

Real Property, Probate and Trust Law Section
Executive Council Meeting
May 31, 2014
South Seas Island Resort, Captiva Island, Florida

SUPPLEMENTAL AGENDA

(The items below supplement or replace the materials in the Executive Council Agenda materials previously distributed):

IV. Chair-Elect's Report—*Michael A. Dribin*

- A. 2014-15 Real Property Law Division Chairs, Vice-Chairs, **s. 3**
- B. 2014-15 Probate and Trust Law Division Chairs, Vice-Chairs, **s. 6**
- C. 2014-15 General Standing Committee Chairs, Vice-Chairs, **s. 9**

VI. Treasurer's Report—*S. Katherine Frazier*

RPPTL Financial Summary from Separate Budgets, through April 30, 2014, **s. 13**
(replaces materials appearing at p. 37 of Agenda)

X. Probate and Trust Law Division--*Deborah P. Goodall, Director*

(Additional Information Item)

5. Digital Assets and Information Study Committee—*J. Eric Virgil, Chair*

Report on status of Committee's consideration of the issues involved in giving authority to fiduciaries to have access, control or copies of digital assets and accounts and removing barriers to fiduciary's access to electronic records and scope of legislation, with consideration of "Florida Uniform Fiduciary Access to Digital Assets Act", attached at **s. 14**

XII. General Standing Committees — *Michael A. Dribin, Director and Chair-Elect*

(Information Item--replaces materials appearing beginning on p. 240 of agenda)

5. Legislation Committee — *Robert Swaine, Co-Chair (Real Property) and William T. Hennessey, III, Co-Chair (Probate and Trust)*

Updated (May 8, 2014) Post Session Report re results of 2014 regular session of Florida Legislature, **s. 32**

(Additional Information Item)

6. Strategic Planning Meeting Committee—*Michael A. Dribin and Margaret A. Rolando, Co-Chairs*

Discussion regarding 2014 Strategic Plan of the Real Property, Probate and Trust Law Section of The Florida Bar, including background and procedure, reports of Task Force facilitators and results of survey of Executive Council, with a view towards consideration of recommendation of Committee for approval of the 2014 Strategic Plan as an Action Item in Palm Beach.

A. 2014 Strategic Plan of the Real Property, Probate and Trust Law Section of The Florida Bar, **s. 40**

B. Results of the RPPTL Section Executive Council Survey, **s. 77**

(Additional Information Item)

7. Fellows Committee—*Brenda E. Ezell and Marsha G. Madorsky, Co-Chairs*Report of committee as to selection of four new Fellows, with names and backgrounds, **s. 110**

RPPTL RP DIVISION 2014-15 COMMITTEE OFFICER SELECTION WORKSHEET

Committee Chair/Vice-Chair	Year	
Commercial Real Estate		
Art Menor, Chair	2012	
Burt Bruton, Co-Vice Chair	2012	
Adele Stone, Co-Vice Chair	2013	
Condominium & Planned Development		
Steven H. Mezer, Chair	2010	
Christopher Davies, Co-Vice Chair	2012	
Alex Dobrev Co-Vice Chair	2013	
Construction Law		
Hardy Roberts, Chair	2013	
Scott Pence, Co-Vice Chair	2012	
Lee Weintraub, Co-Vice Chair	2013	
Construction Law Certification Review Course		
Deborah Mastin, Co- Chair	2014	
Bryan Rendzio, Co-Chair	2014	
→ TBA	2014	
Construction Law Institute		
Reese Henderson, Chair	2012	
Sanjay Kurian, Co-Vice Chair	2012	
Diane Perera, Co- Vice Chair	2013	
Jason Quintero, Co-Vice Chair	2013	
Development and [Land Use Planning]		
Vinette Godelia, Chair	2014	
Mike Bedke, Co-Vice Chair	2014	
Neil Shoter, Co-Vice Chair	2013	
Foreclosure Reform (Ad Hoc)		
Jeffrey Sauer, Chair	2012	
Mark Brown, Co-Vice Chair	2009	
Burt Bruton, Co-Vice Chair	2009	
Alan Fields, Co-Vice Chair	2010	
Landlord & Tenant		
Lloyd Granet, Chair	2013	
Rick Eckhard, Co-Vice Chair	2012	
Brenda Ezell, Co-Vice Chair	2014	
Legal Opinions		
Kip Thornton, Chair	2012	
Robert Stern, Vice Chair	2013	
Liaison with FLTA		
Norwood Gay, Co-Chair	2006	
Alan McCall, Co-Chair	2002	

RPPTL RP DIVISION 2014-15 COMMITTEE OFFICER SELECTION WORKSHEET

James C. Russick, Co-Vice Chair	2006	
Alex Overhoff, Co-Vice Chair	2014	
Insurance and Surety [NEW NAME]		
W. Cary Wright, Co-Chair	2011	
Fred Dudley, Co-Chair	2014	
Michael Meyer, Co-Vice Chair	2013	
Scott Pence, Co-Vice-Chair	2014	
Real Estate Certification Review Course		
Jennifer Tobin, Chair	2014	
Manual Farach, Co-Vice-Chair	2014	
Martin Awerbach	2014	101

Real Estate Structures & Taxation		
Cristin C. Keane, Chair	2014	
Michael Bedke, Co-Vice-Chair	2014	
Deborah Boyd, Co-Vice-Chair	2014	
Real Property Finance & Lending		
Jim Robbins, Chair	2013	
Homer Duvall, III, Co-Vice Chair	2013	
Bill Sklar, Co-Vice Chair	2012	
Richard S. McIver, Co-Vice-Chair	2014	
Real Property Litigation		
Susan Spurgeon, Co-Chair	2014	
Manny Farach, Co-Vice Chair	2012	
Real Property Problems Study		
William Theodore "Ted" Conner, Chair	2013	
Mark A. Brown, Co-Vice Chair	2012	
Patricia J. Hancock, Co-Vice Chair	2008	
Jeff Dollinger, Co-Vice-Chair	2014	
Stacy Kalmanson, Co-Vice Chair	2014	
Residential Real Estate & Industry Liaison		
Salome Zikakas, Chair	2014	
Trey Goldman, Co-Vice-Chair	2014	
Nishad Khan, Co-Vice Chair	2014	

RPPTL RP DIVISION 2014-15 COMMITTEE OFFICER SELECTION WORKSHEET

Title Insurance & Title Insurance Liaison		
Raul Ballaga, Chair	2014	
Alan Fields, Co-Vice-Chair	2014	
Brian Hoffman, Co-Vice-Chair	2014	
Title Issues & Standards		
Christopher W. Smart, Chair	2012	
Robert M. Graham, Co-Vice Chair	2003	
Karla J. Staker, Co-Vice Chair	2008	
Brian Hoffman, Co-Vice Chair	2014	

RPPTL PROBATE AND TRUST DIVISION 2014-15 COMMITTEE OFFICERS

Committee Chair/Vice Chair	Year
Ad Hoc Guardianship Law Revision	
David Brennan, Chair	2012
Hung Nguyen, Co Vice Chair	2014
Charles F. Robinson, Co Vice Chair	2012
Sancha Brennan Whynot, Co Vice Chair	2012
Ad Hoc Study on Jurisdiction and Service of Process	
Barry Spivey, Chair	2010
Sean Kelley, Co Vice Chair	2010
Christopher Q. Wintter, Co Vice Chair	2013
Ad Hoc Study on Estate Planning Conflict of Interest	
William T. Hennessey, Chair	2010
Paul Roman, Vice Chair	2013
Ad Hoc Study on Personal Representative Issues	
Jack A. Falk, Jr., Chair	2012
Asset Protection	
Brian Sparks, Chair	2011
George Karibjanian, Vice Chair	2013
Attorney Trust Officer Conference	
Laura Sundberg, Chair	2014
Patrick Lannon, Co Vice Chair	2012
Deborah Russell, Co Vice Chair	2012
Digital Assets and Information Study	
Eric Virgil, Chair	2012
Travis Hayes, Co Vice Chair	2012
Dresden Brunner, Co Vice Chair	2012
Elective Share Review	
Lauren Y. Detzel, Co Chair	2013
Charles I. Nash, Co Chair	2013
Robert Lee McElroy, IV, Vice Chair	2013
Estate and Trust Tax Planning	
Elaine M. Bucher, Chair	2011
David Akins, Co Vice Chair	2011
Tasha Pepper Dickinson, Co Vice Chair	2012
William R. Lane, Co Vice Chair	2012
Guardianship, Power of Attorney and Advance Directives	
Hung Nguyen, Chair	2014

RPPTL PROBATE AND TRUST DIVISION 2014-15 COMMITTEE OFFICERS

Tattiana Brenes-Stahl, Co Vice Chair	2011
David Brennan, Co Vice Chair	2012
Cynthia Fallon, Co Vice Chair	2012
Eric Virgil, Co Vice Chair	2014
IRA, Insurance and Employee Benefits	
L. Howard Payne, Co Chair	2010
Lester Law, Co Chair	2012
Liaisons with ACTEC	
Michael D. Simon	2013
Bruce Stone	2013
Diana S.C. Zeydel	2013
Liaisons with Elder Law	
Charles F. Robinson	2002
Marjorie Wolasky	2003
Liaisons with Tax Law	
Harris L. Bonnette, Jr.	2012
Lauren Y. Detzel	2010
William R. Lane	2009
Brian C. Sparks	2003
Donald R. Tescher	2003
Principal and Income	
Edward F. Koren, Chair	2008
Pam Price, Vice Chair	2012
Probate and Trust Litigation	
Thomas M. Karr, Chair	2011
Richard Caskey, Co Vice Chair	2011
James George, Co Vice Chair	2013
Jon Scuderi, Co Vice Chair	2007
Jerry Wells, Co Vice Chair	2012
Probate Law and Procedure	
John C. Moran, Chair	2013
Sarah S. Butters, Co Vice Chair	2013
Travis Hayes, Co Vice Chair	2013
Sean Kelley, Co Vice Chair	2014
Trust Law	
Angela M. Adams, Chair	2014
Tami F. Conetta, Co Vice Chair	2012
Jack Falk, Co Vice Chair	2014
Deborah Russell, Co Vice Chair	2013
Wills, Trusts and Estates Certification Review Course	
Richard R. Gans, Chair	2012

RPPTL PROBATE AND TRUST DIVISION 2014-15 COMMITTEE OFFICERS

Jeffrey Goethe, Co Vice Chair	2012
Linda Suzanne Griffin, Co Vice Chair	2012
Seth Marmor, Co Vice Chair	2014
Jerome L. Wolf, Co Vice Chair	2013

RPPTL GENERAL STANDING COMMITTEES 2014-15

Committee	Chair/Vice-Chair	Year Appt'd
Ad Hoc Leadership Academy		
	Tae K. Bronner, Co-Chair	2013
	Kris Fernandez, Co-Chair	
Ad Hoc Trust Account		
	John B. Neukamm, Co-Chair	2013
	Jerry E. Aron, Co-Chair	2013
Amicus Coordination		
	Robert W. Goldman, Co-Chair	1998
	John W. Little, III, Co-Chair	1999
	Kenneth B. Bell, Co-Chair	2009
	Gerald B. Cope, Jr., Co-Chair	2011
Budget		
	S. Katherine Frazier, Chair	
	Andrew M. O'Malley, Co-Vice Chair	2011
	Pamela O. Price, Co-Vice Chair	1999
	Daniel L. DeCubellis, Co-Vice Chair	2011
	Lee Weintraub, Co-Vice Chair	2013
	W. Cary Wright, Co-Vice Chair	2013
CLE Seminar Coordination		
	Robert S. Swaine, Co-Chair (Real Property)	2014
	Tae K. Bronner, Co-Chair (Probate & Trust)	2013
	Laura K. Sundberg, Co-Vice Chair (Probate & Trust)	2007
	Sarah S. Butters, Co-Vice Chair (Probate & Trust)	2012
	Lawrence J. Miller, Co-Vice Chair (Ethics)	2013
	Jennifer S. Tobin, Co-Vice Chair (Real Property)	2012
	Hardy L. Roberts, III (General E-CLE)	2013
Convention Coordination (2015)		
	Laura K. Sundberg, Co-Chair	2013
	Stuart Altman, Co-Chair	
	Marsha G. Madorsky, Co-Vice Chair	2013
	Raul Ballaga, Co-Vice Chair	
	Jennifer Jones, Co-Vice Chair	
Fellows		
	Brenda B. Ezell, Co-Chair	2012
	Hung V. Nguyen, Co-Chair	2013
	Benjamin Diamond, Co-Vice Chair	
	Ashley McCrae, Co-Vice Chair	
Florida Electronic Filing & Service		
	Rohan Kelley, Chair	2011
Homestead Issues Study		
	Shane Kelley, Co-Chair (Probate & Trust)	2011
	Patricia P. Jones, Co-Chair (Real Property)	2013
	J. Michael Swaine, Co-Vice Chair	
	Charles Nash, Co-Vice Chair	
Legislation		
	William T. Hennessey, III, Co-Chair (Probate & Trust)	2011

RPPTL GENERAL STANDING COMMITTEES 2014-15

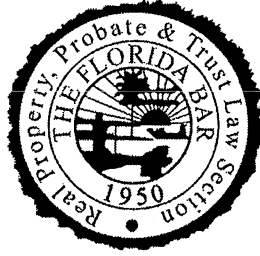
Committee	Chair/Vice-Chair	Year Appt'd
	Robert S. Freedman, Co-Chair (Real Property)	
	Sarah S. Butters, Co-Vice Chair (Probate & Trust)	2013
	Alan B. Fields, Co-Vice Chair (Real Property)	2012
	Steven Mezer, Co-Vice Chair (Real Property)	
	S. Dresden Brunner, Legislative Editor	2013
	David J. Akins, Legislative Editor	2013
	Susan K. Spurgeon, Legislative Editor	2011
	R. James Robbins, Jr., Legislative Editor	2013
Legislative Update (2014)		
	Stuart H. Altman, Chair	
	Charles I. Nash, Co-Vice Chair	2009
	R. James Robbins, Jr., Co-Vice Chair	2010
	Barry F. Spivey, Co-Vice Chair	2013
	Stacy O. Kalmanson, Co-Vice Chair	2012
	Jennifer S. Tobin, Co-Vice Chair	2013
Legislative Update (2015)		
	R. James Robbins, Chair	
	Charles Nash, Co-Vice Chair	
	Barry Spivey, Co-Vice Chair	
	Stacy Kalmanson, Co-Vice Chair	
	Jennifer Tobin, Co-Vice Chair	
Liaison with:		
	ABA	
	Edward F. Koren	1998
	Julius James Zschau	2003
	Board of Legal Specialization and Education (BLSE)	
	Raul P. Ballaga	2013
	Jennifer Tobin	
	William Cary Wright	
	Richard Gans	
	Clerks of Circuit Court	
	Laird A. Lile	2010
	William Theodore "Ted" Conner	2013
	FLEA/FLSSI	
	David C. Brennan	2005
	John Arthur Jones	2005
	Roland "Chip" Waller	2005
	Florida Bankers Association	
	Mark Thomas Middlebrook	2005
	Judiciary	
	Judge Jack St. Arnold	2008
	Judge Linda R. Allen	2014
	Judge Herbert J. Baumann	2013
	Judge Melvin B. Grossman	1998
	Judge Hugh D. Hayes	2003
	Judge Claudia Rickert Isom	2010
	Judge Maria M. Korvick	2003
	Judge Lauren Laughlin	2005
	Judge Norma S. Lindsey	2014
	Judge Celeste H. Muir	2005
	Judge Robert J. Pleus, Jr.	2003
	Judge Richard J. Suarez	2008

RPPTL GENERAL STANDING COMMITTEES 2014-15

Committee	Chair/Vice-Chair	Year Appt'd
	Judge Morris Silberman	2001
	Judge Patricia V. Thomas	2000
	Judge Walter L. Schafer, Jr.	2008
	Out-of-State Members	
	Michael P. Stafford	1998
	John E. Fitzgerald, Jr.	2004
	Nicole Kibert	
	TFB Board of Governors	
	Andrew B. Sasso	2012
	TFB Business Law Section	
	Gwynne A. Young	2012
	TFB CLE Committee	
	Robert S. Freedman	2012
	Tae Kelley Bronner	
	TFB Council of Sections	
	Michael A. Dribin	2013
	Michael J. Gelfan	
	TFB Pro Bono Committee	
	Tasha K. Pepper-Dickinson	2010
Long-Range Planning		
	Michael J. Gelfand	
Meetings Planning		
	George J. Meyer, Chair	2012
Member Communications and Information Technology		
	William A. Parady, Chair	
	S. Dresden Brunner, Co-Vice Chair (Directory)	2009
	Michael Travis Hayes, Co-Vice Chair	2013
	Tattiana Brenes-Stahl, Co-Vice Chair	
Membership and Inclusion		
	Lynwood F. Arnold, Jr., Co-Chair	2011
	Jason M. Ellison, Co-Chair	
	Phillip A. Baumann, Co-Vice Chair (Career Coaching)	2011
	Navin R. Pasem, Co-Vice Chair (Diversity)	2012
	Guy S. Emerich Co-Vice Chair (Career Coaching and Liaison with TFB's Scope)	2013
	Jennifer W. Jones, Law School Liaison	2012
	Theodore S. Kypreos, Law School Liaison	2013
	Tara Rao, Law School Liaison	2013
	Stacey Prince-Troutman, Law School Liaison	2013
Model and Uniform Acts		
	Bruce M. Stone, Co-Chair	2007
	S. Katherine Frazier, Co-Chair	2009
Professionalism and Ethics		
	Lawrence J. Miller, Chair	2010
	Tasha K. Pepper-Dickinson, Vice Chair	2013
Publications		
	ActionLine	

RPPTL GENERAL STANDING COMMITTEES 2014-15

Committee	Chair/Vice-Chair	Year Appt'd
	Silvia B. Rojas, Chair	2012
	Shari Ben Moussa, Co-Vice Chair (Real Property)	2011
	Navin R. Pasem, Co-Vice Chair (Real Property)	2012
	Jane L. Cornett, Co-Vice Chair (At Large)	
	Brian M. Malec, Co-Vice Chair (Probate & Trust)	2013
	George D. Karibjanian, Co-Vice Chair (Probate & Trust)	2012
	Lawrence J. Miller, Co-Vice Chair (Professionalism & Ethics)	2013
	Arlene Udick, Co-Vice Chair	
	Lee Weintraub, Co-Vice Chair	
	Florida Bar Journal	
	Kristen M. Lynch, Co-Chair (Probate & Trust)	2010
	David R. Brittain, Co-Chair (Real Property)	2012
	Jeffrey S. Goethe, Co-Vice Chair (Editorial Board – Probate & Trust)	2013
	Linda Griffin, Co-Vice Chair (Editorial Board – Probate & Trust)	2013
	Michael A. Bedke, Co-Vice Chair (Editorial Board – Real Property)	2013
	William Theodore "Ted" Conner, Co-Vice Chair (Editorial Board – Real Property)	2013
Sponsor Coordination		
	Wilhelmena F. Kightlinger, Co-Chair	2007
	J. Michael Swaine, Co-Vice Chair	2009
	Deborah L. Russell	2013
	W. Cary Wright, Co-Vice Chair	2011
	Benjamin F. Diamond, Co-Vice Chair	2013
	John Cole, Co-Vice Chair	
Strategic Planning		
	Margaret A. Rolando, Co-Chair	2012
	Michael Dribin, Co-Chair	2013



RPPTL Financial Summary from Separate Budgets

2013 – 2014 [July 1 - April 30¹]

YEAR TO DATE REPORT

General Budget

Revenue:	\$ 1,089,024
Expenses:	\$ 817,338
Net:	\$ 271,686

Legislative Update

Revenue:	\$ 58,765
Expenses:	\$ 83,353
Net:	(\$24,588)

Convention

Revenue:	\$ 1,250
Expenses:	\$ 14,279
Net:	(\$13,029)

Roll-up Summary (Total)

Revenue:	\$ 1,149,039
Expenses:	\$ 915,095
Net Operations:	\$ 233,944

Fund Balance (Reserve):	\$ 705,581
Current Fund Balance (YTD):	\$ 939,525
Projected Fund Balance 6/30:	\$ 764,650

¹ This report is based on the tentative unaudited detail statement of operations dated 04/30/2014.

DRAFT
FOR DISCUSSION ONLY

FLORIDA UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

REAL PROPERTY, PROBATE AND TRUST LAW SECTION
OF THE FLORIDA BAR ASSOCIATION

May 2014 Draft

WITH PREFATORY NOTE AND COMMENTS

FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

Prefatory Note

The purpose of this act is to vest fiduciaries with the authority to access, control, or copy digital assets and accounts. It is important to understand that the goal of the Fiduciary Access to Digital Assets Act ("FADA") is to remove barriers to a fiduciary's access to electronic records and that the substantive rules of fiduciary, probate, trust, guardianship, banking, security, and agency law remain unaffected by FADA.

FADA addresses four different types of fiduciaries: personal representatives of decedents' estates, guardians of the property of minors or incapacitated persons, agents acting pursuant to a power of attorney, and trustees. The act applies only to fiduciaries that act in compliance with their fiduciary powers. It distinguishes the authority of fiduciaries, which exercise authority subject to this act only on behalf of the account holder, from any other efforts to access the digital assets. Family members or friends may seek such access, but, unless they are fiduciaries, their efforts are subject to other laws and are not covered by this act.

As the number of digital assets held by the average person increases, questions surrounding the disposition of these assets upon the individual's death or incapacity are becoming more common. Few laws exist on the rights of fiduciaries over digital assets. Few holders of digital assets and accounts consider the fate of their online presences once they are no longer able to manage their assets. And these assets have real value: according to a 2011 survey from McAfee, Intel's security-technology unit, American consumers valued their digital assets, on average, at almost \$55,000. Kelly Greene, *Passing Down Digital Assets*, WALL STREET JOURNAL (Aug. 31, 2012), <http://goo.gl/7KAaOm>. These assets range from online gaming items to photos, to digital music, to client lists. There are millions of Internet accounts that belong to dead people. The average individual has 25 passwords. Some Internet service providers have explicit policies on what will happen when an individual dies, others do not; even where these policies are included in the terms of service, most consumers click through these agreements.

The situation regarding fiduciaries' access to digital assets is less than clear, and is subject to both federal privacy and computer "hacking" laws as well as state probate law. A minority of states has enacted legislation on fiduciary access to digital assets, including Connecticut, Idaho, Indiana, Oklahoma, Rhode Island, Nevada, and Virginia, and the existing statutes grant varying degrees of access to different types of digital assets. In addition, numerous other states have considered, or are considering, legislation. Existing legislation differs with respect to the types of digital assets covered, the rights of the fiduciary, the category of fiduciary included, and whether the principal's death or incapacity is covered. A uniform approach among states will provide certainty and predictability for courts, account holders, fiduciaries, and Internet service providers. It gives states precise, comprehensive, and easily accessible guidance on questions concerning fiduciaries' ability to access the electronic records of a decedent, ward, principal, or a trust. For issues on which states diverge or on which the law is unclear or unknown, the act will for the first time provide uniform rules.

