

APPELLATE PRACTICE SECTION EXECUTIVE COUNCIL MEETING

Thursday, January 27, 2022

12:00 PM – 2:00 PM (EST)

<https://us06web.zoom.us/meeting/register/tZlpcO2spjooHdCyGnRGJP77KwNHvp-XTW6H>

Meeting ID: 864 7448 1274 | Passcode: 136843

Telephone Dial-In Provided Via Zoom Upon Meeting Registration

AGENDA

- I. Call to Order – Kimberly Jones, Chair
- II. Introductions – Kimberly Jones
 - Hon. Carrie Ann Wozniak, Chair-Elect
 - Kansas Gooden, Treasurer
 - Courtney Brewer, Secretary
 - Chris Donovan, Immediate Past Chair
- III. Chair’s Report – Kimberly Jones
- IV. Approval of Minutes from October 2021 Meeting – Kimberly Jones (Exhibit A)
- V. Treasurer & Finance Committee’s Report – Kansas Gooden (Exhibit B)
 - A. Current Financial Statement
 - B. 22-23 Budget
- VI. Old Business
 - A. Bylaw Amendments – Nick Shannin
 - B. Certification Committee Discretion Rule Change – Chris Donavon
 - C. 2022 Retreat Update – Hon. Carrie Ann Wozniak
- VII. New Business
 - A. TAP Student Membership Partnership – Jared Krukar
- VIII. Liaison Reports
 - A. Appellate Court Rules Committee – Hon. Carrie Ann Wozniak and Laura Roe

- B. Appellate Practice Certification Committee – Duane Daiker
- C. Board of Governors – Robin Bresky
- D. Council of Sections – Nick Shannin

IX. Section Committee Reports

- A. Continuing Legal Education Committee – Elaine Walter
- B. Communications Committee – Dineen Wasylik and Morgan Weinstein
- C. Delegated Reserves Committee – Duane Daiker
- D. Diversity and Inclusion Committee – Hon. Stephanie Ray and Jared Krukar
- E. Fellows Program Committee – Jamie Billotte Moses and Brandon Breslow
- F. Legislative Committee – Karla Ellis and Thomasina Moore
- G. Outreach Committee – Mary Walter
- H. Pro Bono Committee – Kimberly Berman
- I. Programs Committee – Diane DeWolf and Lindsey Lawton
- J. Publications Committee – Tom Seider
 - 1. *The Record* – Courtney Fernald
 - 2. *Florida Bar Journal* – Heather Kolinsky
 - 3. Self-Represented Litigant Committee – Chance Lyman
- K. Section History Committee – Valeria Hendricks

X. Closing Remarks – Kimberly Jones

XI. Announce Next Executive Council Meeting
Florida Bar Annual Meeting
June 23, 2022
Signia by Hilton Orlando Bonnet Creek & Waldorf Astoria
Orlando, FL

XII. Adjournment – Kimberly Jones

EXHIBIT

A

**Appellate Practice Section
Executive Council Meeting**

**October 7, 2021
Virtually Via Zoom**

MEETING MINUTES

I. Call to Order – Kimberly Jones, Chair

Chair Jones called the meeting to order via Zoom at 2:02 p.m.

II. Introductions – Kimberly Jones

Hon. Carrie Ann Wozniak, Chair-Elect
Kansas Gooden, Treasurer
Courtney Brewer, Secretary
Chris Donovan, Immediate Past Chair

III. Chair's Report – Kimberly Jones

Chair Jones thanked everyone for joining via Zoom and expressed the Section's gratitude to Bar Liaison Cheri Wright for quickly and effectively shifting gears from a live to virtual meeting program.

The Section had a great virtual happy hour with Mike Tanner, President of The Florida Bar the previous night. Chair Jones enjoyed attending all of the Section's committee meetings. She hopes to see the Section's relationships continue to build during her time as Chair, between and among the committees, as well as with other sections. She encouraged all members to follow the Section on social media.

