Jason T. Piskel
509.321.5930
www.pyklawyers.com

This communication is intended to be private. If you believe this message has been sent to you in error, reply to the sender and then delete this message.

ATTACHEMENT 4

From: Ron English rjenglish@yahoo.com

Subject: Deskbook Status Report
November 7, 2018 at 7:18 AM

The good news: Yesterday I received a 750 page notebook with the "final galley proofs". I am going through it this week one last time, then it will be indexed.

When published the authors, peer reviewers and editors will all receive an electronic copy.

The bad news: WSBA doesn't know when it will be published, because they have to hire an indexer.

And we march on. Ron

WASHINGTON STATE BAR ASSOCIATION

2018 Section Contacts & Key Terms

Last updated: October, 2017

Section	Contacts	Email	Key Terms
Admin Law	Polly McNeill , Chair Stephen Manning , Immediate Past Chair Jonathon Bashford , Chair-Elect Richard Potter , Leg.	pollym@summitlaw.com smanning07@gmail.com bashfordj@lanepowell.com potterre@frontier.com	Admin. law proceedings, public records, AOH, hearings, SB 6019, open public meetings
Alt. Dispute Resolution (ADR)	Adrienne Keith Wills , Chair Craig Beles , Immediate Past Chair Courtney Kaylor , Chair Elect Paul McVicker , Leg.	Ak@KeithLawAndMediation.com cbeles@belesgroup.com Courtney@mhseattle.com paul@seattlelawandmediation.net	Alternative dispute resolution, mediation, arbitration, collaborative law
Animal Law	Wynn Kerr , Chair Gemma Zanowski , Immediate Past Chair Adam Karp , Chair-Elect	wynnia.kerr@gmail.com gzanowski@epic-law.com adam@animal-lawyer.com	Animals
Antitrust, Consumer Protection & Unfair Bus. Practices	Christopher Wyant , Chair Danica Noble , Immediate Past Chair ??? , Chair-Elect	chris.wyant@klgates.com dnoble@ftc.gov	Antitrust, consumer protection issues
Business Law	Andrew (Drew) Steen , Chair Alicia Levy , Chair-Elect	AndrewSteen@dwt.com alicia@levy-lawfirm.com	DFI, banking, gift cards, money transfers, nonprofit corporations, corporations, antitakeover, gift cards, \$ transmitters, data security, e-commerce, e-signatures, e-records, internet, mobile, privacy, big data
Civil Rights	La Rond Baker , Chair Sarah Derry , Chair-Elect Kelli Schmidt , Immediate Past Chair Kathleen Kline , Leg. Subcttee Nancy Talner , Leg. (CC only in email) Fred Diamondstone , ?	larond@gmail.com sderry@clinelawfirm.com kelli.schmidt@gmail.com kkline613@gmail.com fred@freddiamondstone.com ntalner@aol.com [CC ON EMAIL]	Death penalty, voting rights, HB 1701/SB 5608 or WA Fair Chance Act
Construction Law	Athan Tramountanas , Chair Amber Hardwick , Vice- Chair Marisa Bavand , Immediate Past Chair Jason Piskel , Chair-Elect	athant@scblaw.com alh@gyseattle.com mbavand@groffmurphy.com jason@pyklawyers.com	Construction-related issues

Corporate Counsel	Paul Swegle , Chair	pswegle@gmail.com	Corporate counsel-related issues
Creditor Debtor Rights	Tom Linde , Chair James Hurley , Immediate Past Chair Kevin O'Rourke , Chair-Elect Todd Tracy , Leg.	TomLinde@schweetlaw.com jamesphurley@hotmail.com kevin@southwellorourke.com todd@thetracylawgroup.com	Creditor debtor-related issues
Criminal	Hugh Bigenheier , Chair John Strait , Leg. John Sheeran , Leg.	hbirgen@co.pierce.wa.us straitj@seattleu.edu jsheera@co.pierce.wa.us	Criminal issues
Elder Law	Megan Farr , Chair Kameron Kirkevold , Immediate Past Chair Carla Calogero , At-Large Amy Freeman , Leg. Co-Chair Karen Box , Leg. Co-Chair	MSF@farrlawgroup.com kkirkevold@helsell.com CCalogero@reedlongyearlaw.com amy@amyfreemanlaw.com kboxx@uw.edu	Guardian ad litem, vulnerable adults, estate planning, end of life, power of attorney, nursing home care, death/dying, decision-maker rights, Joel's Law, aging
ELUL	Kristie Elliott , Chair Lisa Nickel , Immediate Past Chair LeAnne Bremer , Leg.	kristie.elliott@kingcounty.gov lnickel@co.kitsap.wa.us Leanne.Bremer@MillerNash.com	Growth Management Act, State Environmental Policy Act, Land Use Petition Act, Model Toxics Control Act, Shoreline Management Act, Dept. of Ecology, water, water quality, water rights critical areas land use, vesting
Family Law	Rhea Rolfe , Chair James Lutes , Chair-Elect Patrick Raunsley , Leg.	wallingfordfamilylaw@gmail.com jlutes@gevurtzmenashe.com pat@pwr-law.com	ALL of Title 26, divorce, separation, domestic partnership, custody, community property, adoption, guardian ad litem, child support, domestic violence protective orders, anti-harassment protective orders, at-risk youth, evidence, doctor-patient privilege, alternative dispute resolution, mediation, arbitration, collaborative law
Health Law	Lee Kuo , Chair Gerald Tarutis , 1st Vice Chair Elizabeth Rene , 2nd Vice Chair Leanne Park , Immediate Past Chair	Use: wsbahealthlaw@gmail.com Do not use (for reference): lkuo@omwlaw.com Gerry@TarutisLaw.com park.leanne@gmail.com	Health-related issues
Indian Law	Claire Ross Newman , Chair Brie Coyle-Jones , Chair-Elect	cnewman@kilpatricktownsend.com Brie.Coyle@millernash.com	Native American-related issues
Intellectual Property	Kevin Zeck , Chair Elizabeth Reilly , Immediate Past Chair Tom Satagaj , Chair-Elect	kzeck@perkinscoie.com patent-pending@hotmail.com TomS@SeedIP.com	Intellectual property-related issues