The general goal of the act is to facilitate fiduciary access while respecting the privacy and intent of the account holder. It adheres to the traditional approach of trusts and estates law, which respects the intent of the account holder and promotes the fiduciary's ability to administer the account holder's property. With regard to the general scope of the act, the act's coverage is inherently limited by the definition of "digital assets." The act applies only to electronic records. The term does not include the underlying asset or liability unless it is itself an electronic record.

The act is divided into twelve sections. Sections 1-2 contain general provisions and definitions, including those relating to the scope of the fiduciary's authority.

Sections 3-6 establish the rights of personal representatives, guardians, agents acting pursuant to a power of attorney, and trustees. Each of the fiduciaries is subject to different opt-in and default rules based on the presumed intent of the account holder and the applicability of other state and federal laws. A personal representative is presumed to have access to all of the decedent's digital assets unless that is contrary to the decedent's will or to other applicable law. A guardian may access the assets pursuant to letters of guardianship or a court order. An agent acting pursuant to a power of attorney is presumed to have access to all of a principal's digital assets not subject to the protections of other applicable law; if another law protects the asset, then the power of attorney must explicitly grant access. And a trustee may access any digital asset held by the trust unless that is contrary to the terms of the trust or to other applicable law.

Section 7 contains provisions relating to the rights of the fiduciary to access digital assets. Section 8 addresses compliance and Section 9 grants immunity to custodians. Sections 10-12 address miscellaneous topics, including the effective date of the act and similar issues. The act addresses only the rights of the four types of fiduciaries, and it is designed to provide access without changing the ownership of the digital asset.

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740.101. Short Title. This chapter may be cited as the “Florida Uniform Fiduciary

740.201. Definitions. As used in this chapter, the term:

(1) “Account holder” means:

(a) a person that has entered into a terms-of-service agreement; and

(b) a fiduciary for a person described in 1(a).

(2) “Agent” means a person granted authority to act for a principal under a durable or durable power of attorney, whether denominated an agent, attorney in fact, or otherwise. The term includes an original agent, co-agent, and successor agent.

(3) “Catalogue of electronic communications” means information that identifies each person with which an account holder has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(4) “Content of an electronic communication” means information not readily accessible to the public concerning the substance or meaning of an electronic communication.

(5) “Court” means the circuit court.

(6) “Custodian” means a person that carries, maintains, or stores a digital asset of an account holder.

(7) “Digital asset” means an electronic record. The term does not include an underlying asset or liability to which an electronic record refers, unless the asset or liability is itself an

1 electronic record.

2 (8) "Electronic" means technology having electrical, digital, magnetic, wireless, optical,
3 electromagnetic, or similar capabilities.

4 (9) "Electronic communication" means a digital asset stored by an
5 electronic-communication service or carried or maintained by a remote-computing service. The
6 term includes the catalogue of electronic communications and the content of an electronic
7 communication.

8 (10) "Electronic-communication service" means a custodian that provides to the public
9 the ability to send or receive an electronic communication.

10 (11) "Fiduciary" means each person who is an original, additional, or successor personal
11 representative, guardian, agent, or trustee.

12 (12) "Governing instrument" means a will, trust, instrument creating a power of attorney,
13 or other dispositive, appointive, or nominative instrument.

14 (13) "Guardian" means a person who has been appointed by the court as guardian of the
15 property of a minor or incapacitated person.

16 (14) "Information" means data, text, images, videos, sounds, codes, computer programs,
17 software, databases, or similar intelligence of any nature.

18 (15) "Person" means an individual, estate, trust, business or nonprofit entity, public
19 corporation, government or governmental subdivision, agency, or instrumentality, or other legal
20 entity.

21 (16) "Personal representative" means the fiduciary appointed by the court to administer
22 the estate of a deceased individual pursuant to letters of administration or an order appointing a
23 curator or administrator ad litem for the estate.

(17) "Power of attorney" means a record that grants an agent authority to act in the place of a principal pursuant to Chapter 709.

(18) "Principal" means an individual who grants authority to an agent in a power of attorney.

(19) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Remote-computing service" means a custodian that provides to the public computer processing services or the storage of digital assets by means of an electronic communication system.

(21) "System" means electronic communication system as defined in 18 U.S.C. 2510(14).

(22) "Terms-of-service agreement" means an agreement that controls the relationship between an account holder and a custodian.

(23) "Trustee" means a fiduciary that holds legal title to an asset pursuant to a trust instrument that creates a beneficial interest in the settlor or others.

(24) "Ward" means a person for whom a guardian has been appointed.

(25) "Will" means an instrument admitted to probate, including a codicil, executed by a person in the manner prescribed by the Florida Probate Code, which disposes of the person's property on or after his or her death and includes an instrument which merely appoints a personal representative or revokes or revises another will.

Comments

The definitions of agent, guardian, court, electronic, fiduciary, governing instrument, information, person, personal representative, power of attorney, principal, record, trustee, ward, and will are based on those found in applicable Florida law, such as the Florida Probate Code and Florida Powers of Attorney Act. The other definitions are new for this act, although the definition of digital service comes from the White House Digital Government Strategy: <http://www.whitehouse.gov/sites/default/files/omb/egov/digital-government/digital-government->

1 strategy.pdf. The definition of “contents” is adapted from 18 U.S.C. § 2510(8), the definition of
2 “electronic communication” is adapted from the language of 18 U.S.C. §§ 2510(12) and
3 2702(a)(1) and (2), the definition of “electronic communication service” is drawn from 18
4 U.S.C. 2510(15), and the definition of “remote computing service” is adapted from 18 U.S.C.
5 § 2711(2), to help ensure the Act’s compliance with federal law.

6 The act includes a definition for “catalogue of electronic communications.” This is
7 designed to cover log-type information about an electronic communication. The term “content
8 of an electronic communication” is adapted from 18 U.S.C. § 2510(8), but it refers only to
9 information that is not readily accessible to the public because, if the information were readily
10 accessible to the public, it would not be subject to the privacy protections of federal law under
11 the Electronic Communications Privacy Act (ECPA), 18 U.S.C. §§ 2510 et seq. See S. Rep. No.
12 99-541, at 36 (1986). When the privacy protections of federal law under ECPA apply to the
13 content of an electronic communication, the act’s legislative history notes the requirements for
14 disclosure: “Either the sender or the receiver can directly or through authorized agents authorize
15 further disclosures of the contents of their electronic communication.” S. Rep. No. 99-541, at 37
16 (1986)).

17
18 ECPA does not apply to private e-mail service providers, such as employers and
19 educational institutions. See 18 U.S.C. §2702(a)(2); James D. Lamm, Christina L. Kunz,
20 Damien A. Riehl, & Peter John Rademacher, *The Digital Death Conundrum: How Federal and*
21 *State Laws Prevent Fiduciaries from Managing Digital Property*, 68 U. Miami L. Rev. 385, 404
22 (2014) (available at: <http://goo.gl/T9jX1d>)

23
24 A custodian includes any Internet service provider as well as any other entity that
25 provides or stores electronic data of an account holder. The term “carries” means engaging in
26 the transmission or switching of electronic communications. See 47 U.S.C. § 1001(8). A
27 custodian does not include most employers because an employer typically does not have a terms-
28 of-service agreement with an employee. Any digital assets created through employment
29 generally belong to the employer.

30
31 *Example -- Fiduciary access to an employee email account.* D dies, employed by
32 Company Y. Company Y has an internal email communication system, available only to Y’s
33 employees. D’s personal representative, R, believes that D used Company Y’s email system for
34 some financial transactions that R cannot find through other means. R requests access from
35 Company Y to the emails.

36
37 Company Y is not a custodian subject to the act. Under Section 2(5), a custodian must
38 carry, maintain or store an account holder’s digital assets. An account holder, in turn, is defined
39 under Section 2(1) as someone who has entered into a terms-of-service agreement. Company Y,
40 like most employers, did not enter into a terms-of-service agreement with D, so D was not an
41 account holder.

42
43 “Digital assets” include products currently in existence and yet to be invented that are
44 available only electronically. Digital assets include electronically-stored information, such as: 1)
45 any information stored on a computer and other digital devices; 2) content uploaded onto
46 websites, ranging from photos to documents; and 3) rights in digital property, such as domain

1 names or digital entitlements associated with online games. See Lamm, et al, supra, at 388.
2 Both the catalogue and content of an electronic communication are covered by the term “digital
3 assets.” The fiduciary’s access to an object defined as a “digital asset” does not mean that the
4 fiduciary is entitled to “own” the asset.
5

6 The term does not include the underlying asset or liability unless it is itself an electronic
7 record. As an example of what is not covered by the term digital asset, consider a commodities
8 account opened online for the purpose of purchasing gold bullion. The digital assets covered by
9 the act are records concerning the account not the gold bullion itself. Ownership of the bullion is
10 not affected by the fiduciary’s access to records about the account, even though a transfer of title
11 might occur electronically. Similarly, securities held in street name or money in a bank that has
12 no brick-and-mortar presence are not digital assets; the act reinforces the right of the fiduciary to
13 access all relevant electronic communications and the online account that provides evidence of
14 ownership. Thus, an entity may not refuse to provide access to online records any more than the
15 entity can refuse to provide the fiduciary with access to hard copy records.
16

17 The definition of “electronic communication” is adapted from the language of 18 U.S.C.
18 §§ 2510(12) and 2702(a)(1) and (2), the definition of “electronic-communication service” is
19 drawn from 18 U.S.C. § 2510(15), and the definition of “remote-computing service” is adapted
20 from 18 U.S.C. § 2711(2), to help ensure the act’s compliance with federal law. Electronic
21 communication is a subset of digital assets and covers only the category of digital assets subject
22 to the privacy protections of the Electronic Communications Privacy Act. For example, material
23 stored on a computer’s hard drive is a digital asset but not an electronic communication.

24 A “fiduciary” under this chapter occupies a status recognized by Florida law, and
25 fiduciaries’ powers under the chapter are subject to the relevant limits established by other state
26 laws.
27

28 The “terms-of-service agreement” (TOSA) definition relies on the definition of
29 “agreement” found in UCC § 1-201(3) and that found in UCC § 1-201(b) (3)(“the bargain of the
30 parties in fact, as found in their language or inferred from other circumstances, including course
31 of performance, course of dealing, or usage of trade”). It refers to any agreement that controls
32 the relationship between an account holder and a custodian, even though it might be called a
33 terms-of-use agreement, a click-wrap agreement, a click-through license, or a similar term. State
34 and federal law determine capacity to enter into a binding terms-of-service agreement.

35
36 **740.301. Authority of Personal Representative over Digital Assets of a Decedent.**

37 Unless otherwise provided by the court or the will of a decedent, a personal representative of the
38 decedent may access:

39 (1) the content of an electronic communication sent or received by the decedent only if
40 the electronic-communication service or remote computing service is permitted to disclose the

1 content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b) [as
2 amended];

3 (2) the catalogue of electronic communications sent or received by the decedent; and

4 (3) any other digital asset of the decedent.

5 **Comments**

6 Subsection (1) establishes the default rule that the personal representative is authorized to
7 administer all of the decedent's digital assets other than material covered by the Electronic
8 Communications Privacy Act (ECPA).

9 The subsection clarifies the difference between fiduciary authority over digital assets
10 other than electronic communications protected by ECPA, and authority over ECPA-covered
11 electronic communications. For electronic communications, subsections (a)(2) and (3) establish
12 procedures that cover: first, the catalogue (logs and records) that providers may release without
13 consent under ECPA; and second, ECPA-covered communications. Federal law distinguishes
14 between the permissible disclosure of the "contents" of a communication, covered in 18 U.S.C.
15 § 2702(b), and of "a record or other information pertaining to a" subscriber or customer, covered
16 in 18 U.S.C. § 2702(c); see Matthew J. Tokson, *The Content/Envelope Distinction in Internet*
17 *Law*, 50 Wm. & Mary L. Rev. 2105 (2009).

18
19 Content-based material can, in turn, be divided into two types of communications: those
20 received by the account holder and those sent. Material when the account holder is the
21 "addressee or intended recipient" can be disclosed either to that individual or to an agent for that
22 person, 18 U.S.C. § 2702(b)(1), and it can also be disclosed to third parties with the "lawful
23 consent" of the addressee or intended recipient. 18 U.S.C. § 2702(b)(3). Material for which the
24 account holder is the "originator" can only be disclosed to third parties with the account holder's
25 "lawful consent." 18 U.S.C. § 2702(b)(3). (Note that, when the account holder is the addressee
26 or intended recipient, material can be disclosed under either (b)(1) or (b)(3), but that when the
27 account holder is the originator, lawful consent is required.) By contrast to content-based
28 material, non-content material can be disclosed not only with the lawful consent of the account
29 holder but also to any person other than a governmental entity (which would presumably include
30 fiduciaries). This information includes material about any communication sent, such as the
31 addressee, sender, date/time, and other subscriber data, what this draft defines as the "catalogue
32 of electronic communication".

740.401. Authority of Guardian over Digital Assets of a Ward.

(a) The court, after an opportunity for hearing, may authorize a guardian to access:

(1) the content of an electronic communication sent or received by the ward only if the electronic-communication service or remote computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b) [as amended];

(2) the catalogue of electronic communications sent or received by the ward; and

(3) any other digital asset of the ward.

Comments

Section 4 establishes that the guardian must be specifically authorized by the court to access the ward’s digital assets and electronic communications. Each of the different levels of access must be specifically granted by court order. The requirement in Section 4 for express authority over digital assets does not limit the fiduciary’s authority over the underlying “bricks and mortar” assets, such as a bank account. As a legislative enacting matter, the meaning of the term “hearing” will vary, depending on a state’s procedures.

Section 4 is comparable to Section 3. It responds to the concerns of internet service providers who believe that the Act should be structured to clarify the difference between fiduciary authority over digital assets other than electronic communications protected by federal law, the Electronic Communications Privacy Act (ECPA), and fiduciary authority over ECPA-protected electronic communications. Consequently, this draft sets out procedures that cover all digital assets as well as the catalogue of electronic communications (logs and records) that providers may release without consent under ECPA, and then addresses ECPA-covered communications.

Under Section 7, the guardian has the same power over digital assets as the account holder. The guardian must exercise authority in the best interests of the ward pursuant to Chapter 744.

740.501. Control By Agent of Digital Assets.

(a) To the extent a power of attorney expressly grants authority to an agent over the content of an electronic communication of the principal, the agent may access the content of an electronic communication sent or received by the principal if the electronic-communication service or remote computing service is permitted to disclose the content under the Electronic

1 Communications Privacy Act, 18 U.S.C. Section 2702(b) [as amended], and

2 (b) Unless otherwise provided by a power of attorney or a court, an agent may access:

3 (1) the catalogue of electronic communications sent or received by the principal;

4 and

5 (2) any other digital asset of the principal.

6 **Comments**

7 This section establishes that the agent has default authority over the principal's digital
8 assets and the records, other than the contents, of the principal's electronic communications.
9 When the principal does not want the agent to exercise this authority, then the power of attorney
10 must explicitly prevent an agent from doing so.

11 The situation is different with respect to the contents of electronic communications. In
12 that case, the agent must be specifically authorized by the principal to access the contents of the
13 principal's electronic communications. Because a power of attorney contains the consent of the
14 account holder, ECPA should not prevent the agent from exercising authority over the content of
15 electronic communications. There should be no question that an explicit delegation of authority
16 in a power of attorney constitutes authorization from the account holder to access digital assets,
17 and provides "lawful consent" to allow disclosure of electronic communications from an
18 electronic communication service or a remote computing service pursuant to applicable law.
19 Both authorization and lawful consent are important because 18 U.S.C. § 2701 deals with
20 intentional access without authorization and 18 U.S.C. § 2702 allows a provider to disclose with
21 lawful consent.

22 The American College of Trusts and Estates Counsel's State Laws Committee and others
23 asked the Committee to consider whether the authority over digital assets and electronic
24 communications should be a default power. The Committee has decided that the power to access
25 the contents of electronic communications must be expressly granted, because when expressed
26 and not default, it satisfies the lawful consent requirement of ECPA. The agent has default
27 authority over other digital assets under the act.

28 **740.601. Control By Trustee of Digital Assets.**

29 Unless otherwise provided by the court or the settlor in the terms of a trust:

30 (1) a trustee or a successor trustee that is an original account holder may access each

31 digital asset to which it is the original account holder held in trust, including the catalogue of

32 electronic communications sent or received and the content of an electronic communication; and

33 (2) where a trustee or successor trustee is not an original account holder, such as

1 situations involving the transfer of a digital asset into a trust, the trustee or successor trustee may
2 access:

3 (a) the content of an electronic communication sent or received by the account
4 holder only if the electronic-communication service or remote computing service is permitted to
5 disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section
6 2702(b) [as amended];

7 (b) the catalogue of electronic communications sent or received by the account
8 holder; and

9 (c) any other digital asset of the account holder.

10 **Comments**

11 Access to digital assets, including the contents of the electronic communications is
12 presumed with respect to assets for which the trustee is the initial account holder. A trustee may
13 have title to digital assets and electronic communications when the trust itself becomes the
14 account holder of a digital asset held by the trust, and when the trustee becomes an account
15 holder for trustee business, situations addressed in subsection (a).

16 Subsection (b) addresses situations involving either an inter vivos transfer of a digital
17 asset into a trust, or transfer via a pour-over will of a digital asset into a trust. There should be no
18 question that holding property in trust form constitutes authorization from the account holder for
19 the trustee to access digital assets, including both the catalogue and contents of the electronic
20 communications, and this provides "lawful consent" to allow disclosure of electronic
21 communications from an electronic communication service or a remote computing service
22 pursuant to applicable law. Nonetheless, subsection (b) distinguishes between the catalogue and
23 contents of electronic communications in case there are any questions about whether the form in
24 which property – transferred into a trust - is held constitutes lawful consent. Both authorization
25 and lawful consent are important because 18 U.S.C. § 2701 deals with intentional access without
26 authorization, and 18 U.S.C. § 2702 allows a provider to disclose with lawful consent.

27 The underlying trust documents and the Florida Trust Code will supply the allocation of
28 responsibilities between and among trustees.

29 **740.701. Fiduciary Access and Authority.**

30 (a) A fiduciary that is an account holder or has the right to access a digital asset of an
31 account holder:

1 (1) subject to the terms-of-service agreement and copyright or other applicable
2 law, may take any action concerning the asset to the extent of the account holder's authority and
3 the fiduciary's powers under the laws of this state;

4 (2) is deemed, under applicable electronic privacy laws, to have the lawful
5 consent of the account holder for the custodian to divulge the content of an electronic
6 communication to the fiduciary; and

7 (3) is deemed, under applicable computer fraud and unauthorized access laws,
8 including s. 815.01 through s. 815.07, to be an authorized user.

9 (b) If a provision in a terms-of-service agreement limits a fiduciary's access to the digital
10 assets of the account holder, the provision is void as against the strong public policy of this state,
11 unless the account holder, after the effective date of this chapter, agreed to the provision by an
12 affirmative act separate from the account holder's assent to other provisions of the terms-of-
13 service agreement.

14 (c) A choice-of-law provision in a terms-of-service agreement is unenforceable against a
15 fiduciary acting under this chapter to the extent the provision designates law that enforces a
16 limitation on a fiduciary's access to digital assets which is void under subsection (b).

17 (d) A fiduciary's access under this chapter to a digital asset does not violate a terms-of-
18 service agreement, notwithstanding a provision of the agreement, which limits third-party access
19 or requires notice of change in the account holder's status.

20 (e) If tangible personal property of a decedent, ward, principal, or settlor can receive,
21 store, process, or send a digital asset, a fiduciary with authority over the property may access the
22 property and any digital asset stored in it. The fiduciary is an authorized user for purposes of any
23 applicable computer fraud and unauthorized access laws.

Comment

This section clarifies that the fiduciary has the same authority as the account holder if the account holder were the one exercising the authority (note that, where the account holder has died, this means that the fiduciary has access as of the hour before the account holder's death). Of course, in exercising its responsibilities, the fiduciary is subject to the duties and obligations established pursuant to Florida law and is liable for breach of those duties.

This issue concerning the parameters of the fiduciary's authority potentially arises in two situations: 1) the fiduciary obtains access to a password directly from the account holder, as would be true in various circumstances such as for the trustee of an inter vivos trust or someone who has stored passwords with a digital locker and those passwords are then transmitted to the fiduciary; and 2) the fiduciary has obtained access pursuant to this act.

The fiduciary does not, however, obtain power over any digital assets if that property was illegally obtained by the account holder. The section also provides that control by a fiduciary should not be considered a transfer that would violate the anti-transfer terms of a terms-of-service agreement. Finally, the fiduciary has the same responsibilities as the account holder more generally. For example, a fiduciary cannot delete an account if this would be fraudulent. Similarly, if the account holder could challenge provisions in a terms-of-service agreement, then the fiduciary is similarly able to do so. See *Ajemian v. Yahoo!, Inc.*, 987 N.E.2d 604 (Mass. 2013).

Subsection (a) is designed to establish that the fiduciary is authorized to exercise control over digital assets in accordance with other applicable laws. The language mirrors that used in Title II of the Electronic Communications Privacy Act of 1986 (ECPA), known as the Stored Communications Act (SCA), 18 U.S.C. § 2701 *et seq.* The subsection clarifies that the fiduciary is "authorized" under the two federal statutes that prohibit unauthorized access to computers and computer data, the SCA and the Computer Fraud and Abuse Act,¹ as well as pursuant to any comparable state laws criminalizing unauthorized access.²

The Stored Communications Act contains two potentially relevant prohibitions.

1) 18 U.S.C. § 2701(a), which concerns access to the digital assets, makes it a crime for

¹ Stored Communications Act, 18 U.S.C. § 2701 *et seq.* (2006); Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.* (2006); see, e.g., Orin S. Kerr, *A User's Guide to the Stored Communications Act, and a Legislator's Guide to Amending It*, 72 GEO. WASH. L. REV. 1208 (2004); Allan D. Hankins, Note, *Compelling Disclosure of Facebook Content Under the Stored Communications Act*, 17 SUFFOLK J. TRIAL & APP. ADVOC. 295 (2012).

² See *Computerized Hacking and Unauthorized Access States Laws*, NATIONAL CONFERENCE OF STATE LEGISLATURES (May 21, 2009), <http://www.ncsl.org/issues-research/telecom/computer-hacking-and-unauthorized-access-laws.aspx>; Christina Kunz, Peter Rademacher & Lucie O'Neill, 50 State Survey of Unauthorized Access (2012) (on file with the Committee and available on the Google Drive); James D. Lamm, et al., *The Digital Death Conundrum: How Federal and State Laws Prevent Fiduciaries from Managing Digital Property*, 68 U. Miami L. Rev. __ (2013), <http://lawreview.law.miami.edu/wp-content/uploads/2011/12/The-Digital-Death-Conundrum-How-Federal-and-State-Laws-Prevent-Fiduciaries-from-Managing-Digital-Property.pdf>.