Finally, Chair Jones noted that the Section made a donation to Big Bend Hospice in honor of former Florida Supreme Court Justice Stephen H. Grimes's passing.

In all, 50 people attended the meeting. Attendees included the following people: Jack Aiello; Ceci Berman; Kimberly Berman; Allen Bonner; Robin I. Bresky; Brandon Breslow; Courtney Brewer; Chris Carlyle; Matt Conigliaro; Diane DeWolf; Chris Donovan; Joe Eagleton; Hon. Eric Eisnaugle; Karla Ellis; Angela Flowers; Hon. Alan Forst; Geneva Fountain; Kansas Gooden; Thomas Hall; Jessie Harrell; Bailey Howard; Amy Wessel Jones; Kimberly Jones; Heather Kolinsky; Jared Krukar; Rachel Lane; Sarah Lahlou-Amine; Calianne Lantz; Eric Levine; Chance Lyman; Jamie Moses; Anthony Musto; Hon. Eric Netcher; Nicole Ramirez; Hon. Stephanie Ray; Jack Reiter; Laura Roe; Hala Sandridge; Nick Shannin; Hon. Morris Silberman; Jonathan Taylor; Elaine Walter; Mary Walter; Dineen Wasylik; Morgan Weinstein; Hon. Carrie Ann Wozniak; Cheri Wright; Madison Wurst. Several other attendees also called in, but only their phone numbers were viewable.

IV. Approval of Minutes from June 2021 Meeting – Kimberly Jones (Exhibit A)

Nick Shannin moved to approve the minutes from the January 2021 meeting; Chris Donovan seconded. Accepted by unanimous consent.

V. Treasurer & Finance Committee's Report – Kansas Gooden (Exhibit B)

Kansas reported our finances are very healthy. CLE programming continues to bring in profits with record high attendance at some seminars.

***** A few items out of order*****

- Jamie Moses congratulated Hon. Eric Netcher on his appointment to serve as a circuit judge for the Ninth Circuit.
- **Liaison Report – Appellate Court Rules Committee (ACRC) – Laura Roe** - The ACRC has been busy and recently filed two comments on proposed rule changes; one

regarding death penalty proceedings and one regarding remote oral arguments. The ACRC is also monitoring a Florida Supreme Court workgroup report that proposes comprehensive changes to civil procedure rules, including the recommendation that appellate standards of review be included in the civil procedure rules. The ACRC has filed a letter with workgroup, whose report is due to the Judicial Management Council on December 19.

VI. Old Business

A. Ad Hoc Advocacy Committee – Courtney Brewer (Exhibit C)

Courtney presented the ad hoc advocacy committee's proposed process by which the Section could consider and manage requests that it participate as an amicus curiae or comment on a proposed rule. She thanked fellow committee members Matt Conigliaro, Gerald Cope, and Julia Kapusta. The Legislative Committee would be converted to the Advocacy Committee under the proposal and would handle all such requests going forward. She noted that the proposal was largely copied from The Florida Bar's Standing Board policies for such requests. Thus, the Section would participate only if the following questions were answered affirmatively:

- ✓ Is it an issue affecting appellate practice?
- ✓ Is the issue significant enough that it is worth the time and resources of the Section?
- ✓ Is the issue one that does not carry the potential of deep philosophical or emotional division among a substantial segment of membership of the Section/bar?
- ✓ Is the issue either (1) beyond the scope of permissible legislative or ideological activity of the bar; or (2) within the permissible legislative or ideologically activity of the bar and the proposed brief does not take a position that is inconsistent with an official position of the bar?