International Practice	Matthew Dresden , Chair	matthew.dresden@harrismoure.com	International practice-related issues
Juvenile Law	Hillary Madsen , Leg.	Hillary.madsen@columbialegal.org Daniel.ophardt@teamchild.org	Civil/legal juvenile offender and dependencies, adoption, foster care, CPS, parent's rights, juvenile due process, juvenile records, immigrant status, education/schools re: discipline, mental health law, restorative justice
Labor & Employment	James Shaker , Chair Leslie Hagin , Immediate Past Chair	shaker@ryanlaw.com leslieh@mhb.com	Labor and employment issues, union
LAMP	Sharon Powell , Chair Stephen Carpenter , Vice-Chair Alex Straub , Immediate Past Chair ??? , Chair Elect Jeffrey Coats , Leg. Eric McDonald , Exec. Ctte. Daniel Russ , Exec. Ctte. Jonathan Bridge , Exec. Ctte. Kenyon Luce , Exec. Ctte. Orion Inskip , Exec. Ctte. Clarence James Rabideau , Exec. Ctte.	sharon@sharonpowell.com stephen.carpenter@militarylawfirm.com militaryadvocate@outlook.com jeffrey.coats@farmersinsurance.com eric.mcdonald@q.com dano@danrusslaw.com jbridge@benbridge.com Ken.Luce@lucelawfirm.com oinskip@gmail.com oldr.cuddles@gmail.com	Military, Family, VA, Veterans, active duty, national guard, reserves, defense, education, service member, judge advocate, army, navy, air force, marines, coast guard, RCW 38, WAC 246, WAC 357, WAC 246, WAC, 323, WAC 40-30-088, WAC 208-630-5401, WAC 173-303-578, WAC 365-196-475, WAC 357-31-700, WAC 357-31-370, WAC 357-31-373, 357-46-060, 323-10-030, 357-58-475, 308-99-040, 480-14-240, 323-10-060, 458-16A-120, 484-20-015, 284-17-254, 415-02-740, 284-43-262, 415-112-280, 132H-160-370, 308-96A-530, 182-503-0535, 458-20-177, 308-48-870, 484-30-005, 415-106-280, 357-01-304, 357-46-053, 192-270-017
LGBT	??? , Chair Scott Douglas , Immediate Past Chair Dana O'Day-Senior , Chair-Elect & Leg. Ctte. Betsy Crumb , Co-Chair Elect Samuel Ben Behar , Leg. Ctte Linda Nye , Leg. Ctte.	ScottD1@ATG.WA.GOV dana.oday.senior@gmail.com bac@susancarrolllaw.com Sam@lawofficeofsamuelbenbear.com Linda@nyelaw.net	Sexual orientation, gender orientation, transgender, religious liberty or freedom or exemption, gender expression, bullying, long-term care for LGBT, Arlene's Flowers
Litigation	Phil Havers , Chair Stephanie Bloomfield , Immediate Past Chair ??? , Chair-Elect Dan Brener , Leg. Ctte. Susan Nelson , Leg. Ctte. Joel Comfort , Leg. Ctte.	phavers@haverslaw.com sbloomfield@gth-law.com daniel@jaglaw.net snelson@dunnandblack.com JComfort@mmcllegal.net	Litigation-related issues
Low Bono	Stacie Naczelnik , Chair Forrest Carlson , Immediate Past Chair Clay Wilson , Leg. Co-Chair	stacie@soundfamilylaw.com forrest@assemblelaw.com wilsoncl@seattleu.edu	Access to justice, moderate means, legal justice
RPPT	RoseMary Reed , Chair	rosemary.reed@stokeslaw.com	Probate, nonprobate, trust,

	Jody McCormick , Immediate Past Chair Annie Fitzsimmons , Chair-Elect Stephanie Taylor , Leg Probate & Trust Brian Lewis , Real Property	jmccormick@watrust.com atfitz@comcast.net srt@randalldanskin.com Lewis@ryanlaw.com	guardianship, community property, real property, Interest Ownership Act, adverse possession statute, As a general guideline, Title 11 (definition of an heir), Title 83, or Chapter 26.16 of the RCW, estate, personal representative, executor, administrator, decedent, will, testamentary, inherit, trustee, gift
Senior Lawyers	Brian Comstock , Chair Carole Grayson , Past Chair	Brian@ComstockLaw.com cag8@uw.edu	Senior-related issues
Solo & Small Practice	Nancy Pacharzina , Chair ??? , Immediate Past Chair Kari Petrasek , Chair- Elect	nancy@pachlaw.com kari@petraseklaw.com	Solo and small-practice related issues
Tax	Sandra Veliz , President Tiffany Gorton , Immediate Past President Richard Johnson , Vice- President Brett Durbin , Leg. Chair	sveliz@lesourd.com tgorton@khhblaw.com rjohnson@lesourd.com brett.durbin@stoel.com	Digital goods, nexus, tax appeals process, property tax, excise tax, high technology tax credit, tax credit, tax preferences
World Peace Through Law	??? , Chair Randy Winn , Immediate Past Chair ??? , Chair-Elect	rewinn@outlook.com	Trafficking