1 anyone to “intentionally access without authorization a facility through which an electronic
2 communication service is provided” as well as to “intentionally exceed an authorization to access
3 that facility.” Thus, someone who has authorization to access the facility is not engaging in
4 criminal behavior. Moreover, this section does not apply to “conduct authorized . . . by a user of
5 that service with respect to a communication of or intended for that user.”³

6 2) 18 U.S.C. § 2702, “Voluntary disclosure of customer communications or records,”
7 concerns actions by the service provider. It prohibits an electronic communication service or a
8 remote computing service from knowingly divulging the contents of a communication that is
9 stored by or carried or maintained on that service unless disclosure is made (among other
10 exceptions) “to an addressee or intended recipient of such communication or an agent of such
11 addressee or intended recipient” or “with the *lawful consent* of the originator or an addressee or
12 intended recipient of such communication, or the subscriber in the case of remote computing
13 service.” 18 U.S.C. § 2702(b)(1), (3) (emphasis added). The statute permits disclosure of
14 “customer records” that do not include content, either with lawful consent from the customer or
15 “to any person other than a governmental entity.” 18 U.S.C. § 2702(c)(2) and (6). Thus, unlike
16 the contents, the provider is permitted to disclose the non-content “records” of the electronic
17 communications to anyone except the government, and may disclose to the government with the
18 customer’s lawful consent or in certain emergencies.

19 The Computer Fraud and Abuse Act (CFAA) prohibits unauthorized access to computers.
20 18 U.S.C. § 1030. Like the SCA, the CFAA similarly protects against anyone who “intentionally
21 accesses a computer without authorization or exceeds authorized access.” 18 U.S.C. § 1030(a).

22 State laws vary in their coverage, but typically prohibit unauthorized access.

23 By defining the fiduciary as an authorized user: 1) the fiduciary has authorization to
24 access the files under the *first* section of the SCA, 18 U.S.C. § 2701, as well as under the CFAA;
25 and 2) the fiduciary has “the lawful consent” of the originator/subscriber so that the provider can
26 voluntarily disclose the files pursuant to the *second* relevant provision of the SCA, 18 U.S.C.
27 § 2702. Moreover, this language should be adequate to avoid liability under the state
28 unauthorized access laws.

29 Subsection (d) reinforces the concept that the fiduciary “steps into the shoes” of the
30 account holder, with no more – and no fewer – rights. For example, the terms-of-service
31 agreement (TOSA) controls the rights of the account holder (settlor, principal, incapacitated
32 person, decedent). The Act does not permit the account holder’s fiduciary to override the TOSA
33 in order to make a digital asset or collection of digital assets “descendible,” although it does
34 preserve the rights of the fiduciary to make the same claims as the account holder. See *Ajemian*
35 *v. Yahoo!, Inc.*, 987 N.E.2d 604 (Mass. 2013); David Horton, *Indescendibility*, 102 Calif. L. Rev.
36 __ (forthcoming 2014), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2311506.

37
38 Subsection (e) is designed to clarify that the fiduciary is authorized to access digital
39 assets stored on equipment of the decedent, ward, principal, or settlor, thereby superseding state

³ 18 U.S.C. §§ 2701(a), (c)(2).

1 laws on unauthorized access to the equipment.

2
3 **740.801. Compliance.**

4 (a) If a fiduciary with a right under this chapter to access a digital asset of an account
5 holder complies with subsection (b), the custodian shall comply with the fiduciary's request in a
6 record for:

7 (1) access to the asset;

8 (2) control of the asset; and

9 (3) a copy of the asset to the extent permitted by copyright law.

10 (b) If a request under subsection (a) is made by:

11 (1) a personal representative with the right of access under s. 740.301, the request
12 must be accompanied by a certified copy of the letters of administration of the personal
13 representative, an order authorizing a curator or administrator ad litem, an order of summary
14 administration, or other court order;

15 (2) a guardian with the right of access under s. 740.401, the request must be
16 accompanied by a certified copy of letters of guardianship of the property or a court order that
17 gives the guardian authority over the digital asset;

18 (3) an agent with the right of access under s. 740.501, the request must be
19 accompanied by a an original or a copy of the power of attorney that authorizes the agent to
20 exercise authority over the digital asset and a certification of the agent, under penalty of perjury,
21 that the power of attorney is in effect; and

22 (4) a trustee with the right of access under s. 740.601, the request must be
23 accompanied by a certified copy of the trust instrument, or a certification of the trust under s.
24 736.1017, that authorizes the trustee to exercise authority over the digital asset.

1 (c) A custodian shall comply with a request made under subsection (a) not later than
2 60 days after receipt. If the custodian fails to comply, the fiduciary may apply to the court for an
3 order directing compliance.

4 (d) A custodian that receives a certification of trust may require the trustee to provide
5 copies of excerpts from the original trust instrument and later amendments which designate the
6 trustee and confer on the trustee the power to act in the pending transaction.

7 (e) A custodian that acts in reliance on a certification of trust without knowledge that the
8 representations contained in it are incorrect is not liable to any person for so acting and may
9 assume without inquiry the existence of facts stated in the certification.

10 (f) A person that in good faith enters into a transaction in reliance on a certification of
11 trust may enforce the transaction against the trust property as if the representations contained in
12 the certification were correct.

13 (g) A person that demands the trust instrument in addition to a certification of trust or
14 excerpts under subsection (d) is liable for damages if the court determines that the person did not
15 act in good faith in demanding the trust instrument.

16 (h) This section does not limit the right of a person to obtain a copy of a trust instrument
17 in a judicial proceeding concerning the trust.

18 **Section 740.901. Custodian Immunity.** A custodian and its officers, employees, and
19 agents are immune from liability for any action done in good faith in compliance with this
20 chapter.

21 **Section 740.1001. Relation to Electronic Signatures in Global and National**
22 **Commerce Act.** This chapter modifies, limits, or supersedes the Electronic Signatures in Global
23 and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or

1 supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery
2 of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

3 **Section 740.1101. Applicability.** This chapter applies to:

4 (1) a fiduciary or agent acting under a will, intestate appointment, trust or power of
5 attorney executed before, on or after the effective date of this chapter, except as otherwise
6 provided in this chapter; and

7 (2) a guardian appointed through a guardianship proceeding, whether pending in a court
8 or commenced before, on or after the effective date of this chapter, except as otherwise provided
9 in this chapter.

10 **740.1201. Effective Date.** This chapter takes effect on July 1, 2015.



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PRELIMINARY POST SESSION REPORT

NUMERICAL INDEX SUMMARY OF 2014 LEGISLATIVE ISSUES

**Bob Swaine and Bill Hennessey, Legislative Co-Committee Chairmen
and
Peter M. Dunbar, Martha J. Edenfield and Ashley Gault
RPPTL Legislative Counsel**

May 8, 2014—Corrected Version

The *preliminary* post-Session report follows below. The Session produced a variety of changes that will affect the practice areas of RPPTL Section members, many of which were a part of the Section's legislative package. The Section's initiatives and bills where the Section provided technical assistance appear in the first part of the summary. The parts following list other items of interest that passed and items of interest that did not pass.

The Governor has not taken final action on all the measures, but the appropriate Session Law number follows the summary on each bill where the Governor has acted. The full text of each enrolled bill, as well as applicable legislative staff reports, are available on the legislative web sites (www.flsenate.gov; www.myfloridahouse.com; and www.leg.state.fl.us). A summary of each measure that passed appears below in numerical bill order.

I. SECTION INITIATIVES AND TECHNICAL ASSISTANCE

Trusts—Liability: CS/CS/HB 405 by Representative Peters is an initiative of the Florida Bankers Association and would permit a trust to provide exculpation of an excluded trustee when the excluded trustee does not have the power and did not have actual knowledge of willful misconduct. The Section worked out amendments to the legislation

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that makes the bill acceptable. The bill is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Condominiums—Non-Residential: CS/CS/SB 440 by Senator Altman and Representative Rodriguez contain the Section's initiative to differentiate the operational standards between residential and non-residential condominiums effectively exempting non-residential condominiums from most of the operational standards imposed on condominium associations. The legislation also extends Part VII of the Act until July 1, 2015. The bill is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Residential Property Sales—Disclosures: CS/CS/CS/HB 489 by Representative Spano requires new disclosures when subsurface mineral rights to the property are being reserved by the Seller; the legislation requires notification to the buyer of the retained rights by the seller; and it provides cancellation rights and penalties for intentional violations of the disclosure requirements. CS/CS/CS/HB 489 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Guardianship—Clerk Audits: CS/HB 635 by Representative Passidomo would authorize the Clerk of Court to obtain and review records impacting guardianship assets and require non-professional guardians to submit to a credit history. The Section had technical concerns with the bill as initially filed, but worked with the Florida Clerks Association to resolve the issues. CS/HB 635 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Estates—Public Records Exemption: CS/SB 650 by the Senate Judiciary Committee makes the Section's initiative that exempts estates and elective shares filings in s. 733.604 for Florida's public records law a permanent exemption. CS/SB 650 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Nursing Home Litigation—Public Records Exemption: CS/SB 670 by Senator Thrasher revises the liability standards for nursing homes and provides for the availability of patient records in proceedings involving nursing home litigation. The Section had technical concerns on the impact of the legislation on records availability for court appointed fiduciaries and patients, and the legislation was amended prior to passage to remove the objectionable language. CS/SB 670 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Probate: CS/CS/HB 757 by Representative Spano and Senator Hukill contains four of the Section's Probate initiatives, including (1) the "Morey fix" language; (2) the anti-lapse provision; (3) corrective effective date for the provision prohibiting gifts to lawyers; and (4) the burden of proof revision in trust contests. CS/CS/HB 757 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Electronic Publication: CS/HB 781 by Representative Powell and Senator Latvala contain a variation of the Section's initiative to revise the statutory provision governing

electronically constructive notice. It clarifies the title of the webpage used by the newspaper for electronic publication of legal notices; it provides that no additional fee may be charged for a person viewing the legal notices on the electronic webpage; it provides that the electronic version of the notice must also appear on the statewide searchable website for a period of at least 90 days; and it repeals language providing that mistakes on the website are "harmless error" and preserves the validity of the electronic version of the legal advertisement in the same manner as the printed version of the advertisement. CS/HB 781 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Community Associations: CS/CS/HB 807 Representative Moraitis and Senator Ring is the omnibus community association bill of the 2014 Session. The legislation includes Section initiatives that provide for: (1) the revisions to MRTA; and (2) the extension for Part VII of the Condominium Act. The legislation also includes:

Emergency Powers: The legislation will provide Cooperative Associations and Homeowners Associations the same emergency powers during a natural disaster that currently exist for Condominium Associations.

Access to Abandoned Property: The legislation establishes procedures that permit an association to take control of abandoned property in the community.

Coops: There are a series of changes to the Cooperative Act conforming provisions to current provisions in the Condominium Act and Chapter 720.

Board Meetings: The legislation will expand the technology permitting absent board members to participate in meetings using Skype, Facetime or other modes electronic and video communication.

Records: The bills would impose a 5-day deadline for outgoing board members to turn over records to newly elected board members.

Meeting Accessibility: The legislation also requires all condominium and homeowners' association meetings to be held at locations accessible to physically handicapped persons upon request.

The CS/CS/HB 807 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Family Trust Companies: CS/SB 1238 by Senator Richter and Representative McBurney is the Section's initiative to create the authorizing legislation for the creation and regulation of family trust companies in Florida. CS/SB 1238 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Family Trust Companies—Records Exemption: CS/CS/SB 1320 by Senator Richter and Representative McBurney is the separate public record exemption bill that accompanies the substantive family trust company legislation. CS/CS/SB 1320 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Community Managers: CS/CS/HB 7037 by the House Civil Justice Committee amends the community association managers' regulations to authorized managers to provide specific advice concerning the management and operation of community associations. It creates new forms in Chapters 718, 719 and 720 for notifying delinquent unit owners of their past due assessment balances, and it will authorize community managers to complete the statutory forms. The Section opposed the bill in any form. CS/CS/HB 7037 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

II. INITIATIVES OF INTEREST

Title Insurance Rates: CS/CS/HB 321 by Representative Passidomo makes a series of changes to Chapter 626 regulating title agents and companies, including a limitation on names; limitations on remedies available for breach of duty; terms relating to insurability; and the preservation of evidence of title searches and examinations. CS/CS/HB 321 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Short-Term Rentals: SB 356 by Senator Thrasher partially repeals the state preemption of short-term rentals; and it limits local ordinances from regulating short-term rentals of greater than 7 days. SB 356 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Growth Management: SB 374 by Senator Detert revises the restrictions on the initiative or referendum process involving local comprehensive plan and map amendments. SB 374 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Foreign Law and Contract Provisions: SB 386 by Senator Hays creates new section 61.040 to provide that a "choice of law" provision in a contract involving the dissolution of marriage or child support selecting the law of a foreign jurisdiction is not enforceable in a Florida court (1) if the foreign law is unjust or unreasonable; (2) if the foreign forum is unreasonable or unjust; or (3) when public policy would prohibit enforceability in Florida. SB 386 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Abuse of Vulnerable Persons: CS/CS/HB 409 by Representative Passidomo provides new criteria for the abuse and exploitation of vulnerable persons. It defines the unauthorized appropriation of assets or identity theft by a trustee, guardian or an agent under a power of attorney; and it provides for enhanced penalties for abuse and exploitation. CS/CS/HB 409 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Flood Insurance—Residential Property: CS/CS/CS/SB 542 by Senator Brandeis creates the authority for an admitted insurance company to provide stand and supplemental flood insurance coverage for personal residential properties in Florida.

CS/CS/CS/SB 542 has passed the Legislature and is pending action by the Governor. (Chapter 2014-___, Laws of Florida.)

Service of Process: HB 627 by Representative Pilon establishes a uniform \$40 fee for service of process by the sheriff; requires an employer to permit service on an employee and imposes a \$1,000 fine for failure to permit service on an employee; and permits the sheriff to rely on an affidavit given by levying creditor when disbursing proceeds from the sale of levied property. HB 627 has passed the Legislature and is pending action by the Governor. (Chapter 2014-___, Laws of Florida.)

Title Insurance—Agent-in-Charge: CS/CS/HB 633 by Representative Ingram revises the licensing requirements for title insurance agents and insurance agencies; provides for the suspension of licenses; provides for temporary customer representative licenses; and designation of agents-in-charge. CS/CS/HB 633 has passed the Legislature and is pending action by the Governor. (Chapter 2014-___, Laws of Florida.)

Business Organizations—Distinguishable Names: CS/CS/HB 685 by Representative Rooney creates new criteria for distinguishing the names of LLCs, General Partnerships, and Corporations. The legislation also creates a new Part II for Chapter 607 for the creation and operation of “Social Purpose Corporations” and makes conforming technical changes to chapters of the statutes, including the Condominium Act. CS/CS/HB 685 has passed the Legislature and is pending action by the Governor. (Chapter 2014-___, Laws of Florida.)

Residential Property Insurance: CS/CS/SB 708 by Senator Bean revises the regulations governing residential insurance, and it provides for a “Homeowner Claims Bill of Rights” to be provided to owners after a claim has been filed, and it provides for a regulatory scope of emergency mitigation services after a fire, water casualty or other catastrophic events. CS/CS/SB 708 has passed the Legislature and is pending action by the Governor. (Chapter 2014-___, Laws of Florida.)

Coastal Construction: CS/CS/HB 791 by Representative is an environmental regulation initiative, and Section 1 of the bill provides for a limited expansion of permitted coastal structures to include swimming pools associated with a single-family home, coastal “armoring” structures, dune restoration, on-grade walkovers in compliance with the Americans with Disability Act, and other “minor” structures. CS/CS/HB 791 has passed the Legislature and is pending action by the Governor. (Chapter 2014-___, Laws of Florida.)

Tax Certificates: CS/CS/HB 797 by Representative Pilon makes a series of revisions to the procedures and operations in office of the Clerk of Court relating to tax certificates. The bill’s provisions (1) provides that a tax certificate may not be redeemed prior to the issuance of a tax deed if the certificate holder has made full payment for the deed, including documentary taxes and recording fees; (2) provides that failure of the holder of a tax certificate to pay the costs of resale places the land on the “lands available for taxes” list; and (3) establishes a procedure for the Clerk to maintain excess

funds for unresolved claims against the property. CS/CS/HB 797 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Title Insurance—Reserves: CS/CS/HB 805 by Representative Moraitis modifies the statutory reserves required to be maintained by a title insurance company doing business in the state of Florida. CS/CS/HB 805 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Ethics and Lobbying: CS/CS/CS/SB 846 by Senator Latvala makes a variety of changes to the ethics and lobbying laws, including the requirement that direct-support organization to adopt a code of ethics, and the extension of lobbying registration requirements to water management districts, expressway authorities and other local districts. CS/CS/CS/SB 846 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Condominium Act—Technical Correction: SB 934 by Senator Thrasher is a “revisers” bill making technical corrections to the current statutes. One of the changes in the bill reenacts s. 718.301 to restore flush left language at the end of subsection (1) that was modified incorrectly in Chapter 2013-122, Laws of Florida. SB 934 has passed the full Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Condominiums—Citizens Insurance: CS/CS/HB 1089 by Representative Rachein revised coverage eligibility from Citizens for residential condominiums, and it provides that condominium will not be eligible for coverage from Citizens if 50% or more the units are rented more than 8 times in a calendar year for a rental period of less than 30 days. CS/CS/HB 1089 has passed the full Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Information Protection Act: CS/CS/SB 1524 by Senator Thrasher imposes new requirements on business entities to protect customer records, including names, social security numbers, medical histories, computer passwords allowing access to online accounts, and other identification numbers. The legislation requires reporting of breaches in security that access electronically stored personal data to the Department of Legal Affairs; imposes obligations to rectify a security breach; and places new requirements on the disposal of personal information maintained in the records of the business. CS/CS/SB 1534 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Survey Standards: CS/CS/HB 7051 by Representative LaRosa is a comprehensive bill dealing with the Department of Agriculture. Section 23 of the bill amends s. 627.7842 requiring surveys certified to a title insurer to the meet the practice standards required by the Department of Agriculture and Consumer Services. Section 24 of the bill amends s. 718.104 (4) (e) and requires that a condominium plot plan and survey meet the practice standards established by the Board of Professional Surveyors and Mappers. CS/CS/HB 7051 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Economic Development—Ad Valorem Tax Exemption: CS/S/HB 7081 by Representative Caldwell is a comprehensive tax administration initiative. Section 1 of the bill limits ad valorem tax exemptions for improvements made by new businesses to improvements that were made after an affirmative approval by the local governing body. CS/HB 7081 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Ad Valorem Taxes—Agriculture: CS/HB 7091 by Representative Pigman is a comprehensive bill dealing with agriculture and contains one real property issue of interest. It is found in Section 2 of the bill and provides ad valorem tax incentives for property owners participating in dispersed water storage programs. CS/CS/HB 7091 has passed the Legislature and is pending action by the Governor. (*Chapter 2014-___, Laws of Florida.*)

Title Insurance—Data Call: HB 7097 by Representative Steube ratifies the rules of the Office of Insurance Regulation requiring title insurance agencies and retail offices of title insurance underwriters to electronically file their statistical data with the Office. HB 7097 (*Chapter 2014-___, Laws of Florida.*)

III. INITIATIVES OF INTEREST THAT FAILED

Notaries: CS/SB 172 by Senator Soto and CS/CS/HB 407 by Representative Peters amend Chapter 117 and requires notaries to maintain an electronic journal with a record of notarial acts completed. The legislation is supported by the Office of the Governor, and the Section has a standing position in opposition to bill and has been amended to provide for attorney-client privilege as requested by the Section. At the time of this report it appears that both bills will die in committee in the House when the Legislature adjourned sine die.

Guardianships—Public Records Exemptions: CS/SB 108 by Senator Joyner and HB 125 by Representative Schwartz is the free-standing Section guardianship legislation that provides a public records exemption for settlements entered into by a guardian on behalf of a ward. At the time of this report it appears that both bills will die in committee in the House when the Legislature adjourned sine die.

Guardianships: SB 120 by Senator Joyner and HB 123 by Representative Schwartz are companion bills and contain Section guardianship initiatives dealing with the payment of examiners fees and attorneys' fees in guardianship proceedings. At the time of this report it appears that both bills will die in committee in the House when the Legislature adjourned sine die.

Guardians and Wards: SB 412 by Senator Diaz de la Portilla and HB 1157 by Representative Campbell would revise the guardianship law including provisions authorizing fee for services when the actions benefit the ward; revise the membership of the examining committee; and authorize family members to observe and record examinations. The Section opposes the legislation. At the time of this report it appears

that both bills will die in committee in the House when the Legislature adjourned sine die.

Construction Liens: SB 460 by Senator Simpson specifies a new fee for recording construction liens; prohibits the filing of liens after a certain date; requires documentation to be provided before a lien can be filed; and requires attachment of the documentation by the clerk prior to recording. The Section is opposed to the bill. At the time of this report it appears that both bills will die in committee in the House when the Legislature adjourned sine die.

UPL—Community Managers: SB 1496 by Senator Evers and HB 7039 proposes to create statutory criteria for the unauthorized practice of law, and it will authorize community managers to engage in activities and complete statutory forms that were previously considered the practice of law. At the time of this report it appears that both bills will die in committee in the House when the Legislature adjourned sine die.

2014 STRATEGIC PLAN
REAL PROPERTY, PROBATE AND TRUST LAW SECTION
OF THE FLORIDA BAR

Michael A. Dribin
and
Margaret A. Rolando,
Co-Chairs

Co-Vice Chairs

Michael J. Gelfand

Deborah P. Goodall

Steering Committee

Debra L. Boje

Tae Kelley Bronner

S. Katherine Frazier

Andrew M. O'Malley

Names of task forces and facilitators for each and pages for each report:

1. **Technology and Membership Communication** –Mike Bedke; Nicole Kibert; Silvia Rojas, **(report appears on pp. T1(1)-T1(9))**
2. **Meeting, Finances, Facilities and Logistics**—Debra Boje, Katherine Frazier; George Meyer **(report appears on pp. T2-(1)-T2(10))**
3. **Section Structure, Management, Leadership and Succession Planning** –Deborah Goodall; Drew O'Malley; Sandy Diamond **(report appears on pp. T3(1)-T3(3))**
4. **Committee Structure, Leadership and Succession Planning and Training**—Tae Bronner; Art Menor; Steve Mezer **(report appears on pp. T4(1)-T4(8))**
5. **Legislation and Section Official Positions**—Bill Hennessey; Bob Swaine **(report appears on pp. T5(1)-T5(4))**

The roster below shows the assignments made to each of the five task forces. The numbers in the Task Force column corresponds to the numbers above and the names in **bold** are the facilitators.