The proposal also included an ideal timeline for handling these requests, which proved as follows:

- 40 days prior – request received
- 35 days prior – Advocacy Chair recommends EC approve preparation of brief; designates primary author
- 30 days prior – Executive Council vote to approve preparation of brief
- 15 days prior – draft brief provided to APS Chair so Chair can seek officer approval within 5 days; Advocacy Chair (or author) prepares required notice for the bar
- 10 days prior – notice and draft brief filed with Executive Director of TFB, unless waiver by TFB president has been received.
- Brief and motion for leave filed

Jack Reiter, Calianne Lantz, and Tony Musto expressed concerns that the terms of the proposal were not specific enough. Tony also felt that amicus briefs and comments to rules should be handled in different manners. Jared Krukar asked whether the ad hoc committee had considered whether the proposal would comply with the *Janus* decision.

Nick Shannin, Dineen Wasylik, and Jamie Moses noted that similar guidelines had been used by other sections for years and that concerns about how such guidelines play out are entrusted to the committees and officers within those sections. Chris Donovan noted that the proposal only sought to establish a standard that is narrow and will be subject to layers of review by the Advocacy Committee and officers. Tom Hall stated that although he did not like the language, he will vote for the proposal, because it is based on the standards the Bar requires anyway.

Nick Shannin moved to approve the ad hoc committee's proposal. A majority of the executive council voted to approve the proposal, 2 members voted to not approve, and the judges abstained.

VII. New Business

A. Bylaw Amendments – Nick Shannin

Nick Shannin reported that in light of the previous vote adopting the ad hoc committee's proposal, the bylaws committee recommended changing the name of the Legislative Committee to Advocacy Committee in the bylaws.

Jared Krukar moved to approve the amendment. The motion carried with unanimous consent.

VIII. Liaison Reports

A. **Appellate Court Rules Committee** – Laura Roe presented the ACRC report as stated above.

B. **Appellate Practice Certification Committee** – Nothing to report.

C. **Board of Governors – Robin Bresky**

Robin reported that the BOG had an out of state meeting in Asheville this month. The BOG is going to be voting soon on recommendations from the Special Committee to Improve Delivery of Legal Services. One component of that committee's report was particularly notable, as the committee voted to set up a lab/test run to look at the feasibility of non-lawyers having ownership interest in law firms. The BOG would be meeting regarding this on October 26 and voting on November 8. Robin offered to send the report to Cheri who will send it on to Section Members.

D. **Council of Sections – Nick Shannin**

Nick reported that the Council of Sections meets next week. One topic on their agenda is the speaker diversity issue. The case involving that rule change was

submitted to the Florida Supreme Court without oral argument.

IX. Section Committee Reports

A. Continuing Legal Education Committee – Elaine Walter

CLE programming has continued to be plentiful and well-attended. The Section jointly sponsored a free program with the Government Lawyer Section the week before. Monthly webinars are in place for the year and going strong.

Practicing Before the First District is scheduled for April 8, 2022, and Practicing Before the Florida Supreme Court will be on the calendar in June 2022.

Elaine encouraged anyone with CLE programming ideas to email her or Vice Chair Joe Eagleton.

B. Communications Committee – Dineen Wasylik and Morgan Weinstein

Dineen asked that all members continue to contribute to the Section's engagement on social media. Members can follow the Section on LinkedIn, Twitter, Facebook, and Instagram. Also, the Section has a YouTube channel with recent CLEs and other programming.

For the website, Morgan reported that a pro bono intake form has launched. He also asked all committee chairs to submit a one to two paragraph blurb about their committees to include on their individual web pages.

C. **Delegated Reserves Committee – Duane Daiker**

Nothing to report.

D. **Diversity and Inclusion Committee – Jared Krukar and Hon. Stephanie Ray**

Jared thanked the committee for its hard work. The main focus has been on the student education initiative and Jared noted several students were at the EC meeting. The committee is working on pairing mentors with students to interview appellate judges. He also mentioned the Path to Unity project and asked that everyone keep him posted on local events and initiatives related to diversity and inclusion.

E. **Fellows Program Committee – Brandon Breslow and Jamie Billotte Moses**

Jamie reported that the fellows program is underway for another year and she hopes the two fellows will have an opportunity to attend an in person meeting this year.

F. **Legislative Committee – Karla Ellis and Thomasina Moore**

Nothing to report.

