

Minutes – Elder Law Executive Committee Fall Retreat

October 20, 2017

Columbia Tower Club

Attendance

Members Present:

Megan Farr
Karen Box
Peggy Sanders
Matthew Parker
Carla Calogero
Michael Longyear
Mark Vohr

Katie Hurt
Suzanne Thompson Winiger
Karen Clark
Lisa Kremer
Miriam Ayoub
Ronald St. Hilaire
Kameron Kirkevold

Members Absent:

Amy Freeman
Ann LoGerfo
Meredith Childers

Liaisons Present:

Sage Graves, Young Lawyer Committee

Liaisons Absent:

Julianne Unite, Section

Liaison Positions Not Filled:

BOG
Legislative Affairs Manager

I. Welcome, Announcements

Megan welcomed everyone to the Retreat and welcomed the new members of the Elder Law Executive Committee. She noted that the two liaison positions that have not been filled and that the lack of a legislative affairs manager might make things difficult for the Section during the upcoming legislative session.

The bar has approached the sections to look closely at diversity. Megan noted that there is a need for elder law attorneys and we need not only race and gender diversity but also geographic diversity. We need to look at how to attract elder law attorneys in rural areas and in non-downtown Seattle areas.

II. Approval of October Meeting Minutes

Karen moved and Mark seconded a motion to approve the minutes of the October Executive Committee meeting. The motion was passed and the minutes were approved.

III. Treasurer's Report

Matthew reported that there has been no change to the Executive Committee's financials through August 31. Since the Executive Committee made additional grants of \$10,000, there is a little less remaining than projected in the adopted budget.

IV. Resignation/Election of Leg. Co-Chair

Given Megan's new responsibilities as Chair of the Executive Committee, she resigned as Legislative Co-Chair. Megan nominated Katie Hurt to serve out Megan's remaining term. Kameron seconded. The nomination was approved.

V. Legislative Report

The former Legislative Affairs Manager had great relations and we had great great communications with members of the Legislature. However, the Legislative Affairs Manager has left so we don't have her relationships to rely on.

Megan went over the rules for the Section to comment on legislation. We will be able to vote on comments by e-mail and we will still need 75% of the Executive Committee to agree in order to comment on legislation.

Megan summarized the guardianship isolation bill that was passed in the last session. It is hoped that this issue will go away, at least for now.

The legislation governing notaries passed but is not yet in effect. There is concern about the provisions relating to the notary journal requirements.

Legislation passed that requires a court to terminate or modify a guardianship if less restrictive alternatives will adequately provide for an incapacitated person's needs. We will see if and to what extent this legislation goes beyond prior law.

Carla suggested that we build a relationship with Rep. Berenger. Kameron advised that the LLLT board is looking to include guardianship in some way in the LLLT areas of practice.

The legislation allowing health care directives to be notarized rather than witnessed by two witnesses will likely be back in the next session.

Possible issues for the 2018 Legislative session include:

- Making the APS registry public and to provide for some kind of process for being removed from the registry. There are deep concerns about due process in being included or removed from the registry. Having information that one is on the list and having some process to be removed is positive.
- Making the state definition of "willful" the same as the federal law definition.

There is a proposal from the Health Care Authority to "simplify" guardianship fees that can be paid from participation. This proposal would increase the fees allowed to be paid but then would remove any discretion to increase. No court order could supercede the limits of fees. Comments on the proposed regulation are due October 22, 2017.

Kameron moved that we oppose the regulations as drafted and Mark seconded. This motion was passed. Karen moved and Lisa seconded that Megan, Mark and Katie prepare the comments and send them. The motion passed. There was discussion about what should be in the letter and Megan, Mark and Katie agreed to write and send it.

WSBA has begun looking at mandatory malpractice insurance for Washington attorneys. There was a discussion about the comparison of the California bar and the Washington bar with regards to bar dues, bar responsibilities and section autonomy.

There was a discussion about the meeting of the Superior Court Judges Association Guardianship and Probate Committee. Megan and Mark attended for the Section and Peggy attended as President of the Washington Academy of Elder Law Attorneys (WAELA).

VI. Diversity and Inclusion

Robin Mussbaum, PhD, WSBA Inclusion & Equity Specialist, led a workshop on diversity and inclusion. The discussion was wide-ranging and focused on hidden biases.

VII. Grants Report

Ronald reported that it is U.W.'s "turn" to have the Peter Greenfield intern. U.W. doesn't appear to want to participate, but Karen is working on it.

There was a joint auction and social with the KCBA to raise money for the fund. 65 people attended and the effort raised \$3,000, enough for two summers. It was suggested that members of the Executive Committee make contributions.

VIII. Outreach and Mentoring

There will be a Spokane outreach event planned for next year. Michael volunteered to help plan an event in Yakima.

There was a discussion regarding attorneys in other practices who "dabble" in elder law. Perhaps we could host a party at the RPPT CLE. Trial, Family, Criminal and Solo and Small Practice sections might also be good to reach out to.

There were ideas concerning mentoring opportunities. We discussed whether the section should fund a grant or internship/work-study grant. There was a discussion about how we get attorneys interested in the area of practice and how we get attorneys to stay in the practice.

IX. Communications

The Listserve is the Section's most powerful communications tool and it is important to keep it working and relevant. We should explore whether the Section can post information on the WSBA webpage.

X. CLEs

There are no final numbers on the fall CLE yet, but 72 preregistered and an estimated 80 people attended. The Seatac Center worked really well as a venue. 50% of the registrants were from east of the mountains. We will likely use the Seatac Center again.

Ideas for future CLEs include:

- How can an attorney's skills transfer to elder law
- A combination CLE with the minority bar associations
- Half day CLE marketed to other bar sections
- How to negotiate a less restrictive alternative to guardianship that will work in the long run
- Differences between types of fiduciaries
- Cognitive capacity – head injury, dementia, etc.
- Administrative law aspects of elder law – APS investigations, DSHS appeals
- Notice and isolation in guardianships
- New model forms
- Compassion fatigue (as an overarching theme)
- Ethics – Setting boundaries with clients and demands on time, etc.

XI. Dementia Action Collaborative

Carla is participating in step 2 of a process that began with the Washington State Plan regarding Alzheimers-Dementia Action Plan. She asked for input on what the objectives and goals should be. Ideas: Promote early legal and financial planning; educate the public on legal and financial planning; make more forms readily available for no cost.

XII. Subcommittees, Special Projects, Task Forces – What work is needed now?

What's next:

- Outreach to other sections
- Work on new CLE topics
- Carla will continue with the Dementia Action Collaborative regarding access to free legal documents
- LLLT – Kameron plans to leave the LLLT Committee
- Lisa will work on a list of resources
- Go to other bar sections regarding resources and helping to define what elder law attorneys do
- Lisa, Karen and Michael will work on a short definition of elder law and perhaps a new name for the Section.
- Megan will contact the Moderate Means program to offer assistance if the program is being expanded to include elder law
- Karen will continue to work with U.W. to get the \$2,500 contribution for the Peter Greenfield internship

Ronald moved and Matt seconded to adjourn. Motion carried.