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2014 RPPTL STRATEGIC PLANNING COMMITTEE			
	Task Force	Probate & Trust	Real Property
Ballaga, Raul	1		X
Bedke, Mike	1*		X
Belcher, Fletch	5	X	
Boje, Debra	2*	X	
Bronner, Tae	4*	X	
Brunner, Dresden	1	X	
Bruton, Burt	5		X
Bucher, Elaine	4	X	
Butters, Sarah	5	X	
Conner, Ted	5		X
Diamond, Sandy	3*	X	
Dribin, Mike	3	X	
Frazier, Katherine	2*		X
Freedman, Rob	4		X
Gelfand, Michael	3		X
Godelia, Vinette	1		X
Goodall, Deborah	3*	X	
Hayes, Travis	1	X	
Hennessey, Bill	5*	X	
Kelley, Shane	4	X	
Kibert, Nicole	1*		X
Kightlinger, Willie	2		X
Lynch, Kristen	2	X	
Madorsky, Marsha	1	X	
Menor, Art	4*		X
Meyer, George	2*		X
Mezer, Steve	4*		X
O'Malley, Drew	3*		X
Price, Pam	2	X	
Robbins, Jim	3		X
Rojas, Silvia	1*		X
Rolando Peggy	3		X
Russell, Deborah	4	X	
Scuderi, Jon	3		X
Shoter, Neil	4		X
Swaine, Bob	5*		X
Sundberg, Laura	2	X	
Weintraub, Lee	3		X
Wright, Cary	1	X	
Whynot, Sancha	2	X	

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TECHNOLOGY AND MEMBERSHIP COMMUNICATIONS
Strategic Planning Meetings Goals and Solutions
April 25-26, 2014

1. Membership - Increase the membership of the RPPTL Section including a focus on diversity

a. Goal #1: Reach individuals who are not now members or have dropped off membership

(1) Active Solicitation of 4 groups. There are attorneys in other areas of practice that would benefit from membership in the RPPTL Section ("Section") and the existing members of the RPPTL Section would benefit from an influx of new members becoming active members of the Section. Also, as members retire the vitality and strength of the Section weakens without active recruiting and retention procedures in place. Members in practice between 5-15 years should be prime targets for soliciting for membership in the Section. The Membership and Inclusion Committee ("M&I") along with the At-Large Members ("ALMs") and other members of the Executive Committee and Council can set up procedures for maximum growth and retention of active members. There are 4 groups that the Section should focus on for recruitment and retention:

- **Attorneys who are not now members of the Section.** To accomplish the goal, the following procedures should be instituted with regards to attorneys who are not now members of the Section, especially those 5-15 years in practice:
 - Make a list of all attorneys in the applicable areas of practice of the Section who are not now members. The Florida Bar, given the applicable parameters, can supply a spreadsheet that can be reviewed to check whether an attorney practices in an area covered by the Section, but is not a member of the RPPTL Section. The list can be further organized by Fellows or Law Students working with the M&I. Specific fields such as construction, probate, real estate, etc., can be targeted as well as years of practice.
 - Supply the list to the ALMs for dissemination to each of the ALMs judicial circuits per location.
 - In circuits included in the list where the attorneys have not joined the Section despite being in the RPPTL areas of practice, the ALMs for that circuit can set up meet & greet events using a CLE inducement or other networking inducement such as a realtor/attorney seminar.
 - Form letters of recommendation to join the Section are to be sent to the non-members. M&I will draft the form letters. For non-members that are being solicited, the 5 points contact rule shall apply and the non-member shall receive

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the following during a one year period until he/she joins, letters are exhausted, or contacts the sender with the reason for non-joinder: (1) letter from Chair of Section (2) Letter from Division Director (3) Letter from M&I Chair (4) Letter from ALMs Committee Chair for the particular circuit (5) Letter from a substantive committee Chair [when known what the non-member's interests are).

- The form letters will be sent by M&I to the current Executive Committee Secretary or designee each year no later than the end of August for approval as to form. The form letters are to be approved as is or edited within 30 days from receipt. If not approved or edited within 30 days, they will be deemed approved.

➤ **Attorneys who are not now members of the Section and belong to minority bar associations.** In order to accomplish greater diversity within the Section, additional procedures should be set in place for recruiting minority group attorneys who practice in the areas covered by the Section but are not members of the Section:

- The ALMs in each circuit can set up a committee or designate a ALM or ALMs for purposes of determining the MBA's in their circuit – each ALM can also give a list to the ALM's Director indicating which local bar organizations they belong to as those could be targeted for recruitment by that particular ALM or several ALMs in that circuit.
- The ALMs as chosen in each circuit can contact the MBA, and set up a speaking/networking engagement(s) to recommend the Section to members of that MBA whether at a regularly scheduled MBA meeting or otherwise.
- Feedback: The ALM must give a brief report of the size of the attendance, flyers passed out, speaking engagement focused on the benefits of the Section, or networking opportunity to the ALM's Director who should further run it up to the Executive Committee to determine any follow ups with the organization or any interested MBA members

➤ **Attorneys who were members of the Section but who have dropped out.** Some members drop out intentionally and some others simply by forgetting to send in their dues. There should be a procedure in place to reinstate their memberships if at all possible.

- M&I will draft letters of recommendation to use during the 3 contact periods with the dropped off members. The form letters will be sent to the Executive Committee Secretary or designee each year no later than the beginning of August. The form letters are to be approved as is or edited within 30 days from receipt. If not approved or edited within 30 days, they will be deemed approved and the M&I will continue with the procedures below. Time is of the essence.

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- M&I will obtain the information regarding dropped off members from the Bar Administrator by September of each year and supply the form letters for each dropped off member to the Chair of the Section for signature and mailing by September or October of each year.
 - M&I will obtain the information regarding remaining dropped off members who have not reinstated from the Bar Administrator by November, prepare the 2nd batch of form letters and the M&I Chair will sign and mail the letters to the dropped off members remaining.
 - M&I will obtain the information regarding remaining dropped off members who have not reinstated from the Bar Administrator by January of the ensuing year, prepare the 3rd batch of form letters and the M&I Chair will sign and mail the letters to the dropped off members remaining.
 - M&I will obtain a final list from the Section Administrator of the dropped off members who have not reinstated in order to evaluate the re-application ratio to see if the letters are sufficient inducement and report the information to the Chair of the Section the ALM's Director to determine any further actions to be taken, if any.
- **Law students who are interested in the practice areas covered by the Section.** In order to bring new vitality to the Section, soliciting law students to become affiliate members of the Section before they graduate will assist them in making an informed decision to become active members of the Section after they pass the Bar.
- M&I through its law student liaison members shall prepare a form recommendation flyer (RFlyer events below) setting forth simple bullet points of why join the Section as a law student. Flyer should indicate Section benefits such as the ability to attend mock interviews (with a required resume to enter the mock interview), placements, educational opportunities, adding affiliate Section membership to the resume and availability of Section members for speaking engagements at the law school. The form will be sent by M&I to the current Chair-Elect of the Section in charge of the General Standing committees each year no later than the end of August. The Chair-Elect is to approve or edit the form within 30 days from receipt. If not approved or edited within 30 days, it will be deemed approved and the M&I will continue with the procedures below
 - The form shall be sent to all law schools where there is a RPPTL society formed so that each law student member can be requested by their society president to join the Section at their scheduled meetings or networking events.
 - M&I through its law school liaison members shall contact the Placement Director of each law school with a RPPTL student organization for organizing speaking engagements with the law students.

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- Executive Committee should consider proactively sponsoring events at the law schools for networking and recommending the Section.

(2) **Revitalization of ALMs as the local arm of the Section.** The ALMs are tasked to provide a number of the services above mentioned. ALMs can play a vital role in gaining local support for the Section but only if they are active in growing and providing a benefit to the Section membership: In that regard, the following is necessary: (1) accountability (2) motivation to work on projects and feedback for their work from ALMS chair (3) part of their function should be communication to members as may be requested (4) an ambassador function to non-members by personal appearance at local bar functions to represent the Section and give a short talk on the Section (5) yearly reports from each ALM regarding their activities. If inactivity is indicated in the report, the ALM should not be re-appointed from the ensuing year and it may be an indication that there are too many ALMS and the particular circuit group should be lessened.

Goal #1 Conclusion: With procedures set in place as above, recruiting and retaining members should be easier and more effective attracting not just members but active members of the Section. The M&I and ALMs can play important roles in achieving this goal.

b. Goal #2 - Use Form letters and other templates to recommend Section membership, becoming an active member, and other management of the Section

(1) In order to expedite use of forms on re-occurring matters, and assisting the new Executive Council Committee and members in efficiently performing their services to the Section, there should be a repository of forms available to use as necessary.

- The Executive Committee Secretary or designee is to keep a repository of forms available for use in a number of different situations easily accessible on a password protected webpage on the Section website.
 - The forms are to be drafted by the committees designated below (or as thereafter designated by the Executive Committee Secretary or Division Directors) and be available in the repository no later than December 31st, 2014. Each new Executive Committee voted in each year shall review and re-assign drafting of the forms, if necessary, each year thereafter so that the forms are current as of December 31st of each ensuing year and available in the repository. It is the Executive Committee Secretaries responsibility to confirm current status of the forms as of December 31st of each year.
 - Any form drafted or modified and submitted to the Executive Committee Secretary, designee or other officer for approval shall be approved within 30 days or the form shall be deemed approved and placed in the repository.

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(2) Each of the following forms/templates should be prepared and/or reviewed and modified by December 31st of each year. The list also recommends the committee to work on the list but that can be re-designated by the Executive Committee Secretary, designee or other officer as applicable.

- LR*/non-member (5 contact form letters) [M&I]
- LR/dropped member [3 contact form letters) {M&I]
- RF*/non-members: to pass out to non-members at CLE or networking functions. Include website address and/or QR Code to link to "how you join" in Section website to obtain application and additional public side information regarding the Section & its committees [M&I]
- LR/Welcome letter: for first time member. This can be a separate link on the website below the log in "if you are a new member, click here". The link can describe the Section activities, benefits of joining the section, a short mission statement for each committee, where to find list of upcoming events & CLE and/or whatever else you can place on the linked page on our website. ---- OR if the website can achieve the functionality for it, an introductory letter like Rohan Kelley's old introduction letter can pop up when first entering the website with a password in addition to the link above [M&I]
- LR/new attorneys: for those who just passed the Bar to be added to the Section website under a separate public link so it is available for those seeking information (to send a letter without knowing their intended area of practice would not be cost effective) [M&I]
- FR/law students: to pass out at law student society events recommending joining the Section as a law student along with form application and a linked website and QR Code for linking to a public side informational message on the Section website about the Section and its committees (LR/law students) for first time member who is a law student [M&I]
- LR/law students: separate link for law students on the Section website describing the benefits of the Section specifically for law students [M&I]
- Application for membership (form already exists) – no need to password protect
- Application for law student membership (form already exists) – no need to password protect
- Annual Committee Report Form [Division Directors and Chair Elect]
- Annual ALMs members report [ALMs Director]
- Executive Committee Officers' Handbook [Executive Committee Secretary]
- Evaluation of Fellow Program form for Fellows to complete [Fellows committee]
- Executive Committee Meeting Planning Form [Executive Committee Secretary]
- Focus group invitation letters/emails [M&I]

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- All Section CLE forms [CLE Coordination Committee]
- White paper forms [Legislation committee]
- Template for committee charters or handbook. Each committee Chair should have a specific charter or handbook geared to that committee to provide as a guide to the committee members and for the incoming chair and vice-chair(s) of the committee. For example, number of vice-chairs and size of committee recommendation, technology officer, secretary, legislation, enrichment, case law, keeper of project log, voting procedures and requirements, attendance requirements, preparer of minutes and agendas, sponsors, snacks, speaker solicitations, and CLE. The template can be provided to the committee chair to select the portions applicable to the particular committee and reviewed each year for any necessary modifications. [TBD]
- Other templates or forms as required

*(letter of recommendation) ** (recommendation flyer)

Goal #2 Conclusion: With the forms or templates available online but password protected, each designated user can efficiently and effectively access and use them as is or personalize them further. Each new set of officers and committee chairs will have written guides to assist in a smoother turnover of management each year.

2. **Membership & Technology – Determine the activities, technology and methods of communication best preferred or not preferred by members by use of focus groups**

a. **Goal #1 – The focus group activity should be handled by a professional facilitator.**

It was determined at the Strategic Planning Meeting that a professional facilitator would be the proper party to handle a focus group activity. The M&I will review and solicit information from a number of professional facilitators and report to the Executive Committee the recommendations. The following is a brief description of the procedure to be followed

- (1) Determine the professional to do the focus group: e.g. skills, knowledge, cost, and availability.
- (2) Determine the information that we are trying to obtain by thorough discussions with the Executive Committee and M&I.
- (3) The Executive Committee can review, revise and vote on the event and forward the recommendation back to the M&I that can carry out the event alongside the facilitator
- (4) Set up focus group – the participants should be a broad cross section and should include non-members. Focus should be on the 5-15 years as attorney group.
- (5) Incentivize attorneys for coming to focus group experience.
- (6) Should be done no more than once every three years in a central location

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- (7) Membership Committee should follow up and evaluate the answers for the Executive Committee.

Goal #1 Conclusion: With the information gleaned from a focus group, the Section will be in a better position to service their members.

3. Membership – Outreach to other Sections

- a. **Goal #1 – Determine which Section Executive Council members regularly attend other Section meetings and choose a liaison from those.**

Recruiting active members from other Sections *who are also RPPTL Section members* can provide a greater opportunity for a personalized method of recruiting members from other Sections *who are not also RPPTL members*. These new recruits can then provide a broader expertise important when making decisions within some of the committees regarding case law, new legislation and general enrichment. A personalized recruitment process may be more effective in assuring that this type of new member becomes an active member of the Section.

- (1) The Bar administrator can provide a spreadsheet to M&I to indicate which RPPTL members are also members of other Sections and a survey of those members can be prepared by M&I using Survey Monkey or similar program to determine how active those members are in the Sections they belong to.
- (2) The Executive Committee can then choose from the most multi-Section active members and request their approval of an appointment as a liaison.
- (3) Add those liaisons to the general standing committee list.
- (4) The same procedure can be carried out every 3 years and a new liaison appointed.

- b. **Goal #2 - Each liaison is to seek ways to induce the members of the other Section(s) to join the RPPTL Section if they also practice in the RPPTL Section areas.**

A personalized recruitment process may be more effective in assuring that the new member becomes an active member of the Section.

- (1) The ALMs, on an annual basis, working with M&I (see "Membership" 1.a.(1) above) are to obtain a spreadsheet of non-members of the Section who practice in the areas covered by our Section.
- (2) The ALMs in the particular circuit of the prospective member, working together with the liaison with the other Section, can set up networking opportunities with the prospective member at the other section events.

Conclusion Goal #1 & #2: By identifying active multi-Section members, recruiting the best to be liaisons and providing them with information plus guidance and assistance from M&I

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and ALMs for further recruitment, the Section can add to the knowledge and talent of its membership.

4. Membership - Number of Section members

- a. **Goal #1 – Determine with certainty and on a quarterly basis, the number of members of the Section including the number of new members, members who have re-applied after being dropped off and total member count – this should be coordinated with the Bar Administrator for the Section, the M&I and the ALMs by the Executive Committee secretary or treasurer.**

It is necessary to know the number of Section members and when members have dropped off as such dropped off members should not be receiving the benefits of Section membership and should be encouraged to re-apply.

- Once determined, the Executive Committee can then decide on the course of action to further enhance the membership.
- There should be a quarterly list of dropped off members indicated on the ALMs page beginning one quarter after the annual Bar dues dates so that the other committees of the Section can re-check their membership to make sure all are Section members and personally contact the ones that are no longer Section members to let the x-member know that until they re-apply they will be removed from the committee directories, recommend he/she re-apply & to determine why they have dropped off. Any rationale for drop off that is related directly to the Section should be forwarded to the Executive Committee secretary with a copy to the chair of the M&I.
- The LR/dropped members letter should also indicate that the x-member has lost their access to the Section website & other benefits.
- All members who have dropped off should be banned from the use of the private side of the Section website and magazine until they are reinstated. The Section Administrator or M&I should coordinate the information with the ALMs regarding the dropped off members and the ALMs should keep an online list of the dropped off members not re-applying after the 3rd contact letter so that the committee chairs can check the names online against their directory of members.
- All members who have dropped off should be banned from participating in or joining a Section committee until they are reinstated.

Conclusion – Goal #1: By determining with certainty the number of members, the Executive Committee and Executive Council in general can better arrange planned events and publications, evaluate costs associated with Section activities, and non-members can be dropped from using Section resources without contributing at least the dues

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5. Membership & Technology – use of infomercials

- a. **Goal #1 - All sponsoring committees are to use infomercials during breaks in CLE seminars.** Many non-members attend our RPPTL sponsored CLE seminars. These attorneys are a captive audience and opportunity to inform them of the benefits of the Section should not be wasted.

- CLE Chair or Vice-Chair is to remind the sponsoring committee of the use of the infomercial and who to contact regarding the equipment (e.g. Bar's Administrator or contractor)
- Sponsoring committee by use of the Bar's contractor is to make sure that the videos and other equipment is available on site for using the infomercial – whether downloaded on PC or thru internet (latter preferred as it also have the front of the Section website).
- The infomercial is to be used continually during the breaks to allow for both restroom time and time to watch the video(s).
- After the last infomercial break, the chair of the seminar is to advise the attendees that a flyer and applications are available at the registration desk and the website of the Section.

Conclusion Goal #1: By using free time during Section sponsored CLE seminars to play videos recommending the Section, the Section maximizes the reach to non-members by use of the spoken word and visual aids which aids in retention of information.

Revision 5-3-2014

Notes: Regarding the format used: Each goal is set forth, the issue is described below the goal, the discussion on how to resolve the issue is described below the issue, and the conclusion regarding the goal or goals finalizes each section.

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I. Goal: Meeting Logistics

A. Issue: Meeting Locations and time.

Proposals:

1. Legislative Update remains at The Breakers as is and Convention at another family friendly resort sometime in May. Other meetings at a business type hotel and related facilities which should reduce the costs.
2. Consideration should be given to time between the meetings and legislative session when scheduling the meeting.
3. Section Leadership should be involved in negotiations from beginning as to ensure and maximizes - getting the best bargains with the Bar negotiations.
4. Meetings should be located in Central Florida in a city or area with easy access by air or rail to maximize attendance. Due consideration should be given to occasional geographic diversification but should not be an annual requirement.

B. Issue: Roundtables Timing.

Discussion:

Survey responses indicated that they liked having the roundtables on Friday afternoon instead of Saturday morning. Note that this cannot be done at Legislative Update and Convention. In most cases, this means that we have to move the committee meetings up to Thursday morning which means coming in Wednesday night or Thursday morning. More travel time and possible more expense to Section (ie: providing a lunch on Thursday.) This may open up more opportunities for sponsorship such as getting sponsors for a more formal Thursday lunch (which is currently only a boxed lunch).

Proposal:

Consider and "test" roundtables on Friday afternoon when possible.

C. Issue: Committee meetings. Need committee meetings schedule more in advance so members can make travel arrangements, etc.

Proposals:

1. Rooms - Section Administrator provides to Chair a binder with the information from the hotel regarding rooms and space available for meetings and a historical record of committee meetings that are held so that we know the space needed and size. The Chair should consider the number and availability of meeting rooms when selecting the venue for the meeting. A template should be prepared for standard committee meetings and sizes. Committees should rotate slots.

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2. Equipment - Chair should be provided information regarding cost of the equipment required at committee meetings. Section purchased equipment should be used for the Section and kept apart and secure for Section use so that it is available for the Section meetings and kept in a trunk and sent to each meeting location.
 3. Speaker phones at committee meetings - Availability at the discretion of the Division Director if requested by committee chair. Division Director should determine equipment to be provided at each committee meeting.
- D. Issue: Executive Council Meetings. "Bleed off" at the EC meetings - Probate does not stay for real estate and real estate does not stay for probate.

Discussion:

Are people burned out? At the EC meeting we have now heard the arguments and debates at the committee meetings and the roundtable.

Proposal:

Committee chairs report to the Division Directors important matters or issues that the other side of the aisle should know about and consider and these can be presented to the whole group at the Executive Council meeting.

- E. Issue: Out of State meetings. Do we keep the meetings in the country and how do we handle costs?

Discussion:

1. Location - Survey did not indicate that members preferred out of country over staying within the USA.
2. Costs - Suggestion that the out of state meeting should support itself so that the Section is not subsidizing the out of state meeting. Discussed the separate sponsorship for the out of state meeting. Selling additional sponsorships to our existing sponsors and potential sponsors at the location of the out of state meeting.

Proposal:

Suggest that the out of state meeting should support itself and not be subsidized by general revenue of the Section. Additional sponsors should be obtained to cover the expense of the out of state meeting.

- F. Issue: Bar Service and Hospitality Suite. Survey response wanted to keep the suite.

Discussion:

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At receptions and the Suite - full bar vs. beer, wine, and soda. What is the cost of having a full bar? Liquor does not seem to be an overriding concern for most people. Consider a wine sponsor for hospitality suite? Provide the wine; Pay a corkage fee.

Reception - beer, wine, and soda - full bar for Thursday night? Drink tickets vs. open bar?

Proposal:

Full Bar for Thursday night. Wine, Beer, and soda at other dinners/receptions and the hospitality suite. Try to find a wine sponsor for the hospitality suite.

- G. Issue: Off site functions. Do we hit our minimums at the hotels? It is usually more economical to go off site - survey results indicate that members want more events off site. Survey respondents were willing to pay more for the room and have more events off-site.

Discussion:

Off site functions put a greater burden on the chair and the Section administrator. Will you draw more people for Friday night if you move the dinner off site? Will you draw more people for Friday night if you move the dinner off site? Saturday night dinner - smaller, more intimate group - unique event off site. Is this a cost to the Section? If we move Friday night off site, make Saturday a casual reception followed by a "dine around."

Proposal:

Suggest that the Chair consider that if not needed to meet minimum, take the Friday night dinner off site and for Saturday night have the dinner at a smaller interesting location or a reception with a "dine around." For Breakers and Legislative Update, may be more appropriate to have a Saturday dinner at an interesting location and at the other meetings at business locations make Saturday a reception with a dine around.

- H. Issue: Sunday morning breakfast - Do we need it?

Discussion:

Brunch at the hotel on your own may be cheaper. Have the hotel set aside tables for their Sunday brunch?

Proposal:

Consider eliminating the Sunday breakfast or having the hotel set aside tables for its Sunday brunch.

- I. Issue: Meeting Costs.

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Costs associated with Section members who are not EC members who attend committee meetings and then take boxed lunches, etc. The Survey results indicated that the Section should provide lunches for all attendees.