G. **Outreach Committee – Mary Walter**

Mary reported the Section's virtual happy hour was a great success. The Committee discussed having a Section book club; stay tuned for details on that. She is reaching out to Nick Shannin to make sure the Section has ambassadors with other key sections.

H. Pro Bono Committee – Kimberly Berman

Kim noted that anyone who needs pro bono appellate services should be directed to the intake form on the Section's website.

The pro bono committee is also working on an inventory to track the amount of time and resources our members are donating. She noted there are many options for pro bono appellate work and that members should reach out to her if they wish to hear about those opportunities.

Tom Hall noted that he also thinks the Section should track the number of hours we dedicate to the administration of justice, referencing the Section's recent comments on proposed rule changes.

I. Programs Committee – Diane DeWolf and Lindsey Lawton

The Programs Committee had nothing to report.

Judge Wozniak, however, took the opportunity to announce that the next Section Retreat will take place in London (England), kicking off Sunday, October 9, 2022!!!

J. Publications Committee – Tom Seider

1. *The Record* – Chance Lyman reported the Committee is workshopping getting the Record back to a newsletter format to be published, perhaps, quarterly. They are reaching out to CLE to discuss joint effort ideas.

2. *Florida Bar Journal* – Heather Kolinsky reported that the Section has articles in every Journal issue. They can always use new writers! They have an idea bank and have slots open for next year.

3. Self-Represented Litigant Committee – Chance noted that the handbook is in a heavy revision process as one has not been done since 2016. He could particularly use help on the Administrative Appeals chapter and asked for anyone with experience in that department to reach out.

K. Section History Committee – Valeria Hendricks

Nothing to report. Chair Jones reminded everyone to send V photos of any Section events.

X. Closing Remarks of Chair, Awards, and Recognitions – Kimberly Jones

Immediate Past Chair Chris Donovan presented the Section's 2020-2021 James C. Adkins award to Chief Justice Charles Canady. Chief Justice Canady has served as Chief three different times and has led our judicial branch through at least two major crises. The award was presented in particular recognition of his efforts to keep the court system running smoothly through the recent COVID-19 pandemic.

Chris also presented the 2020-2021 John R. Hamilton Pro Bono award to Joe Eagleton. Joe led the Section's Pro Bono Committee for 4 years and during that time our pro bono efforts exploded. The Section's listserv membership increased by 50% and members provided more than 7,000 pro bono hours to the Section's Guardian Ad Litem project.

Immediate Past Immediate Past Chair Nick Shannin similarly recognized the 2019-2020 recipients of these awards, Tony Musto and Stephen Senn. All awards and thank you gifts for committee chairs and executive council members for 2019-2020 and 2020-2021 will be mailed to recipients.

Nick, Chris, and Cheri were all recognized and thanked for their efforts and leadership over the past two years.

XI. Announce Next Executive Council Meeting

Florida Bar Winter Meeting
January 27, 2022
Rosen Shingle Creek, Orlando

XII. Adjournment – Kimberly Jones

EXHIBIT

B

THE FLORIDA BAR
Appellate Practice Section
For the Six Months Ending December 31, 2021