Discussion:

How do we charge non-EC members who attend committee meetings?

Proposal:

Separate registration and sign up sheet for non-EC members who attend committee meetings. They can sign up for lunch and pay for it and obtain a lunch ticket at registration. Lunch will then need to be set up in a way to monitor.

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2014 RPPTL STRATEGIC PLANNING

MEETING BUDGETS

Goal/Topic: Accurate Financial Reporting and Budgeting.

Proposals:

- We request a ledger (and corresponding timesheets) from the Bar of all disbursements out of our RPPTL account to the Florida Bar for 2014 year to date, including but not limited to those billed by timekeeper, flat fee, piece rate, expense reimbursement, expense reimbursement with override, or whether a result of a Florida Bar mandated charge. Please send us the Florida Bar's policy on billing the RPPTL Section for the foregoing charges, including the explanation and method of calculation and the backup behind the calculation of TFB administrative charge, line item 31433 for the year ending 2014 year to date. By way of example, please see the attached which is our "guess" of the applicable Florida Bar line items for the above requested information. Some of these charges relate to direct reimbursements (like express mail) and may or may not have an override, and others relate to time. We will need the background behind how these charges are calculated of course as well.
- The Florida Bar needs to provide a written budget primer that describes the basic concepts that apply to the RPPTL Section budget (for example, the Florida Bar – mandated charges, CLE vs. Section service, course number sub accounts for Section service, Bar caps on income and charges), together with the line item-by-item text explanation/definitions for each line item budget code to help better educate us and improve consistency of allocations of monies to codes to facilitate the budget process. Need commitment from Florida Bar and protocol for educating the Florida Bar staff about allocation rules as protocol to ensure timely and accurate posting of items.
- The Section Administrator needs to provide to the RPPTL Section Treasurer monthly copies of the Florida Bar financial statements showing the comparison of year to date versus budget by the 10th of each month.
- The Section Administrator needs to provide to the RPPTL Section Treasurer 10 days before each Executive Council meeting a RPPTL Section financial summary for review and approval by the RPPTL Section treasurer as well as certain other designated officers in a form of financial summary as approved by the RPPTL Section treasurer. Please see the attached currently approved form of financial summary to be prepared by the Florida Bar and submitted to RPPTL Section treasurer for approval. Once approved, this financial summary will be part of the agenda as Treasurer's Report for most meetings. Please also note that this financial summary shall include an attachment behind it of the most current roll up budget only with a comparison of year to date versus budget.
- The RPPTL Section has to publish and approve our RPPTL budget in order to submit the same to Florida Bar for their publication and year end approval deadline. The RPPTL

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Section has to start the next budget approval process (2015-16) no later than July of each year. The Section Administrator participates with the Budget Committee and the Budget Committee meets at the Breakers meeting which usually occurs at the end of July. The Section Administrator is responsible for generating the information that is to be circulated to the Budget Committee in advance of the Breakers meeting-which includes year to date actuals compared against the current budget, as well as a comparison of actuals against budget for the preceding 3 years in excel format with a notes column and labeled budget pages and page numbers. The Section Administrator then has to provide the audited Bar actuals compared against budget for the preceding 3 years in excel format with a notes column and labeled budget pages and page numbers in advance of the next Budget Committee meeting which needs to occur no later than mid August each year. The Section Administrator also needs to provide a projected draft budget for that mid-August meeting as well. We need to pin down this exact process, timeline, and deadlines with set details and required information for each year to streamline the process. We usually have to have a second Budget Committee meeting as part of this process. The Budget Committee is expected to submit and publish the draft budget for review and approval at the Fall executive council meeting as we just did this year in order to meet the Bar's yearend deadline. We need to keep in mind that the proposed budget covers not just the roll up budget but also the RPPTL general, the legislative update budget, as well as the convention budget. All of that information is critical to our planning process. Please note that we will also need up to date CLE information and backup as well so that we can estimate our revenue.

- Within 30 days after each Executive Council meeting, the Section Administrator needs to obtain and deliver to the RPPTL Section Treasurer a hotel costs summary sheet after each Executive Council meeting with defined categories (i.e. room, food, equipment and committees).
- We need to confirm and document with the Section Administrator and post the reimbursement process and required information to submit and the timeline for posting and processing of such reimbursements.
- The Florida Bar shall provide a spreadsheet from the Florida Bar of historical annual meeting expenses and meal/event charges for the past six years and work with the Florida Bar to prepare an annual estimated meeting budget based upon estimated budgets with defined categories (i.e. room, food and equipment) with suggested estimated totals for a typical in state meeting and reflecting typical attendance at certain events and suggested rates for event charges. Note Chair needs to know costs before charging for event.
- On a general basis we know that Jamie was undertaking certain cost-saving measures such as purchasing equipment in order to transport the same to meetings. We need to confirm what the process will be for that equipment that was purchased in order to help save us money. We have previously saved a significant amount of sales tax at the last Amelia Island meeting that the hotel inadvertently charged us. We want to verify and determine if we were previously charged for sales tax by any other hotel during 2013. The thought was that even though it is after the fact, if we were charged sales tax by the

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hotel, we may be able to recoup some of those amounts. We would still like someone to investigate that matter.

- Within 30 days after each CLE, and every six months and one year thereafter, the Section Administrator needs to obtain and deliver to the RPPTL Section CLE Chair/Co-Chairs a CLE accounting of income and expenses for each such CLE.

2014 RPPTL STRATEGIC PLANNING

SPONSORSHIP PROGRAM

- I. Goal: Increase general sponsorship revenue for the Section.
- A. Topic: Sponsorship revenues have dropped in the last 5-6 years as a result of loss of sponsors and consolidation in the title insurance and banking industry.
- B. Discussion: Since we do not allow competitors to sponsor the same event, we do not have general sponsorship slots available for some industries, such as private wealth management. Moving the roundtables to Friday afternoon may require providing a more formal lunch or a breakfast on Thursday morning which we do not provide at this time, which may open up more sponsorship opportunities. However, the costs of new events will be more than the sponsorship revenue. Thus, we need to be creative and offer more opportunities for sponsorship and market to companies and service providers outside of our typical targets of title insurance companies and banks. Note, some of these proposals have the added benefit of saving the Section money.
- C. Proposals:
- Create new categories for general sponsorship to allow for companies who are interested in general sponsorship but cannot participate because their category is full. (ie: wireless sponsor, electronics, apps, parking sponsor, break/snack sponsor)
 - Create a task force of sponsorship committee members to target companies outside of the typical sponsors such as technology and other service providers.
 - Assign committee members to target real estate industry providers for sponsorship (ie: surveyors, environmental, due diligence services).

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- Recruit sponsors to supply lanyards with their corporate information at the EC meetings and CLEs.
- Recruit sponsors to supply bottled water with their logo at EC meetings and CLEs if allowed by the hotel/location.
- Recruit a winery to provide wine for the hospitality suite at the EC meetings.

II. Goal: Centralize coordination and communication between the Section and all sponsors.

- A. Topic: The Section has a Sponsorship Coordination Committee which handles annual sponsorship. However, there are several CLEs and “one time events” such as the ATO conference and the Construction Law Institute that obtain sponsors as well.
- B. Discussion: There is much confusion in the Section and with Bar administration regarding the responsibility of the Sponsorship Coordination Committee and sponsors for CLEs and other events that currently do not fall under the purview of the Sponsorship Coordination Committee. This creates problems where more than one person may be contacting potential sponsors on behalf of the Section. This is confusing for the sponsors as well. There is a lack of continuity and institutional knowledge since the Section members who are in charge of obtaining the CLE and “one time event” sponsors change every year. This is an untapped source; we may be able to convince CLE and “one time event” sponsors to become Friends of the Section, committee sponsors, or general sponsors.
- C. Proposals:
 - Bring exhibitors at the Convention and Legislative Update under the purview of the Sponsorship Committee. A designated Sponsorship Committee member would work with assigned Convention and Legislative Update committee members to coordinate efforts. This could lead to bringing exhibitors into sponsorship.

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- Assign a Sponsorship Committee member to work as a liaison with the ATO Conference, Construction Law Certification Course, Real Estate and Probate Certification courses, and other Section courses or events that have sponsors that do not currently work with or through the Sponsorship Committee.

III. Goal: Encourage communication between sponsors and Council members.

- A. Topic: One of the benefits of sponsorship is the access that sponsors have to Section and Council members.
- B. Discussion: Sponsors have complained that they do not receive notices of the meetings or the opportunity to sign up for the events unless they are Executive Council members. We should allow for more opportunities for sponsors to communicate with and market to Section members at no cost to Section so that sponsors see more benefit for their sponsorship dollars.

The most loyal sponsors are those who have members on the Executive Council. We should encourage all sponsors who have Florida attorneys on staff to get those attorneys involved in committees and other Section activities.

C. Proposals:

- Reinstitute the "buddy system" and assign ALMs to each sponsor to introduce the sponsor to other Council members and attendees at the sponsor's event (or the event the sponsor is attending if sponsored event is not conducive such as an EC box lunch sponsor).
- Establish a list serve for each category of sponsors to send sponsors information on upcoming meetings and Section event.
- Allow boxed lunch sponsors to provide materials with the lunches (since they cannot address the attendees).

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III. Topics for Section Structure, Management, Leadership and Succession Planning
(Team members: **Sandy Diamond**, Mike Dribin, Michael Gelfand, **Deborah Goodall**, **Drew O'Malley**, Jim Robbins, Peggy Rolando, Jon Scuderi and Lee Weintraub)

A. Structure

1. What is our purpose – Legislation, education, Advocacy, Professionalism?

Goal: To promote the enrichment of lawyers in the Section (Enrichment in all areas, not just legislation)

The Section's purpose is all four. Legislative activity has increased and it seems legislation drives the Section. While different committees serve different purposes (some more legislation, some education), there needs to be a renewed focus on our other purposes, including creating "take home value" for our members. We should work harder to limit or screen legislation and take the time to properly prepare it before we submit it to the Executive Council. The division directors should educate the committee chairs on our renewed focus on take home value and evaluate the chairs based on their accomplishment of all of the Section's purposes.

2. Optimal Size of EC/Making most of Saturdays/Staying to end

Goals: Streamline the EC meeting and develop take home material

The Executive Council consists of approximately 250 people. While the size may limit hotel options and limit expression of viewpoints, the EC is able to get its work done. There should not be any arbitrary limitations on the size of the Council. We should remain flexible; the functions of the Council will dictate its size. We should strive to maintain Council members who are active and productive.

The Saturday Council meetings have grown stale and take too long. Other than the matters to vote on, it seems the same people present the same reports at every meeting. We should strive to streamline the meeting including limiting the presentation of reports. The Council could require general standing committee to submit written reports in lieu of oral reports, abbreviate officer reports, focus on the action and information items, add a brief educational moment for take home value, and eliminate lunch when necessary. The Chair should have flexibility to conduct the meeting in an efficient manner.

Attendance at the Council meeting is important and Section leadership should remind Council members of their responsibilities as Council members.

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3. At Large members

Goals: Support the ALMs and integrate into the Executive Council

ALM responsibilities are trending up and include outreach to law schools and voluntary bars, assisting general standing committees, assisting publications, appointing liaisons to standing committees, assisting with Section projects, and communicating to the Section members. We should continue to support the ALM's and provide them with meaningful assignments.

B. Management

1. Relationship with Florida Bar/Administrative support

Goals: Improve support from the Florida Bar and improve financial reporting (accuracy, timeliness for planning and evaluation) by the Florida Bar.

There has been significant Section Administrator turnover. The compensation for that position is inadequate for the responsibilities assumed. The Section also does not have any input concerning the hiring, firing or evaluation of the Section Administrator.

There is also a profound lack of Florida Bar financial reporting to the Section. The flow of financial information is not predictable and is often untimely. The information provided is insufficient to properly run the Section. The Section must receive timely, transparent and detailed financial reporting including actual bills with charts of accounts information and coding. We should also evaluate alternative support possibilities including outsourcing administrative functions and develop methods so the Section can participate in evaluation of the section administrator (hiring, firing, compensation, etc.)

2. Recurring Correspondence Procedures Templates

Goals: Institutionalize Section's standard forms and correspondence templates

The Section should designate a person to maintain and pass onto the successor officer or chair the standard Section forms and correspondence templates. Due to turnover in the Section administrator position, the Chair or secretary ought to handle this responsibility.

3. Remote voting

This topic has been taken under consideration by the Integrity and Awareness Committee. We have deferred taking action on this issue at this time. Cost may be an issue. The concern is not only counting votes, but verifying the presence of a quorum for each vote.

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C. Leadership/Succession Planning

1. Responsibility for Updating/Delivery of Officer's Handbook

See B2 above.

2. Attracting new talent to EC

See C3 below.

3. Review Fellowship Program/Leadership Academy

The Fellowship program has successfully met its initial objectives. The Section should continue its strong support for this program.

The Bar Leadership Academy is geared towards younger Section members. There is no requirement that a participant be an Executive Council member but he or she should be active in the committees. The Section's continued participation is warranted.

4. List serves – who should be able to use?

The Section list serves should be used for Section sponsored events only.

5. Social-Senior/Affiliate memberships

Removed from agenda

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RPPTL 2014-2019 STRATEGIC PLANNING

COMMITTEE STRUCTURE, LEADERSHIP AND SUCCESSION PLANNING, AND TRAINING

(Task Force Members: Tae Bronner, Facilitator, Art Menor, Facilitator, Steve Mezer, Facilitator, Shane Kelley, Deborah Russell, and Neil Shoter)

I. Goal: Improve Committee Leadership Structure

- A. Topic or Issue: What is the optimum Committee officer structure and organizational chart?
- B. Discussion: Current leadership structure of many Committees lacks clear definition of roles. Some Committees have too many Vice Chairs with undefined roles. Vice Chair positions are often used as “parking spots” for people wanted on the Executive Council. We are under utilizing the Vice Chairs. Probate side is not using secretaries but should start to use this position. At least some Probate Committees are underutilizing Vice Chairs. Some Chairs do not effectively delegate in part because of a lack of definition of the Vice Chair role. Other Committee Chairs more actively involve and delegate to Vice Chairs.
- C. Conclusion or Proposal:
 - 1. Where feasible, Committees should have a Chairperson, Vice-Chair(s), a Secretary, and a Technology Officer. Define the role of each position.
 - 2. Large Committees: use subcommittees and task forces.

II. Goal: Optimize the Size of Committees

- A. Topic or Issue: When do Committees become too large? To limit size, should we strictly enforce attendance policies? Should Committees be “open” or “closed” or have different classes of voting members?
- B. Discussion: Is being on a Committee or at least being able to attend Committee meetings to listen in a benefit of being a member of this Section that should not be taken away? Less than 10% of RPPTL members are members of a Committee. Anyone can attend a Committee meeting as a guest or a non-voting member, but to accomplish the Committee’s purpose you have to limit membership of larger Committees. We should allow the committees to be as large as we have people who want to be involved, but we need to impose rules to make the Committee productive and accomplish the purpose of the Committee. For the large Committees, especially on the probate side, we should strictly enforce an attendance policy. limit the number of voting members, and create an application to be completed to become a voting member. The attendance policy

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and distinction between voting and non-voting members permits involvement of all members but at the same time encourages educated voting members. Minimum attendance for a voting member should be three meetings per year. People can still attend as a guest or non-voting member, just can't vote. This is really a large Committee problem. Three categories of meeting attendees were discussed: Voting members, non-voting members and guests. To become a voting member, an individual must apply and Committee leadership has the authority to decide who can and cannot be a voting member. A Committee membership application should be developed and used as a universal form. It should be in the discretion of the Committee chair if the limitations on members should be implemented, but continuity should be encouraged. Current members of the Committees should be grandfathered in to prevent everyone from having to file an application each year.

C. Conclusion or Proposal:

1. In general, we should have a policy of inclusion and should foster and promote membership in Committees. This greatly enhances the value proposition of Section membership and promotes involvement in Section activities by new and younger members.
2. This may not work as well with the large probate Committees who have serious issues with voting by members who are not well informed or have voting conflicts. These Committees should consider a three tiered approach as to persons attending meetings: 1) full voting members; 2) non-voting members; and 3) interested guests. These Committees should adopt criteria for voting membership that could include attendance requirements and other criteria to insure well informed decision making on Committee business.
3. Committees should be encouraged to adopt charters spelling out membership requirements, Committee leadership roles, and meeting and voting protocols including whether Roberts Rules of Order should apply, quorum requirements, and the voting requirements (simple majority, super majority) for various Committee actions.

III. Goal: Continue to Use Ad Hoc Committees, but Judiciously.

- A. Topic or issue: Are there benefits to ad hoc and sub-committees? Do we over use these tools?
- B. Discussion: This is a large Committee issue, especially on the probate side. The benefit of these Committees is that they are a better vehicle than a large, diverse Committee for studying a difficult problem or issue and proposing a balanced, well reasoned solution. The problem is that they can engender feelings that issues are not being dealt with transparently and democratically and have been usurped from the Committee that should have addressed them.

- C. Conclusion or proposal: Ad hoc Committees should continue to be used where appropriate but their use should be carefully considered and limited. When an issue falls within the purview of a particular Committee the preference should be to allow that Committee to handle it. The Section should adopt clearer policies on when ad hoc Committees are to be used.

IV. Goal: Mitigate Conflict of Interest Issues in Committee Actions and Establish Clear Practices for Committee Votes.

- A. Topic or Issue: Conflicts of interest in Committee constituencies. Also, different committees follow different rules on how committee action items are passed. Some use 2/3 majority for an item to pass, some use simple majority.
- B. Discussion: There is often among our members, a tug between objectives of greater good of Section and individual interests. This seems to be more apparent in some issues with corporate attorneys who are being asked by their employers to champion a certain issue. We want input from all professionals and want our committees be to inclusive of all attorneys who are section members, but we need to make sure our committee work remains focused on the greater good of the Section.
- C. Discussion: As to voting practices, the bylaws provide that an action item from a committee must pass by a 2/3 vote in the Executive Council to become a section position. This seems inconsistent for items that have passed through committees by a mere majority. Some members felt that committees should be required to pass all votes by a 2/3 vote, but others felt that was not a good idea. The committee membership is determined different than the executive council and even if the item passed by 51/49 in a committee it is thoroughly debated (or the opportunity to be thoroughly debated is given) in the Executive Council. The members felt it might be dangerous to institutionalize something that is not now in our bylaws and it should be handled on a committee by committee basis dependent on the nature of the committee. In addition, there is always the back stop of the Division Director and Executive Committee for any committee action item that is inappropriate.
- D. Conclusion or Proposal:
1. Sometimes sponsors feel that the sponsorship makes them entitled to a voting membership for a number of employees on one or more committees. Selection of voting members is separate from sponsorship status. Committee felt that it might be helpful to make clear to sponsors what they will receive in exchange for their sponsorship dollars. If expectations are clear at the onset, we will eliminate problems on the back end.
 2. Limit the number of voting members from identified constituencies to prevent voting blocks.

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3. Committee voting practices should be clearly laid out in the committee manual so the practice is consistent but it is up to the committee whether the action items must have a 2/3 or simple majority vote to pass the committee.

V. Goal: Improve the in Person Committee Meeting Experience.

- A. Topic or Issue: Optimal room configuration and methods of participation for Committee meetings.
- B. Discussion: Room configuration (hollow square, diamond shape, separate seating for visitors). Committee felt strongly about the need with larger Committees for seating for non-voting and guest members that is separated from the voting members. General sense was that the hollow square works well. Classroom set up does not work as well. It is too difficult to see people behind you. For the larger Committees microphones are needed to help everyone hear the discussion.
- C. Conclusion or Proposal: The hollow square configuration should continue to be used with separate seating along the walls for non-voting members and guests. Multiple microphones should be available within the room to ensure that all present in person and by telephone can be heard. Committees should consider using name plates for voting members to help everyone relate names to faces and to easily allow the chair to distinguish a voting from a non-voting member.

VI. Goal: Use Technology Effectively to Increase Participation in Committee Meetings.

- A. Topic or Issue: Participation in meetings by conference phone or video conferencing or webcasting of meetings.
- B. Discussion: With larger Committees, attendance must be in person. Again, smaller Committees have different rules and can allow telephone attendance. Not knowing who is on the phone is an issue. Committee members tend to limit discussion because you do not know who is listening. Keep in mind disabled and special needs members. Video conferencing and web casting should be explored but are probably not feasible yet in most situations because of cost and availability. There are problems with hold music and back ground sounds interfering with call quality.
- C. Conclusion or Proposal: Like many issues there is a split between the circumstances of the large Committees, particularly on the Probate side, and the smaller Committees. Generally, use of conference calling should be permitted in smaller committees but not larger committees. Utilization of a conference calling system that maximized the experience for all callers by allowing automatically muting all callers or otherwise addressing the hold music issue should be explored

VII. Goal: Optimize Dissemination of Materials to Committee Members.

- A. Topic or Issue: Should we set a deadline to email and post agendas to allow educated participation by Committee members? Inspirationally this is a good idea but sometimes just is not possible.
- B. Discussion: Committee chairs run into problems with subcommittees not timely submitting reports and then having to do multiple addendums to the agenda. Ideally, all chairs would have the agenda out a week in advance, but in reality sometimes does not happen. Main issue is having the agenda completed in time to post on website before the meeting so guests may access the meeting materials to make their committee experience more valuable.
- C. Conclusion or Proposal: With new website, look into chairs posting their own agendas to make sure they are posted before the meeting. Try to have agendas out at least the Friday before the week of the meetings.

VIII. Goal: Improve the Transition Process of New Committee Chairs.

- A. Topic or Issue: Orientation of new Committee Chairs.
- B. Discussion: Often new Chairs do not receive orientation or other assistance in learning Committee protocols. Sometimes the environment is not conducive to a transfer of power from an outgoing to an incoming chair and the institutional knowledge of the Committee workings is not effectively passed on.
- C. Conclusion or Proposal: Consider creating a **Committee chair manual** on such things as how to run a meeting, create an agenda, and deal with legislation. This manual should include Roberts Rules of Order, passwords to google attendance records, list serves, rosters, and procedures for updating web pages, editing Committee rosters, and coordinating with Section officers and staff. Something to transmit knowledge from one chair to the next chair. The big bar has this that they give to their standing Committee chairs.

IX. Goal: Promote Better Leadership and Succession Planning.

- A. Topic or Issue: Should there be "term limits" for Committee Chairs? How do we promote good succession planning to ensure a pipeline of Committee leaders?
- B. Discussion: Should be methods for identifying future leaders and grooming them by involving them in the Committee's agenda. Should provide a path for progression of interested members through the Committee leadership ranks: chair of subcommittee or task force, Technology Officer, Secretary, Vice Chair. Maintain attendance roster to identify commitment and consistency. Consider using Google attendance, a supported Google document system, more for telephone meetings.

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C. Conclusion or Proposal:

1. At least aspirationally, there should be term limits 3 to 5 years for Committee Chairs, probably shorter in larger Committees and longer in smaller Committees. (Larger committees have a deeper pool of candidates for leadership so committee leadership terms might be shorter in those committees.)
2. Obtain the names of people who apply for fellow, ALM, and leadership programs as each must express Committee interest and most have leadership aspirations.
3. Use the committee members below the Chair as a succession planning tool. Identify the Secretary and Technology positions as stepping stones to the Committee Chair position. Include detailed descriptions in the new committee manual.
4. Consider requiring serving as Secretary of Committee as prerequisite to Vice Chair or Chair position. Consider having one Vice-Chair to serve as **Vice Chair of Enrichment** and one as **Vice Chair of CLE** and allow them to run that part of the agenda.
5. Place continued emphasis on end of year reports by committee chairs on performance of vice-chairs. Executive Committee relies heavily on those reports in making appointments for Vice-Chairs or Chairs of committees. Executive committee looks to Chair for feedback of performance of those under them. Also, realize the placement of a new Vice-Chair may be a signal by the Executive Committee that the committee needs to take a new direction.

X. Goal: Improve the Training of Future Committee Leaders.

- A. Topic or Issue: How can we better train the future leaders of our Committees to make them more effective?
- B. Discussion: Every contact can be a training experience. Encourage attendance and participation. Delegate, delegate, delegate.
- C. Conclusion or Proposal:

1. Use the positions of CLE Chair, Legislative Chair, and Technology Officer as training opportunities.
2. Encourage subcommittee participation. This should include non-voting members as a step to become a voting member. This will encourage

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younger members to become involved and established Committee members.

3. Consider Section-wide mandatory training. We feel the material presented in website training, legislative drafting training, and CLE training has been extremely valuable to Committees.
4. Chairs should delegate more to Vice Chairs and utilize them more effectively.

XI. Goal: Balance the Agendas for Committee Meetings:

- A. Topic or Issue: Should Committee agendas be focused on legislation proposals, CLE for members, or other topics.
- B. Discussion: What is purpose of Committee meeting? Public Service (Legislation) vs Membership Service (CLE).
 1. CLE – Tool to be used by Committees. Smaller Committees offer CLE as a way to build membership but does this would work for a larger Committee? Larger Committee's CLE focus becomes CLE program creation. Time is too much of an issue to get through the agenda of issues that need to be addressed.
 2. Legislation – This should be looked at more of a service to the Section. Need to be responsive to the problems with statutes and proactive but not just for the sake of creating legislation.
 3. New term the committees should look at is **Thought Leadership**. Keep material on cutting edge. One selling point for our committee membership is that members are always working on the cutting edge; they are focusing on issues that place them at the front line of their specialties. Important for committees not to lose sight of this.
- C. Conclusion or Proposal:
 1. Each meeting should include relevant topics of interest to existing members and to attract new members (especially in the case of smaller Committees.)
 2. Have list serve for people to ask questions.
 3. Provide **Thought Leadership**.

XII. Goal: Optimize Committee Meeting Frequency and Locations.

- A. Topic or Issue: When, how often, and where should meetings be held?

- B. Discussion: Should meetings only be held in conjunction with Executive Council meetings or is it more productive to meet "off schedule"? This should be left to the individual Committees. Ad hoc Committees may function better off schedule but established Committees may find it better to meet with EC. Should we do a better job of rotating schedules of meeting times at Executive Council Meetings? The conflict chart so meetings don't overlap has been working well. Rotation of times has been working well. We should continue present practice.
- C. Conclusion or Proposal:
1. There is no "one size fits all" answer for Committee meeting schedules. Each Committee should determine for itself the optimal schedule of meetings.
 2. The conflict chart currently being utilized to coordinate meeting schedules at Executive Council meeting venues to minimize overlaps of related Committees has been working well. Rotation of times has been working well. We should continue present practice.

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Legislation and Official Section Positions

(Team Members: Bill Hennessey and Bob Swaine, Facilitators,
Rob Freedman, Sarah Butters, Fletch Belcher, and Ted Conner)

Goal #1: Improve the quality of the Sections' legislative initiatives and work product through better education, better internal communication, and deliberative process

A. The RPPTL Section should endeavor to improve the work product produced and submitted by our subcommittees, reduce the number of corrective "glitch" bills, avoid legislative redrafting that inadvertently changes a proposal's effect, and to encourage collaboration among the Divisions of the RPPTL Section on legislative initiatives.

B. This goal can best be accomplished through the following steps:

(1) Vice Chairs for Legislation: Each RPPTL substantive committee Chair should be encouraged to select one or more of the appointed Vice Chairs of the substantive committee as "Vice Chair(s) of Legislation". The Vice Chair of Legislation will assist with all bill drafting by their respective committees and will regularly update the Legislation Committee on the status of each committee's legislative projects.

(2) Annual Education to Committee Leadership: The Legislation Committee should hold an annual seminar for the new substantive Committee Chairs and Vice Chairs of Legislation for each substantive committee focusing on the: (a) applicable elements of the current bill drafting guides for the text and format of legislation; (b) time deadlines to have proposed legislation approved by the committee and ultimately the Executive Council; and (c) the necessity for clear and concise legislation, white papers and legislation position request forms. Further, the Legislative Committee should educate the Chairs and Vice Chairs on effective approaches for facilitating discussion on legislation and best practices for structuring debate on legislative initiatives.

(3) Vetting of Legislation: Absent extenuating circumstances, all legislation should follow a standard vetting process. That process includes:

(A) When a substantive committee has determined that new legislation is needed and has fully vetted the policy rationale underlying the proposed legislation, the Chair and Vice Chair of Legislation for the substantive committee will prepare the legislative proposal consisting of a white paper and proposed bill text so that each document is technically sound and internally consistent. Once these documents are prepared, the Chair of the proponent committee will refer the proposal to the Legislation Committee and the applicable Division Director for editorial review *before the proposal is approved by final vote of the substantive committee*. The purpose of this referral is to allow the Legislative Committee and Division Directors to vet the legislation with other committees and persons who may have an interest in the legislation to solicit comments on the proposal *before a final vote is taken within the substantive committee*.

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(B) Deadlines should be set and published for providing proposed legislation to the Division Directors and Legislative Committee to provide adequate time to solicit comments and provide input. We recommend that the proposal be referred to the Legislation Committee no later than 45 days before the substantive committee is scheduled to vote on the proposal unless the appropriate Division Director determines that circumstances otherwise warrant expedited consideration.

(C) After the proposed bill text and white paper are approved by the Chairs of the Legislation Committee, the proposed bill text and white paper will be referred back to the proponent committee. The proposed bill text and white paper may then be vetted and voted on by the proponent Committee.

(D) The applicable Division Directors should endeavor to include legislative initiatives as an information item to be vetted and discussion at the roundtable, or, in the discretion of the Chair of the Section at the Executive Council, one full meeting before they are presented to the Executive Council for a vote. For example, if a substantive committee votes to support a legislative position at the Convention in May, the Division Director should (ideally) have that item on the agenda to be discussed and vetted at the roundtable at the Convention, or the next meeting (presumably the Legislative Update Meeting), before it is listed as an action item in the Executive Council Agenda. This goal would be similar to a "publication" rule wherein comments are solicited well in advance of a final vote.

(E) The process undoubtedly needs some flexibility. Thus, the Division Director and Chair should always have discretion as it relates to timing and the ultimate deliberative process.

Goal #2: Improve communication of Section positions and work product through Legislative Committee communication on the Section website and through email to Section Membership.

A. Organize and make available records of Section's historic legislative activity. A great deal of work goes into the preparation of white papers in connection with Section legislative proposals. These are important tools for explaining the issues underlying a legislative proposal and, in many cases, are one of the best (if not only) sources of legislative history. To the extent issues come up in subsequent years as a result of proposals to amend a Section initiative, the historic background again becomes important. The study team recommends the establishment of an online, indexed database of white papers, legislative proposals and related final bills, as follows:

(1) Scan existing Position Requests, Proposed Bills and White Papers for 2014 into electronic format (Swaine and Hennessey)

(2) Design database fields (Rob Freedman) - Preliminary thoughts on database fields:

Short name

Summary of proposal

Legislative year introduced

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Contact person/committee

"White paper" (notation should be made as to portions of bill which were changed during the legislative process)

Legislative Position Request

Proposed bill

Final bill

(3) Prepare indexes and summaries (Section Fellows/ALMs)

(4) Include links to final bills (Section Fellows/ALMs)

B. Improve communication with and between substantive committees. The Legislative Chairs should send out reminder notices of the deadlines to circulate proposed legislation to other committees and facilitate communication among the impacted committees.

Goal #3: Improve the functioning of the Legislative Committee through identification of key Section leaders who are able to assist in reviewing and responding to Section and Non-Section Legislative initiatives.

A. The Composition of Legislative Committee. The Committee should be revised in order to achieve the following three goals:

1. To have subject matter experts on tap to address legislative proposals and avoid delays in gathering feedback and advising the Section's legislative consultants.

2. To provide greater exposure to the legislative process within the Section, thereby demystifying the process.

3. To provide additional leadership and training opportunities and exposure to how the Section works to younger members with leadership potential. This committee should be viewed as a training and leadership conduit.

B. Legislative Committee Work Flow. The workload of the Legislative Committee breaks down into three categories.

(1) Coordinating the movement of Section proposed legislation.

(2) Identifying and evaluating legislative proposals by others, coordinating the evaluation of those by the appropriate experts, and determining and coordinating appropriate responses to those positions.

(3) Providing technical guidance to legislators, staff and others sometimes in the context of fine-tuning other legislative proposals.

The Committee needs to better utilize its members and reporters to address each of the above categories. Too much of the workload is being carried by too few individuals. The Section's legislative success has led to a dramatic increase in legislative proposals, and our own initiatives are the only area in which the Legislative Committee can meaningfully control its

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work load. The bulk of the Committee's work in recent years has been "playing defense" - responding to non-RPPTL legislative proposals and to requests from legislators and staff. Training other talented members to leaders assist in responding to legislative requests will allow for more timely responses and continue leadership development.

Goal #4: The RPPTL Section should endeavor to place Section members in positions of leadership within the Florida Bar, including on the Board of Governors and on Florida Bar Committees which impact our areas of practice.

In particular, Section leadership should seek to place persons on the following committees:

(a) Probate Rules (The RPPTL Section should provide active input in the selection of the Chair and Vice Chairs for this Committee. We have been successful in doing so for the past few cycles. It is critical that this continue.)

(b) Other committees of interest where we should try to have our membership represented because Section Positions touch on these areas and advocacy is sometimes required:

- Appellate Rules
- Professional Ethics Committee
- Appellate Court Rules
- Civil Procedure Rules
- Code & Rules Of Evidence
- Rules Of Judicial Administration
- Unlicensed Practice Of Law

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THE FLORIDA BAR

Results of the RPPTL Section Executive Council Survey

April 2014

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Results of the 2014 RPPTL Section Executive Council Survey

A link to an electronic survey was e-mailed on March 18, 2014 to 250 RPPTL Section Executive Council members with known email addresses. By the March 31, 2014 cut-off date, 135 completed surveys were received for a response rate of **54%**.

In reporting the results, all percentages were rounded to the nearest whole percent (example 34.5% equals 35%). For this reason, totals may vary from 99 to 101 percent. Note that several questions are "multiple response questions." This means that respondents were encouraged to check all responses which apply to a given situation. Thus, multiple response questions will not total 100 percent.

1. In which areas of the state do you most prefer having Executive Council meetings?

<u>Category</u>	<u>First Choice Percent</u>	<u>Second Choice Percent</u>
Southeast Florida	28	23
A variety of all of the above	28	13
Central Florida	26	29
Southwest Florida	16	31
North Florida/Panhandle	2	4

* Over a quarter of all respondents selected Southeast Florida (28%), a variety of all locations listed above (28%), and Central Florida (26%) as areas within the state that they most prefer having RPPTL Section Executive Council meetings.

* Around half of all respondents listed Central Florida (55%), Southeast Florida (51%), and Southwest Florida (47%) as either a first or second choice of areas within the state that they most prefer having Executive Council meetings.

2. Please rate the importance of each of the following statements related to RPPTL Section meetings and facilities.

<u>Category</u>	<u>Important Percent</u>	<u>Neutral Percent</u>	<u>Unimportant Percent</u>
Meetings be held at centrally located, easy to get to get to locations, such as major cities	87	10	3
Executive Council and committee meetings be held at a resort type	59	28	13
Meetings achieve geographic diversity around the state	55	21	24
Meetings be held at resorts or hotels that have family/kid friendly activities available	38	26	36

- 2a. Please rate the importance of each of the following statements related to RPPTL Section meetings and facilities — MEAN SCORES

Mean Scores – BASED ON THE FOLLOWING SCALE FROM 1 TO 5

- 1 = Very Important
 2 = Somewhat Important
 3 = Neither Important nor Unimportant
 4 = Somewhat Unimportant
 5 = Not Important at All

<u>Category</u>	<u>Mean Score</u>
Meetings be held at centrally located, easy to get to locations, such as major cities	1.71
Meetings achieve geographic diversity around the state	2.37
Executive Council and committee meetings be held at a resort type	2.57
Meetings be held at resorts or hotels that have family/kid friendly activities available	3.07

3. What is the highest rate you would pay for a resort or hotel room in attending future RPPTL Section Executive Council committee meetings?

<u>Category</u>	<u>Resort Room Percent</u>	<u>Hotel Room Percent</u>
\$200 or less	11	31
\$201 to \$225	13	21
\$226 to \$250	18	15
\$251 to \$275	16	8
\$276 to \$300	12	3
More than \$300	10	4
Price is not a concern	20	18

- * Slightly more than half (52%) of all respondents prefer to pay \$225 or less for a hotel room, while three-fifths (30%) either indicate price is not a concern or would be willing to pay more than \$300 for a resort room. The median price is \$251 to \$275 for a resort room and \$226 to \$250 for a hotel room.

4. **Assuming a non-resort facility would charge less for guest rooms and could accommodate Section guest and meeting room requirements, but could not provide the level of service or quality of food that a resort-type facility could, how likely is it that you would attend meetings at that facility?**

<u>Category</u>	<u>Percent</u>
Very likely	66
Somewhat likely	16
Neither likely nor unlikely	10
Somewhat unlikely	4
Not likely at all	4

- * A large majority (82%) of all respondents report that they would be likely to attend meetings at a non-resort facility under the assumption that the facility would charge less for guest rooms while offering a somewhat lower level of service or quality of food.

5. **Do you feel that the convention, which is advertised to the entire Section membership, should continue to be held at a resort location or should it be held at a hotel, which could be more economical but might lack several of the resort amenities and activities?**

<u>Category</u>	<u>Percent</u>
A resort location is preferred	53
A hotel location is preferred	12
No preference	35

- 5a. **Do you feel that the convention, which is advertised to the entire Section membership, should continue to be held at a resort location or should it be held at a hotel, which could be more economical but might lack several of the resort amenities and activities? – INCLUDES ONLY THOSE RESPONDENTS WITH A PREFERENCE**

<u>Category</u>	<u>Percent</u>
A resort location is preferred	82
A hotel location is preferred	18

- * When only considering those respondents who list a preference, a large majority (82%) prefers that the convention continue to be held at a resort location.

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6. **Should the Executive Council continue to hold its Legislative Update at The Breakers Resort every year?**

<u>Category</u>	<u>Percent</u>
Yes	82
No, utilize The Breakers every other year	11
No, utilize The Breakers every third year	5
No, find a different resort/hotel for the Update	2

- * The Breakers is the preferred location to hold the annual Legislative Update program. A large majority (82%) believe the Section should host the Update at that location every year.

7. **Please provide any comments or suggestions you may have pertaining to RPPTL Section meeting facilities or locations.**

A total of 37 comments or suggestions were provided pertaining to RPPTL Section meeting facilities or locations:

- * All meetings should be held in Orlando at one facility. This will make planning and access easier.
- * A variety of options during the year would be favorable. Not all meetings need to be held at the best resorts and only certain resorts/meetings are conducive to family participation. For instance, if meetings are held during the summer or over holidays (Memorial Day weekend, etc.), those meetings are more likely to attract family participation.
- * Access to major cities with an airport or near major cities with an airport is preferred and will maintain the current level of participation. I am not sure how well attended the meeting in Amelia Island was or whether that was a function of location or weather. I suspect a meeting in Pensacola or Destin would not be well attended just for its location. Even a Tallahassee meeting violates my "rule" about not being near a city that has a functioning airport (wink, wink).
- * Answer to Question 5 (hotels vs. resorts) is largely dependent upon holding convention over Memorial Day weekend or at another time when attendees are likely to bring family.
- * Don't fix what's not broken. Don't change the location of the Legislative Update. Because the section meets as much as it does, we could probably meet in Central Florida a little more often. I think it's a good idea, especially if you're trying to grow membership, to meet in all corners of the state. Section members who do not normally attend might do so if the meetings are in their backyard. Moving the meetings around can also help those attending. One person's travel day is another person's commute. If done right, the pain can be shared/minimized. If meetings are always held in central Florida, some folks are always going to have a long travel day. That may lessen participation. The section can also do more "business" friendly hotels, but they're not always as "happy" as resorts. Just something to think about when the section meets as much as it does. That being said, I do not require a Ritz-Carlton or Waldorf-Astoria level of comfort.

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- * Ease of transportation in and out is the main priority. The presence of nice restaurants is a preferred, but the restaurants do not have to be on-site. Few of us who attend meetings ever really get to enjoy most of the amenities for which we are paying. While our spouses may, if those amenities were not available, then many of them probably would stay home. I have no strong opinion on whether this is good or bad for the Section, but I have noticed that fewer spouses attend anyway and that this has changed the weekend vibe.
- * I admit that with the time and effort spent out of the office that I do expect a quality level of hotel/resort and I do want to bring my family.
- * I am a little guy in a little firm. EC is something we participate in because we are committed to the process and believe our participation provides value to us and to the greater good of the practice. It is a way to give back. EC is also a significant financial commitment for some of us. Sometimes, the meeting locations are a pain in the backside to get to if not in a major population center where many, many EC members live, I wonder why we are there. In general, I'd like to see hotel bills for no more than \$200/night. There are gazillion hotels in Orlando. Why we need to be at the Ritz in 2015 during spring break for 269/night, I am not sure. However, because there are so many hotels in Orlando, you can always stay elsewhere very close by for less. The difference in hotel bill allows me to eat very well. Mixing it up in different locations at different types of facilities is a good thing. Having one or two meetings a year that families can participate in (Memorial Day weekend) is also a good thing. However, we can have some meetings at "business hotels" to take care of our business and save a few bucks. But for the electricity problem, the Marriott in Tampa we were at a few years ago was just fine. Good location, reasonably priced. Some of those thrown in the mix would be a good thing.
- * I appreciate the efforts to set the meeting schedules as early as possible. I often have to make travel plan changes if I have a Wednesday afternoon or Thursday morning meeting, or don't have one until Thursday afternoon. It's hard for me to plan on being there from Wednesday through Saturday.
- * I come to all the meetings no matter where they are situated.
- * I do not like valet-only parking accommodations.
- * I don't think the Bar is negotiating well. Given the size of the section and the number of rooms needed to accommodate council members and guests, you should be able to get significantly reduced rates without having to promise levels of food and events. The food and events should be a carrot you offer the hotel in exchange for a good rate for those events, not the other way around. Perhaps you should engage an agent who really knows how to get the best rates. It's entirely possible to have great accommodations at reasonable rates. \$200 a night is too much for many lawyers, yet we keep saying we want more participation. Only large firms will underwrite the kinds of expenses that the council currently requires its members to pay to volunteer their time. The Florida Bar has historically agreed to prices for rooms at resorts and high end hotels that are significantly higher than if the section negotiated on its own. I know this from personal experience. The cost of attendance is prohibitive for many lawyers who might otherwise participate in council and committee work. Rooms, food and beverages have huge markups. The venues will still make a lot of money if the section were to obtain great rates for all its activities. Since the section has so much money and has high membership fees,

it is appropriate for it to underwrite some of the costs for those who make the extra effort to contribute to the wonderful committee work and section positions and efforts

- * I feel strongly that we should maintain our annual Breaker's event.
- * I like and appreciate the resorts that the section uses and obtains competitive prices at for our meetings. However, I understand economics of the section may mean that more affordable hotel options would make it more affordable for the section and for other members of the section to attend meetings. I would continue to attend section meetings regardless of what level of resort/hotel the section chooses. Do what is in the best interest of the economics of the section. I would hope it wouldn't affect the level of participation of section members in our meetings.
- * I rarely, if ever, get to use the resort facilities. I would prefer a central location: Tampa or Orlando and then once a year at the Breakers.
- * I think it is too expensive. I tried to support the chairs, but going forward, I will not attend most of the dinners and receptions. The cost is over the top. Many younger members with families are being priced out of the events. I know more of the members are going out for dinner instead of attending our events. I pay the costs out of pocket and do not have a firm paying my bills.
- * I think the meeting locations have gotten increasingly lavish. While I certainly enjoy the indulgence, I find it hard to justify, given that our purpose is supposed to be one of service to the profession and to the public.
- * I wonder whether the hotel/resort could be alerted to peak departure times (e.g., right after the Exec Council Meeting) and increase the number of staff on their valet parking services.
- * I would like the group to look at the demographics and the location of its members.
- * If there are to be groups other than Executive Council attending, I suggest that at each meeting there should be a seminar session and that attendance at meetings and committees should be for CLE hours. All out of state meetings should include a program for out of state members on recent changes in RPPT topics. If meetings are not going to be in Tallahassee, I suggest that they be in the Orlando area.
- * It is incredibly frustrating to be told by a given hotel that group rate rooms are sold out 8 months in advance. There has to be a better solution.
- * It is telling me that the lowest price point you included for the hotel is \$200. That is much higher than most people are able to afford or justify as an expense to their law firms. You are pricing people out of participating in the RPPTL Section by setting the price point for entry so high.
- * It is very important to maintain the Breakers tradition. While nice, I am not sure the other meetings need to be in resort settings, certainly not all of them.
- * It would be nice if meetings included activities in addition to cocktail receptions, lunches and dinners as was the case in the past.