	December	YTD 2022	FY 21-22 Budget	Prior Year December	YTD 2021	FYE Actual 2021	CY Budget % Utilized
3001-Annual Fees	263	60,660	56,500	200	58,430	59,115	107.36%
3002-Affiliate Fees	-	50	65	-	25	25	76.92%
Total Fee Revenue	263	60,710	56,565	200	58,455	59,140	107.33%
3301-Registration-Live	-	-	69,875	-	-	-	0.00%
3331-Registration-Ticket	-	-	-	25	80	260	0.00%
Total Registration Revenue	-	-	69,875	25	80	260	0.00%
3351-Sponsorships	-	2,500	25,000	-	10,000	10,000	10.00%
3391 Section Profit Split	5,977	36,812	70,000	9,887	47,725	88,034	52.59%
3392-Section Differential	110	1,390	5,200	55	1,215	1,913	26.73%
Other Event Revenue	6,087	40,702	100,200	9,942	58,940	99,946	40.62%
3899-Investment Allocation	24,192	37,130	23,722	20,314	85,959	138,065	156.52%
Non-Operating Income	24,192	37,130	23,722	20,314	85,959	138,065	156.52%
Total Revenue	30,542	138,542	250,362	30,481	203,433	297,411	55.34%
4134-Web Services	1,120	8,870	28,500	-	1,914	13,186	31.12%
4311-Office Supplies	-	-	150	-	-	-	0.00%
Total Staff & Office Expense	1,120	8,870	28,650	-	1,914	13,186	30.96%
5051-Credit Card Fees	5	343	3,450	5	359	1,045	9.93%
5121-Printing-Outside	-	-	250	-	2,429	2,429	0.00%
Total Contract Services	5	343	3,700	5	2,788	3,474	9.26%
5501-Employee Travel	-	1,394	3,135	-	-	-	44.46%
5531-Board/Off/Memb Travel	-	-	4,500	-	-	-	0.00%
5561-Judges Travel	-	1,800	3,500	-	-	-	51.43%
5571-Speaker Travel	-	-	10,000	-	-	-	0.00%
Total Travel	-	3,194	21,135	-	-	-	15.11%
6001-Post 1st Class/Bulk	-	236	275	325	-	365	85.66%
6251-Promotion Sponsorship	-	1,000	3,500	-	50	1,300	28.57%
6301-Mtgs TFB Annual Meeting	-	-	35,000	-	-	945	0.00%
6311-Mtgs General Meeting	-	-	4,700	-	-	0	0.00%
6319-Mtgs Other Functions	-	474	35,000	-	11,500	5,000	1.36%
6321-Mtgs Meals	-	-	52,000	-	-	-	0.00%
6331-Mtgs Room Rental	-	3,302	6,604	-	-	-	50.00%
6451-Committee Expense	-	61	850	-	264	794	7.21%
7001-Grant/Award/Donation	-	503	2,050	-	518	2,832	24.55%
7999-Other Operating Exp	-	214	1,500	-	-	-	14.25%
Total Other Expense	-	5,790	141,479	325	12,332	11,236	4.09%
8011-Administration CLE	-	-	11,700	-	-	-	0.00%
8021-Section Admin Fee	144	32,001	30,853	98	27,573	27,924	103.72%
8101-Printing In-House	8	8	250	-	-	-	3.22%
8131-A/V Services	-	-	4,680	-	-	-	0.00%
8141-Journal/News Service	-	-	850	-	-	-	0.00%
8171-Course Approval Fee	-	150	300	-	-	-	50.00%
Total Admin & Internal Expense	152	32,159	48,633	98	27,573	27,924	66.12%
9692-Transfer Out-Council of Sections	-	500	500	-	500	500	100.00%
Total InterFund Transfers Out	-	500	500	-	500	500	100.00%
Total Expense	1,277	50,855	244,097	427	45,106	56,320	20.83%
Net Operations	29,265	87,686	6,265	30,054	158,327	241,092	
2001-Fund Balance, Beginning	-	858,603			617,512	617,512	
Fund Balance, Ending	-	946,289			775,838	858,603	

THE FLORIDA BAR

Appellate Law Section (Combined General, Section Sponsored, and Section Service CLE Budgets)