- * Nice accommodations are part of the draw to attend the section meetings. Please consider having an outdoor activity break in the middle of the day to allow everyone an hour of time to be outdoors during the middle of the meeting day.
- * Of course location and amenities are important, but room cost is only part of the equation. Often times the meals, receptions and off site events are priced beyond their value and certainly beyond reason or affordability for many E.C. and Section members. The prices on these seem to be spiraling up and up, and it is increasingly harder to justify these expenses.
- * Once you start having meetings at a Ritz Carlton instead of just a nice Marriott, the standard is set high and it is a challenge to bring it back down to earth. So long as we can continue to maintain pricing at a level far below what any would want to pay individually, that high standard is economically sustainable. I do very much like having the meetings at a Marriott affiliate since it allows for the nice accrual of rewards points. Having said that, please continue to maintain the summer meeting at The Breakers as it is an iconic Florida location as well as being fairly convenient for most people.
- * Possibly adopt the concept of the Breakers every other year and then have the other meetings on the west coast or in Central Florida.
- * The Breakers as the location for the Update may be a setting that everyone associates with the Update and plans for. Moving the location might be detrimental to the attendance of the Update. Keep the Breakers for the Update since it is such a success and families can come since school is not yet in session. Since the Convention is the Chair's final meeting and many members are encouraged to attend (and families will attend if it is Memorial Day weekend), a resort location makes sense. For the rest of the meetings (except the out of state meeting) consider using nice hotels. Renaissance Marriott has nice facilities, as does Hilton. For instance, Amelia Island's Ritz was lovely, but the resort aspect was wasted: meeting schedule and weather kept everyone inside.
- * The meeting rooms are always WAY too cold. At the last title insurance section meeting at Amelia, even the men were trying to find jackets.
- * The subsidized cost of dinners and receptions make the cost of the facility pale in comparison. I think cash bars would help contain the costs.
- * They currently are too costly.
- * We need to encourage younger attorneys to participate in our meetings and be members of the EC. High priced resorts/hotels, while fine for dinosaurs like me, discourage attendance. Let's continue to do the Breakers and a lavish optional attendance out of state meeting, but do our business in reasonably priced facilities.
- * We used to go offsite to eat on Friday night. I would think that would save money (even with transportation). Perhaps the attorneys instead of the Bar should negotiate the charges. Just a thought. I think one or two meetings at a resort each year is nice. The other could be at a hotel.
- * What disturbs me is that the section in recent years operates fiscally like the US government—with substantial deficits. How can we expect our national leaders to be fiscally responsible if

we can't be on the level of our RPPTL? The chair of the section should step forward and take responsibility.

* When I attend the meetings, I have little time to enjoy the facilities. Resort amenities are not important to me. I don't have enough information to respond to #6.

* With respect to #6, above, if the Legislative Update was moved, would that EC meeting also be moved? For purposes of my answer, I am assuming so since the speakers are generally EC members. I like the Breakers and would be willing to continue to pay a little more to attend that venue once a year, especially if two or three of the other in-state meetings were at non-resort facilities. However, I cannot make an intelligent, financial decision because I have insufficient financial information. Depending on the responses received, perhaps having the first meeting at The Breakers and the Convention at a resort, with the other two meetings "on the cheap" would be a happy compromise.

8. **Hotels where the Section has Executive Council and committee meetings offer reduced guest room rates, but require in exchange that the Section spend certain minimum amounts for food and beverage at receptions or dinners at the hotel. If hotels were willing to change this arrangement, how willing would you be to pay higher guest room rates and not have a corresponding obligation to have receptions and/or dinners at the hotel?**

<u>Category</u>	<u>Percent</u>
Very willing	22
Somewhat willing	37
Neither willing nor unwilling	20
Somewhat unwilling	18
Not willing at all	3

* Nearly three-fifths (59%) of all respondents are willing pay higher guest room rates and not have a corresponding obligation to have receptions and/or dinners at the hotel, compared to just over one-fifth (21%) who indicate they are unwilling to do so.

9. **Do you prefer having a Friday night dinner event at the hotel during the Executive Council meetings or would you prefer to replace it with a reception, followed by dinner on your own? (For purposes of this question, assume that the lack of a dinner may result in higher hotel room rates).**

<u>Category</u>	<u>Percent</u>
Prefer a reception followed by opportunity for dinner on own	37
Prefer a dinner at the hotel	32
Prefer a dinner event in town at market rate prices rather than at the hotel	11
Prefer a dinner, but I may not attend the dinner	10
No preference	10

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- 9A. Do you prefer having a Friday night dinner event at the hotel during the Executive Council meetings or would you prefer to replace it with a reception, followed by dinner on your own? (For purposes of this question, assume that the lack of a dinner may result in higher hotel room rates) – INCLUDES ONLY THOSE RESPONDENTS WITH A PREFERENCE

<u>Category</u>	<u>Percent</u>
Prefer a reception followed by opportunity for dinner on own	42
Prefer a dinner at the hotel	35
Prefer a dinner event in town at market rate prices rather than at the hotel	12
Prefer a dinner, but I may not attend the dinner	11

- * Of those respondents with a preference, over two-fifths (42%) prefer a reception followed by opportunity for dinner on their own, while over one-third (35%) prefer a dinner at the hotel.

10. To reduce the cost of receptions, would you prefer receiving a certain number of drink tickets, limiting the bar to only beer, wine and soft drinks, or do you prefer to pay for a more expensive full bar event?

<u>Category</u>	<u>Percent</u>
Prefer limiting the bar to beer, wine, and soft drinks	33
Prefer drink tickets	33
Prefer a full bar event	28
No preference	6

- 10A. To reduce the cost of receptions, would you prefer receiving a certain number of drink tickets, limiting the bar to only beer, wine and soft drinks, or do you prefer to pay for a more expensive full bar event? – INCLUDES ONLY THOSE RESPONDENTS WITH A PREFERENCE

<u>Category</u>	<u>Percent</u>
Prefer drink tickets	35
Prefer limiting the bar to beer, wine, and soft drinks	35
Prefer a full bar event	30

- * When considering only those respondents with a preference, there is a split between those who prefer drink tickets (35%), limiting the bar (35%) and having a full bar event (30%).

11. **Should the Section continue offering a hospitality suite at meetings and, if so, which of the following options best represents your opinion?**

<u>Category</u>	<u>Percent</u>
Yes, continue the suite with the same desserts and snacks currently serve	36
Yes, continue the suite, including service of alcoholic beverages, but reduce the type and quantity of food served	33
Yes, continue the suite but eliminate or reduce food and alcohol choices	18
No, do not continue offering the hospitality suite	13

- * Just over one-third (36%) of respondents prefer continuing the hospitality suite at meetings with the same desserts and snacks, while one-third (33%) prefer continuing the hospitality suite with a reduction of the type and quantity of food served. Only 13% of respondents believe the hospitality suite should be discontinued.

12. **The cost of breakfasts and lunches during our Executive Council committee meetings, even when individuals are required to pay for a meal, is greater than the charge to the individual and the difference is underwritten by the Section. When these meals are offered before committee meetings or during a day of committee meetings this becomes particularly acute because attending committee members (who are not Executive Council) members, wish to partake. Which of the following best represents your opinion of how the Section should deal with this issue? (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)**

<u>Category</u>	<u>Percent</u>
Lunches for all committee members	51
Breakfasts for everyone	45
Breakfasts for Executive Council members only	28
Lunches for Executive Council members only	20
None of the meals should be provided free of charge	27

- * A higher percentage of respondents selected lunches for all committee members (51%) and breakfasts for everyone (45%).

13. **Please indicate how frequently the amount of money the Section charges per person to attend certain events during an Executive Council meeting ever deters you from attending an event.**

<u>Category</u>	<u>Percent</u>
Frequently	20
Occasionally	32
Rarely	13
Never	35

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- * Over half (52%) of all respondents report that the amount of money the Section charges per person to attend certain events during an Executive Council meeting either frequently or occasionally deters them from attending an event.

14. Please provide any comments or suggestions you may have pertaining to RPPTL Section meeting food or beverage options:

A total of 28 comments or suggestions were provided pertaining to RPPTL Section meeting food or beverage options:

- * Although the cost of attending EC meetings does not deter me, I'm sure it does many others. I think we should ratchet down on the cost, understanding it will mean a reduction in quality and services in order to make it more affordable for the average attendee.
- * As both a sponsor and an Executive Council member, I am concerned about any dilution of the opportunity to get value for our sponsorship. In other words, evening events need to be geared towards the highest participation possible please. This also means that my financial answers to this survey are probably not all that relevant as there is no pressure on the expense account. These meetings are fundamentally important to our business.
- * As to Question 12 (cost of meals), it would be preferable to have scaled back food and beverage options that do not cost a fortune (either for the sponsor or the attendee). It seems the RPPTL Section gets charged too much for the options, and this might be able to be re-worked.
- * Charge more to individual section members if needed to defray costs of meals. My firm comps my expenses for attending EC meetings, so having to pay for a meal would not be a huge deterrent.
- * For the hospitality suite, limit the alcohol choices but continue to include desserts and some fruit. For all events, limit the alcohol to beer and wine if the cost savings are worth it. We should not be encouraging major alcohol consumption, though social drinking is great! When the cost of a RPPTL event far exceeds the cost of getting a high quality meal at an outside restaurant, I will opt out of the RPPTL event. For the Executive Council Meeting breakfast (e.g., typically Saturday morning), that should continue to be no charge for all in attendance at the meeting. Grab and go lunches should be at a charge of \$25 or so.
- * Friday night dinners seem to be the lowest value/quality for the money, especially given how excessively high the costs tend to be.
- * I believe meals should be served to facilitate our meeting schedule (i.e., breakfast and lunch) for all those there doing business (i.e., attending meetings) I do not see the need for dinners - and feel a one time a weekend reception would suffice for that.
- * I don't think the Bar is negotiating well. Given the size of the section and the number of rooms needed to accommodate council members and guests, you should be able to get significantly reduced rates without having to promise levels of food and events. The food and events should be a carrot you offer the hotel in exchange for a good rate for those events, not the other way around. Perhaps you should engage an agent who really knows how to get the best rates. It's

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entirely possible to have great accommodations at reasonable rates. \$200 a night is too much for many lawyers, yet we keep saying we want more participation. Only large firms will underwrite the kinds of expenses that the council currently requires its members to pay to volunteer their time. The Florida Bar has historically agreed to prices for rooms at resorts and high end hotels that are significantly higher than if the section negotiated on its own. I know this from personal experience. The cost of attendance is prohibitive for many lawyers who might otherwise participate in council and committee work. Rooms, food and beverages have huge markups. The venues will still make a lot of money if the section were to obtain great rates for all its activities. Since the section has so much money and has high membership fees, it is appropriate for it to underwrite some of the costs for those who make the extra effort to contribute to the wonderful committee work and section positions and efforts.

- * I have never attended the Friday dinner due to the cost.
- * I suggest that you have an open bar at no charge to members and guests. You can charge for the meals for the persons who want to go. I am not going to pay 25 to 75 for two Bud Lights.
- * I think we should work to provide meals around our meetings for the convenience of those attending - and receptions for visiting - but I do not believe we need to provide dinners.
- * I think you are doing a good thing by being proactive about the costs. The cost of food and beverage to the Section (based on room rate reduction) is not commensurate with the value of the food and drinks.
- * I would think that to have our business, many resorts and hotels would reduce their food minimums and negotiate food and beverage costs.
- * If meals are not provided during committee meetings the meeting schedule should provide for ample time for members to obtain a meal either at the meeting location (an onsite restaurant) or at a local restaurant rather than only allowing 30 minutes. I don't necessarily suggest that the section needs to provide meals for everyone for free but it seems like a shame to pay \$25 for a sandwich and an apple as a box lunch (which I understand actually costs the section \$50) when the restaurant onsite offers burgers and fries for \$12. I am not certain that the reduced room rates really compensate for the super premium rates for meals. I also presume that the contract negotiation eliminates the ability for the Section to order food in.
- * In response to Question 12 (cost of meals), there are more responses that I feel are appropriate:
 - Lunches could be provided to all Section members attending but they should be simple sandwiches and chips. If we need to charge it should be a nominal amount.
 - For the EC meeting, breakfast or lunch (depending on time of meeting) should be provided to the EC members only. We should use sponsorship monies to provide these small benefits to EC and Section members.
- * Is it really true that any hotels but the Ritz have a food a beverage minimum? I have read a lot of hotel contracts over the years and the only one I actually saw the minimum in was the Ritz. Though I have to say I am not going to take three or four days and nights out of my office to stay at a Holiday Inn.
- * Let's have full bar in the hotel also in the suite.

- * Please do what you can to lower the price of receptions. I would be perfectly happy if you lightened/lessened the hors d'oeuvres, and used drink tickets. Dinners have turned into a standing dinner. Surprised to hear that in addition to filling a lot of rooms for multiple nights, we also have to consume a certain amount of food and beverages to get our "low" rates. Think most people would eat/drink at hotel anyway, and not drive somewhere – just a new one for me.
- * Please note that my answers are based upon the fact that I do not attend the evening receptions or the paid lunches (and spend those times with my wife). I think that having a breakfast encourages everyone to have an early start to the meetings.
- * Provide breakfast and lunch to all of those attending and doing the sections work. Coffee and some snacks at the morning and afternoon breaks. Sponsors pay for these events, but it is still too expensive. You will have a continuing drop in membership participation.
- * Since presumably all of the committee members are also Section members, I don't see how we can pay for EC member meals with Section funds and not other committee members. I might be in favor of paying only for Section members, if that makes a difference.
- * Sometimes the lunch price is not in line with what we get. At Amelia Island on Thursday, the lunch was around \$35. The lunch consisted of two small finger sandwiches, a cookie, and piece of fruit-not even a soft drink. That is way overpriced. Next time I will eat in the restaurant.
- * The cost of food and beverage is a cost of EC and part of the financial commitment. The \$30 grab and go lunch is a lousy value and even I have heard some grumbling over that. Lunch should be provided for all or none. A very basic continental breakfast on Thursday and Friday for all is also welcome. If committee members make an effort to travel to EC and participate, then providing some food is a nice perk. No one is coming to the meeting solely for the free food. Alternatively, charging a nominal fee for breakfast and lunch, such as \$10 per meal, might help the budget and will still be considered a perk. Seems as many room nights and daily functions that TFB gives to some of these hotel companies we should be getting a better deal. It seems the f & b cost has really skyrocketed. There have been instances over the years where I have snagged a better rate at site hotel on my own than the EC rate. As for the suite, what is the cost v the portion of the population being reached? I rarely go to the suite. If only a small group of regulars go and the sponsors cost doesn't cover it, then maybe it should be discontinued. Maybe the sponsors' funds could be used elsewhere and serve more people, but that assumes the sponsors would continue to give at the same rate.
- * The cost of the food options directly dictates whether I participate or not in the eating event. And, the banquet dinners are not very tasty, by the way. Since it costs the Section money, it seems that everyone who partakes of the committee meals (breakfast or lunch) should help cover the cost of their meal. And, I think people expect to pay for their meal and would not be surprised to be charged. The logistics, however, of paying and monitoring it are difficult. The honor system does not always work. We can limit the alcohol offerings at the bar in order to reduce cost.
- * The hospitality suite used to be sponsored. I would have the sponsor arrange for a pay directly whatever food and drink they want to provide. This will directly match the sponsorship to the cost. The section should not be billed at all. We may want to consider eliminating the happy hour before the Friday night dinner. If we have the hospitality suite afterward people can

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mingle at that time. The sponsors for the receptions can become hospitality suite sponsors as noted above.

- * The price of an event only affects my choice when it gets so pricey that I can have a great evening out at a local restaurant at a much lower price.
- * Too much food at receptions when food follows.
- * You cannot please everyone. Despite the complaints that you hear, people vote with their feet. If we're having high turnout at our events, then it's working — even if people are complaining. People always complain, no matter what you do. Leadership means stepping up to the plate and making the executive decisions, and brushing off the complaints — as long as people come!

15. Please indicate what types of Saturday night activities would entice you to stay through Sunday morning at Executive Council meetings. (MULTIPLE RESPONSE QUESTION — SELECT ALL THAT APPLY)

<u>Category</u>	<u>Percent</u>
Not likely to stay on a Saturday night under any circumstances	48
Cultural activities	35
Live entertainment/sports events	27
Family and kid friendly events	20
Full-service resort location for meeting	17
Other	5

- * Nearly half (48%) of all respondents indicate that they are not likely to stay over on a Saturday night under any circumstance. For those respondents who might be likely to stay over, cultural activities and live entertainment sports/events are the most frequently selected reasons to possibly stay.

15a. If "Other", please specify:

A total of 9 comments or suggestions were provided under the "Other" category.

- * Depends on the place as to what the activity is. In my view it is something that I would not otherwise enjoy if I was going to that city myself, like dinner at a museum or a ball game or dinner at a high end private home on the water, dinner on a cruise boat, etc.
- * I stay just to spend more time with my wife when she comes.
- * Location, not event, driven.
- * Offsite good local restaurant.
- * Provided the cost for these is reasonable.
- * Something of substance on Sunday morning, like a short CLE or ethics.

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- * Sometimes tough for kids to come because of missing school and spouse has to drive separately with kids.
- * The worst choice is another dinner at the hotel. Don't even bother.
- * Unique experiences.

16. Would you like a planned Saturday afternoon activity to be offered for Executive Council members and guests (following the Executive Council meeting and before the Saturday evening event)?

<u>Category</u>	<u>Percent</u>
Yes	13
No	35
I don't generally stay after Executive Council meetings	52

- * Only 13% of all respondents indicate they would like a planned Saturday afternoon activity to be offered for Executive Council members and guests.

17. Please indicate which of the following types of activities you would like to see planned for families with children to enjoy together while attending RPPTL Section Executive Council meetings. (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)

<u>Category</u>	<u>Percent</u>
No preference	64
Organized trips to local attractions	25
Supervised kids "camp style" activities	20
Poolside activities	18
Other	5

17a. If "Other", please specify:

A total of 5 comments or suggestions were provided under the "Other" category.

- * Activities shouldn't be cost prohibitive and should provide something that the members might not otherwise attend or enjoy. If the cost is too much, people simply won't attend.
- * I do not have children attending with me. My wife attends with me. We are rethinking our continuing on the Executive Council. The cost keeps going up and the quality is not the same. We need to get down to basics. Why are we here attending these events? It should not be a vacation, but at the same time, it has to be more than a stay at a hotel.
- * I think it is great that people bring their families but I do not think the section should be bearing any part of the cost. It should be paid 100% by the participants.

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- * My daughter still talks about the Harry Potter theme party at the Breakers.
- * My kids are grown but with the emphasis on attracting younger EC members we must do everything we can to accommodate families with kids.

18. How many family members generally travel with you to Executive Council meetings?

<u>Category</u>	<u>Percent</u>
None - I travel alone	39
I travel with 1 or 2 family members	52
I travel with 3 or 4 family members	7
I travel with more than 4 family members	2

- * Over half (52%) of all respondents travel with 1 or 2 family members, while about two-fifths (39%) travel alone to Section Executive Council meetings.

19. If you travel with children to Executive Council meetings, what are their age groups? (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)

<u>Category</u>	<u>Percent</u>
Newborn to five years of age	5
6 to 11 years of age	13
12 years of age or older	17
I do not bring any children to the meetings	70

19a. If you travel with children to Executive Council meetings, what are their age groups? – ADDITIONAL BREAKDOWN BY GROUPS (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)

<u>Category</u>	<u>Percent</u>
Respondents who listed newborn to 5 years of age AND 6 to 11 years of age	0
Respondents who listed newborn to 5 years of age AND 12 years of age or older	0
Respondents who listed 6 to 11 years of age AND 12 years of age or older	6
Respondents who listed all three response categories listed in Question 19	0

20. Please provide any comments or suggestions you may have pertaining to RPPTL Section meeting events or activities:

A total of 15 comments or suggestions were provided pertaining to RPPTL Section meeting events or activities:

- * A teen "lounge" would be a good place for them to gather with sodas and snacks, maybe they could set up laptops and Wii.

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- * For certain meetings, I will travel with my family; and am more likely to stay over a Saturday night if my family is traveling with me. But, this is not possible for EVERY meeting – it would be appropriate for only certain meetings to be designed to include families, with lower cost options.
- * Generally, my kids only come to the Breakers.
- * Glad to see these issues are being examined.
- * I admit that with the time out of the office, it is very important to me to bring my family, they will enjoy it, I am more than willing to pay for that, and expect to do so.
- * I do not stay Saturday night for a number of reasons: cost of room, cost of food/event, and tired of being there since Thursday morning. The family enjoys the resort facilities when they attend – which is usually when school is not in session.
- * I like to bring my husband. Unfortunately, there is nothing for him to do by way of organized activities. I would like to see a spouse committee organize something for the spouses to do while we are meeting. I think this would encourage more spouses to attend and a bit less stress on the members.
- * I think family accommodations are important.
- * I would like more activities that include children, but they need to be affordable (\$25 or less).
- * My children are grown and don't attend the meetings. My spouse doesn't attend all that much anymore – but it is very important that we keep our meetings family friendly.
- * My children don't always come. But when the meetings correspond with vacations or are to quality resorts, we try to get them to come, even if it is only Friday, after school, to Sunday.
- * The economic load on families with kids is greater than for the rest of us and they are probably less able to pay for it. We should underwrite some of these costs to entice younger members to participate where they might be deterred otherwise.
- * Usually travel to meeting by myself, but I have a 15 year old daughter that has attended the Legislative Update at the Breakers for a number of years. She LOVES it. We usually eat off-site on Friday. Even with Section subsidizing, it is still expensive banquet food. Not really a value or fun, for me. So, would rather see Friday night livened up – sporting event, sports bar, pub crawl. Saturday can stay quiet, and I think the Section generally does a good job with it, but I am generally on my way home after Exec.
- * We generally do our own thing as a family so having scheduled events for the kids is not a high priority for us.
- * When traveling with our teenage son, he is rarely interested in the children's activities offered by the section. Thus, if we do plan an activity for our family, we tend to figure it out and schedule it independent of the section. It's probably not necessary for the section to try to meet the needs of our family in its events activities. If the event that is planned for the section

members is of interest to our son, we include him in the event. If it doesn't interest him, we figure out other activities for him to do on his own or with us.

21. Please provide a rank order for the following five aspects of RPPTL Section Executive Council meetings by their value or importance to you, with you first choice being the activity with the highest value or importance of the group and your fifth choice being the activity with the lowest value or importance.

<u>Category</u>	<u>First Choice Percent</u>	<u>Second Choice Percent</u>	<u>Third Choice Percent</u>	<u>Fourth or Fifth Choice Percent</u>
Conducting Section business	56	23	12	9
Ambiance and location	15	16	20	49
Geographical choice of locations	11	13	18	58
Social networking/relationship building	10	31	32	27
Legal education	9	17	18	56

- 21a. Please rate the importance of each of the following statements related to RPPTL Section meetings and facilities — MEAN SCORES

Mean Scores – BASED ON A SCALE FROM 1 (FIRST CHOICE/HIGHEST LEVEL OF IMPORTANCE) TO 5 (FIFTH CHOICE/LOWEST LEVEL OF IMPORTANCE)

<u>Category</u>	<u>Mean Score</u>
Conducting Section business	1.76
Ambiance and location	3.23
Social networking and relationship building	2.85
Legal education	3.50
Geographical choice of locations	3.55

22. Do you believe that certain committees within the RPPTL Section are too large?

<u>Category</u>	<u>Percent</u>
Yes	25
No	48
Don't Know	27

- * Almost half of all respondents (48%) believe that committees within the RPPTL Section are not too large, compared to one quarter (25%) who do believe they are.