Budget/Financial Operations

Description	18-19 ACTUAL	19-20 ACTUAL	20-21 ACTUAL	21-22 BUDGET	(Proposed) 22-23 BUDGET
3001- Annual Fees	58,000	57,683	59,115	56,500	55,625
3002- Affiliate Fees	80	25	25	65	50
TOTAL FEE REVENUE	58,080	57,708	59,140	56,565	55,675
3301- Registration (Live)	0	17,215	0	69,875	50,000
3311- Registration (Phone)	0	0	0	0	0
3321- Registration (Webcast)	2,662	0	0	0	0
3331- Registration (Ticket)	21,295	44	260	0	45,500
TOTAL REGISTRATION REVENUE	23,957	17,259	260	69,875	95,500
3351- Sponsorships	13,000	11,500	10,000	25,000	45,000
3391- Section Profit Split	59,523	87,059	88,034	70,000	85,000
3392- Section Differential	5,760	6,615	1,913	5,200	6,000
TOTAL OTHER EVENT REVENUE	78,283	105,174	99,947	100,200	136,000
3401-Sales (CD/DVD)	0	0	0	5,700	5,700
3411-Sales (Published Materials)	0	0	0	300	300
TOTAL SALES, RENTS, & ROYALTIES REVENUE	0	0	0	6,000	6,000
3899- Investment Allocation	20,529	(6,754)	138,065	23,722	
TOTAL NON-OPERATING INCOME	20,529	(6,754)	138,065	23,722	0
TOTAL REVENUE	180,849	173,387	297,412	256,362	293,175
4131- Telephone Expense	500	0	0	0	0
4134- Web Services	21,353	14,271	13,186	28,500	29,000
4311- Office Supplies	141	75	0	150	150
TOTAL STAFF & OFFICE EXPENSE	21,994	14,346	13,186	28,650	29,150
5031- A/V Services	0	0	0	6,500	4,500
5051- Credit Card Fees	1,664	964	1,045	3,450	
5121- Printing (Outside)	0	0	2,429	250	8,250
TOTAL CONTRACT SERVICES	1,664	964	3,474	10,200	12,750

5501- Employee Travel	3,012	1,329	0	3,135	7,082
5531- Board/Off/Memb Travel	563	258	0	4,500	6,500
5561- Judges Travel	3,208	205	0	3,500	4,900
5571- Speaker Travel	0	3,321	0	10,000	10,000
TOTAL TRAVEL	6,783	5,113	0	21,135	28,482
6001- Post 1st Class/Bulk	60	1	365	275	
6251- Promotion Sponsorship	17,650	2,250	1,300	3,500	5,500
6301- Mtgs TFB Annual Meeting	30,914	0	945	35,000	35,000
6311- Mtgs General Meeting	2,202	4,764	0	4,700	4,700
6319- Mtgs Other Functions	44,591	0	5,000	35,000	185,000
6321- Mtgs Meals	0	5,305	0	52,000	15,500
6331- Mtgs Room Rental	0	0	0	6,604	6,604
6401- Speaker Expense	0	0	0	0	0
6451- Committee Expense	1,077	334	794	850	4,800
7001- Grant/Award/Donation	1,754	29	2,832	2,050	2,050

7999- Other Operating Exp	71	1,173	0	1,500	1,000
TOTAL OTHER EXPENSE	98,319	13,856	11,236	141,479	260,154
8011- Administration (CLE)	0	0	0	11,700	
8021- Section Admin Fee	25,848	26,712	27,924	30,853	32,973
8101- Printing (In-House)	856	15	0	250	
8131- A/V Services (In-House)	0	0	0	4,680	
8141- Journal/News Service	0	0	0	850	850
8171- Course Approval Fee	150	150	0	300	
TOTAL ADMIN & INTERNAL EXPENSE	26,854	26,877	27,924	48,633	33,823
9692- Transfer Out-Council of Sections	300	300	500	500	500
TOTAL INTERFUND TRANSFER OUT	300	300	500	500	500
TOTAL EXPENSE	155,914	61,456	56,320	250,597	364,859
NET OPERATIONS	24,935	111,931	241,092	5,765	(71,684)
FUND BALANCE SUMMARY					
BEGINNING FUND BALANCE	480,648	505,582	617,511	858,603	864,368
PLUS REVENUE	180,849	173,387	297,412	256,362	293,175
LESS EXPENSE	-155,914	-61,456	-56,320	-250,597	-364,859
ENDING FUND BALANCE	505,582	617,511	858,603	864,368	792,684