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22a. If "Yes", please specify which one(s):

A total of 37 comments or suggestions were provided pertaining to RPPTL Section committees being too large.

- * Any with over 40 members.
- * As a member on the "Death" side, I find the large global section committees, such as Probate & Trust Litigation, Probate Law & Procedure, and Trust Law to be so large as to encompass the entire "Death" side of the section. Given that almost everyone on this side of the section is interested in these committees; however, I don't see how you can make them any smaller.
- * As long as all are consistently participating, none are too large. However, the problem comes when someone has not attended several meetings and is called upon to vote on a matter that has been discussed at prior meetings. We should have a rule that only those who have attended the prior two meetings are allowed to vote on a matter. Strict guidelines for attendance should be enforced for voting members. Anyone is entitled to attend a meeting and voice an opinion.
- * Certain committees on the Estates side are so large that there is limited opportunity for participation.
- * Committees on the Probate side are now nonfunctional. We have evolved to Ad Hoc Committees to do the serious work. I suggest limiting the size and or changing the room configuration. The hollow square does not work with 100 plus people. Either try classroom seating like the council meeting or try the ACTEC triangle, but do something. The big meetings are now useless.
- * Condo is way too large to effectively bring new people in or work together, yet it is held up as the "gold standard" for the other committees which are encouraged to just get as many people to join as possible (whether or not they are willing to participate or contribute) to get as many "members" as possible.
- * Construction law, trust law.
- * I am not on any that are very large but hear others complain. I think that the executive council itself is getting too large.
- * If they are too big for each member to contribute and participate, the committees are too big. If they need more than one chair or vice chair for a division committee and more than 2 chairs or vice chairs for a general section committee, they are too big. My comment in section 23 is predicated on the fact that the non attending member doesn't otherwise contribute to committee work and purposes. If someone can't participate by phone because no phone participation is available, that shouldn't count as an absence. If the member can't participate because of the high costs of section meetings that should be taken into account and the member shouldn't be penalized.
- * Litigation, Tax Planning.

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- * Probate and Trust Litigation Trust Law Probate Law and Procedure.
- * Probate Law & Procedure.
- * Probate Law and Litigation and Trust Law.
- * Probate Law and Procedure.
- * Probate Law and Trust Law and Litigation.
- * Probate Law, Trust Law.
- * Probate law, Trust Law, Probate/Trust Litigation.
- * Some certainly are and have become unwieldy without a very strong chair. Perhaps consider voting and non-voting committee members, with voting privileges after service on the committee for a certain number of years.
- * Some committees are too big, but I don't want to see the committee broken up. There may not be a good solution to this.
- * That's a loaded question. Sort of obvious if any of the committees are too large, which 3 are in fact too large. However, if folks show up consistently and participate they shouldn't be excluded. There should be phones at all meetings. Sometimes you just cannot make it in person. Attending by phone should count towards attendance requirements, but limit to one meeting that phone attendance counts towards that requirement. In other words, those who cannot attend by phone all the time and never go in person. You should have to attend x number of meetings, one of which may be phone attendance. Next question is how much is the cost of phone conferences? It may not be worth the marginal cost of providing it.
- * Title Insurance.
- * Trust Law; Condo; Construction.
- * We all know who they are.

23. Would you favor removal of committee members due to lack of attendance?

<u>Category</u>	<u>Percent</u>
Yes	66
No	21
No opinion	13

- * About two-thirds (66%) of respondents favor removal of committee members due to lack of attendance, compared to just over one-fifth (21%) who do not.

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24. Should conference call capabilities be provided for all committee meetings during Executive Council weekends?

<u>Category</u>	<u>Percent</u>
Yes, for all committee meetings	48
Yes, but only for smaller committee meetings	20
No	24
No preference	8

- * Nearly half (48%) of all respondents believe that conference call capabilities should be provided for all committee meetings during Executive Council weekends. An additional fifth (20%) believe they should be provided for only smaller committee meetings.

25. Would you prefer to move Executive Council meetings to other days of the week and, if so, on what days of the week should the Council and its committees meet? (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)

<u>Category</u>	<u>Percent</u>
Maintain the current format	86
Friday through Sunday	9
Wednesday through Friday	8
Monday through Wednesday	<1

- * A very large majority (86%) prefers to maintain the current format for days of the week in which the Executive Council meets.

26. Would you like to see more free time worked into Executive Council meetings?

<u>Category</u>	<u>Percent</u>
Yes	13
No	58
No preference	29

- * Only 13% of respondents indicate that they would you like to see more free time worked into Executive Council meetings.

27. Which of the following meeting formats do you most prefer?

<u>Category</u>	<u>Percent</u>
Roundtables held on Friday and the Executive Council meeting held on Saturday	57
Roundtables at 8 am on Saturdays, followed by the Executive Council meeting at 10 am	29
Roundtables at 8 am for committee reports only, followed by the Executive Council meeting at 9 am	12
Some other format	2

- * Nearly three-fifths (57%) of respondents prefer a format of roundtables held on Friday and the Executive Council meeting held on Saturday.

27a. If "Some other format", please specify:

A total of 12 responses were provided.

- * Consider having the roundtables at different times so that those that are interested in both can attend both, instead of just hearing about it at the Executive Council meeting.
- * Have roundtables on Friday along with Executive Council meetings, or, as an alternative, have committee meetings on Fridays with roundtables and Executive Council on Saturday. Either way, condense the meetings to 2 days. The second would be preferable to minimize travel away from the office during weekdays.
- * I do not need a lot of free time, although some is needed because there is burnout.
- * I would like committee meetings to start on Thursday afternoon so as to give members sufficient time to arrive at the location. For those meetings when Friday is unavailable for meetings (e.g., Legislative Update at The Breakers), the roundtables should be held on Saturday morning, followed by the EC meeting. If it is feasible for all committee meetings to have been held beforehand, then having the roundtables on Friday makes sense. If all committees have not met, then the roundtables on Friday would be premature and I change my selection above to Roundtables at 8 a.m. for committee reports only, followed by the EC meeting at 9 a.m.
- * Mixing it up between EC on Friday and EC on Saturday is okay.
- * Roundtable at 9 a.m. with shorter meeting and Executive Council at 10 also streamlined.
- * Roundtables on Friday allow for more reflection before the EC meeting and deliberation/redrafting time for matters that first arise at the roundtable. I know this may not work for all EC meeting, particularly those where a lot of committees wish to meet, but it should be the default day.

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- * Roundtables the first day followed by committee meetings then EC at end. That would allow the committees to address any issues that bubble up during the roundtable and highlight what will be covered during their meetings that follow.
- * Saturday Council meetings starting at 10 and going until 2 or 3 is too long a day when preceded by round tables. Roundtables on Friday give you time to digest the issues before the Executive Council on Saturday.
- * The food line should open at 7:30 and the roundtables should start promptly at 8 and end by 9. The chairs of the committees should provide a one paragraph written summary of what is happening in their committee and submit by email to the division chair and section administration (those committee meeting on Thursday should submit by 9:00 am on Friday and those meeting on Friday should submit by 6:00 pm on Friday). The section administrator should compile a summary and send out an email blast so we have it for the roundtables. This will cut down on reporting at the roundtables. Some committees can just rely on their written report.
- * The last meeting was very well organized where roundtables took place on Friday and a short Section meeting on Saturday morning. It is hard to sit through a lengthy executive council meeting at a resort, with good weather, staring out the window at the surf and sand, and for three or four hours. Ugh!
- * While the roundtables provide a division venue for specific issues, I'd like to see more interaction between the divisions and more input from both divisions on each issue, as needed, at the executive council meetings. I think probate and trust members have insights that are valuable on many real property issues and real property members have valuable insights on probate and trust issues that don't get vetted and explored. I think this often results in proposals that need correction that could be avoided by more thoughtful and thorough input and discussion among the council members.

28. Currently, the Executive Council does not provide refreshments for committee meetings. What are your thoughts pertaining to refreshments being provided at future committee meetings?

<u>Category</u>	<u>Percent</u>
Refreshments should be provided at committee meetings	31
Refreshments should be provided at committee meetings, but only if a sponsor funds it	31
Do not provide refreshments if it will personally cost me more to attend	26
No preference	12

28. **Currently, the Executive Council does not provide refreshments for committee meetings. What are your thoughts pertaining to refreshments being provided at future committee meetings? – INCLUDES ONLY THOSE RESPONDENTS WITH A PREFERENCE**

<u>Category</u>	<u>Percent</u>
Refreshments should be provided at committee meetings	35
Refreshments should be provided at committee meetings, but only if a sponsor funds it	35
Do not provide refreshments if it will personally cost me more to attend	30

- * There is a fairly even split between respondent thoughts on the provision of refreshments for committee meetings.

29. **What is your preference for out-of-state Section meetings?**

<u>Category</u>	<u>Percent</u>
Either Domestic or International is fine	47
Domestic	33
International	4
I don't attend out-of-state Section meetings	16

- * A higher percentage of respondents prefer domestic over international locations for out-of-state Section meetings.

30. **Please check all of the places you would be willing to travel to for out-of-state Section meetings: (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)**

<u>Category</u>	<u>Percent</u>
I will travel just about anywhere	48
Within the continental United States	35
Within North America	34
Within the Southeastern United States	33
Within our hemisphere	18
I don't travel to out-of-state Section meetings	15

31. **Please provide any comments or suggestions you may have pertaining to RPPTL Section Executive Council or committee meetings.**

A total of 21 comments or suggestions were provided pertaining to RPPTL Section Executive Council or committee meetings:

- * As for out of state, unless during summer, kids cannot go and not interested in traveling without kids, particularly to places that would be fun or educational or both to the kids. So, I don't attend the out of state meetings.

- * Back to back meetings for 3 days straight are overwhelming and tedious. However, there doesn't seem to be an alternative because it can't be spread out over four days – three days is long enough. What was the original intent for "out-of-state" meetings? They have become "out-of-country" meetings. Removal from committee for lack of attendance just seems fair and makes sense, unless the absence was for medical reasons or other extenuating circumstances.
- * Excluding the Legislative Update meeting and possibly the Convention meeting (if there is a seminar on Friday morning of the Convention), try to schedule all meetings between noon Thursday and 1 pm Saturday. This can be done by limiting the mandatory workshops. No free seminars. No free annual meeting lunch. No or very limited "free" spouse meals. For committee meetings, I do not think we need refreshments, but water, hot/iced tea, and coffee should be available (I am assuming that tea and coffee is less expensive than soft drinks). This does not need to be in meeting rooms if it is available in a foyer convenient to all the meeting rooms.
- * Have not attended an out-of-country EC meeting, but room rates shouldn't be THAT expensive. Probably deters people from attending. Not opposed to out-of-state meeting in Caribbean. Regarding question 23, I like the way Condo committee handles absences – can't vote.
- * I am a big fan of the international Section meetings, particularly when held in a location that allows for other nearby travel either before or after the meeting.
- * I have been on many of out state trips and most of the international ones. But lately I have noticed on the international ones that the folks who come are not the core "worker bees" of the section. They tend to be older (can more afford it), some family members and friends and an odd assortment of folks looking for a trip. Don't get me wrong, I have loved every trip, but it takes a lot of energy to plan one and sometimes I think we have become a travel club.
- * I think that out of state leads to little business and all play and is an outdated concept. The executive council has a reputation for being more social than business. Let's be serious and if there is to be trip make it all social.
- * I thoroughly enjoy the out-of-state section meetings as a way to get to know section members on a more informal social basis. I love the international travel trips, but also enjoy trips within the continental U.S. as well. Just keep them in interesting locations and I'm sure attendance will stay sufficient to justify the costs. As for in state meetings, I like that the section rotates around the state giving us all a better understanding of the different aspects, history and culture of our great state. I enjoy staying at nice resorts at below market prices. I suppose if we were unable to keep getting below market prices, I might attend fewer meetings. If things need to be adjusted to make that work, I understand and am willing to pay somewhat more for the overall experience we enjoy at section meetings. Do what is necessary to keep the system operating; however, full market pricing for some of the resorts we stay at would curtail membership participation. We tend to be a fairly frugal bunch, but do not mind spending when we feel like we are getting a good price to stay at nice places.
- * If members take the time and talent to attend and contribute to committee and section meetings, the least the section can do is provide refreshments (simple is fine) without additional cost to the participants. The section coffers won't suffer because it furnishes a cup of coffee or a soft drink or water to members who are working hard. Out of state meetings have become prohibitive to all but the most affluent section members. Travel expenses should be considered

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as well as costs at the venue. If you can go to an out of country venue for the same cost as a venue in the states (look at the average council meeting cost and factor in a small increase for travel), then do it. The purpose of the out of state meeting is to provide a pleasant reward for all the hard work the section members do during the year, not to provide a write off or firm paid boondoggle for affluent members. Let's make it affordable for all who do the hard work of the section.

- * International meetings are poorly attended, expensive, and do nothing to further the business of the Section. They serve only to underwrite the travel pleasures of a select few at the expense of other Section members.
- * People do not realize how expensive refreshments such as soft drinks and coffee are when provided by the hotels. Do not open Pandora's Box by offering to provide them, and then finding out the huge financial commitment you've made for the Section. There are too many meetings being held outside the United States. The meetings are becoming a personal dream vacation list for the then serving chair. The trips become too expensive and therefore exclusionary, and do not enhance the image of the Section. We are a service organization.
- * Rather than "attendance" being the primary criteria, perhaps "participation" should also be a component. There are so many valuable voices to be heard, but may not be able to be "present" at the meeting, but their voice/work/support/opinion is important to the success of the committee's work.
- * Separate committee meetings from executive council meetings.
- * The conference call abilities should be provided only for people to listen in without the ability to speak or there should maybe be a webcast of the meeting. If someone is on the telephone and attempts to speak - they are usually not heard and others on the phone tend to speak over each other. If attendance at the committee meeting is a requirement one attendance per year could be allowed by conference or webcast.
- * The out of country meeting is virtually unattainable by those with children or on a budget. There are so many venues we have not done in the US (San Francisco, Boston, San Antonio, Savannah, Las Vegas come to mind) let's make this event more affordable and keep our dollars in the U.S.
- * The Roundtable takes too long. The Executive Council also takes too long.
- * The most important problem is an overlap of two related committee meetings. Specifically, there has been an effort to distinguish between residential and commercial real estate. This forces one to make a choice that I don't wish to make. I have a strong interest in both.
- * Traveling to another country for these meetings might be fun, but I doubt I will ever attend an out-of-country meeting as I cannot justify the cost.
- * Traveling to exotic places is nice, but even more strict fiscal guidelines should be enforced. In the past (Hawaii for example) the OOS meeting ran at a significant financial deficit. Section membership should not be forced to pay for extravagant exotic travel. Let those who want it pay for it.

- * We need to make sure there is at least water (does not need to be bottled) in the committee meetings. Stewart Title used to provide boxes of water that we would had out at the registration table.
- * While many members of the Executive Council could afford to go anywhere in the world on their own dime, many are spending company money. For those folks, it is hard to justify what appears to the shareholders as "a junket" on the company dime especially when travel overseas is so expensive and the meetings are not all that substantive. A trip to a location in the continental U.S., or maybe even to Canada or the Caribbean is an easier sell to the firm or company. Perhaps we should consider a full(er) plate of committee meetings at the out of state meetings to help justify the expense of attending?

32. How often do you visit the RPPTL Section website?

<u>Category</u>	<u>Percent</u>
Several times a week	3
About once a week	18
About once a month	36
Only when prompted to by others	15
Seldom	28

- * Nearly three-fifths (57%) of all respondents visit the RPPTL Section website at least monthly, compared to just over two-fifths (43%) who visit it seldom or only when prompted to by others.

33. Which of the following components of the RPPTL Section website have you visited in the past year? (MULTIPLE RESPONSE QUESTION – SELECT ALL THAT APPLY)

<u>Category</u>	<u>Percent</u>
Executive Council meeting agendas/minutes	77
Committee activities	59
Upcoming meeting information	57
Action Line	44
CLE	35
Member search	31
General calendar	30
Legislation proposals	27
Breaking news	11
Forms	9
Links to resources	7
Blog	4
Sponsor information	4
Networking	1

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- * Executive Council meeting agendas/minutes (77%), committee activities (59%) and upcoming meeting information (57%) are the most frequently mentioned components of the RPPTL Section website that respondents indicate visiting within the past year.

34. How long have you been a lawyer?

<u>Category</u>	<u>Percent</u>
5 years or less	0
6 to 10 years	4
11 to 20 years	22
More than 20 years	74

- * Nearly three-quarters (74%) of all respondents report having 20 years of experience as a lawyer.

35. How long have you been a member of the RPPTL Section Executive Council?

<u>Category</u>	<u>Percent</u>
Less than a year	3
1 to 2 years	2
3 to 5 years	10
6 to 10 years	18
Over 10 years	67

- * Two-thirds (67%) of all respondents report being a member of the RPPTL Section Executive Council for over 10 years.

36. Of which division are you a member?

<u>Category</u>	<u>Percent</u>
Real Property	53
Probate and Trust Law	47

37. Do you use the services of any of our sponsors?

<u>Category</u>	<u>Percent</u>
Yes	71
No	29

37a. If "Yes", please specify which sponsor(s)?

- * Title companies. **(5 Responses)**
- * The Fund. **(4 Responses)**
- * Title Insurance. **(2 Responses)**
- * All title insurance company sponsors.
- * ATIF.
- * Attorney's Title.
- * Attorneys' Title Fund Services, Fidelity National Title Group, First American Title Insurance Company, Old Republic National Title Insurance Company, SunTrust Bank.
- * Attorney's Title, Old Republic.
- * Bank.
- * Banking & Trust Valuation Services.
- * Business Valuation Analysts, Attorneys Title, Fund, Fidelity, National Title, Suntrust Bank, U.S. Trust, Wells Fargo.
- * Business Valuation Analysts, LLC.
- * Business Valuation Analysts, Wells Fargo, Bank of America/U.S. Trust, SunTrust Bank, MPI, & SRR.
- * Each of the title companies.
- * First American Title Insurance Company. They are really great and I appreciate their continued loyalty and support of the section and of lawyers in Florida in general. I would recommend them to anyone.
- * Fund.
- * Fund, Old Republic, Wells Fargo, SunTrust.
- * Fund, Old Republic, Wells Fargo.
- * I am a sponsor and I use Regions Bank for some of my personal banking.
- * I cannot answer this question accurately without a listing of the sponsors.
- * I use title companies and I buy books.

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- * I work with most of the banks and trust companies, as well as the valuation companies and auction companies. I don't use much of the software vendors.
- * Investment advisory services.
- * Me personally, no. We do recommend some of the banks, yes.
- * Northern Trust.
- * Northern Trust Regions Wells Fargo SunTrust Guardian.
- * Northern Trust, Business Valuation Analysts.
- * Old Republic National Title Insurance Company.
- * Old Republic Title.
- * Old Republic, Attorneys Title.
- * Old Republic, First American, Regions.
- * Prefer not to answer.
- * Regions Bank, SunTrust, Old Republic Title.
- * Several of the title companies.
- * Stewart, Fidelity, Old Republic, ATFS.
- * SunTrust.
- * SunTrust, U.S. Trust, Wells Fargo, Northern Trust.
- * The Fund – ORNTIC.
- * The Fund. Old Republic Title. FLSSI.
- * The Fund SunTrust Old Republic Title Regions Bank P.S. We should include a list of sponsors in our annual EC Directory.
- * The title companies...at a minimum.
- * Title companies and banks.
- * Title companies and Regions Bank trust services.
- * Title companies, Westlaw, Regions Bank.
- * Title Insurance; Banking services.
- * Title underwriters.

- * Trust companies (BNY Mellon, Wells Fargo) and BVA (business valuations).
- * Varies with the need.
- * Variety of title insurance companies.
- * Various mutual clients.
- * Various title companies.
- * Wells Fargo Trust Services.
- * Wells Fargo, JP Morgan.
- * Wright Investor Services, SunTrust, Wells Fargo.
- * Wright Investors.

38. Please provide any additional comments, suggestions or ideas you may have regarding RPPTL Section Executive Council meetings, activities, events or services.

A total of 14 comments or suggestions were provided regarding RPPTL Section Executive Council meetings, activities, events or services:

- * A similar survey to sponsors only might be quite revealing. Some of the options clearly under consideration given this survey may impact sponsor behavior.
- * Bad decision to change Circuit Representatives to At Large Members. When speaking at local bar events, people ask: why the change? They feel we are not specifically representing the interests of RPPTL members in our area of the state. What was the compelling reason for the change?
- * Do not shy away from active leadership. People do not realize the extremely high costs of organizing meetings, but yet we have to do everything we can to meet meeting costs affordable. We cannot become an elitist organization where only highly compensated lawyers can attend.
- * Every meeting seems well planned and organized, even with the personnel changes.
- * Fiscal responsibility would be nice. We should have a budget and live within it.
- * I think we should go to a lower cost hotel and keep the costs down. We are there to do the work of the section and to network with other attorneys. The best place to network is as part of a committee. We are reaching a tipping point in the cost to attend these events. The younger attorneys are having a difficult time making a living and being involved in the section. I attended the new members/diversity committee recently and heard from a younger member that the cost was too much. He said that the older members seemed to be on vacation and wanted to have a fancy place to attend. I have had similar feelings and began to rethink my attendance. I am a ALM and even had the thought of not renewing my membership, but decided to do it for one more year. The hotels are taking advantage of us and we need to do something about it. I spend more on attending these meetings than I do for annual vacations. On vacations I do not

stay at the Ritz. I look for a quality hotel at good value. I do not spend \$110 per person for dinner. We need to get back to basics.

- * Members of an executive council should be treated as executives and should be spoon fed information instead of having to chase it down. Printed material should be provided to those who wish to receive it in that format.
- * Nothing of substance. Keep up the good work.
- * Old members should not be put out to pasture as they are now.
- * Overall they are very well run and at a good price point. You need to provide a certain level of "extra" for the folks that are dedicating their time away from the office to improve the laws and practice for others.
- * Spouse activities are very important.
- * The meetings are run reasonably well. I am sometimes surprised how quickly the EC meetings end. If there is no business to discuss, then that is fine. However, given the cost of holding these meetings, it would seem that more use could be made of this time.
- * The survey does not address the size of the executive council and whether the round table format should be revised to allow more input from the other half. In the very least at each roundtable, there should be a 15 minute presentation by someone stating what is happening in the other division – legislation, for example.
- * Think opulence of Exec Council meetings in other countries should be toned down a bit, primarily in the area of lodging. I'm not saying don't go, but it should be a little more reasonable to the average member/practitioner.

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Michael Dribin

From: Brenda Ezell <bezell@llw-law.com>
Sent: Monday, May 19, 2014 2:02 PM
To: Michael Dribin; 'Michael Alan Bedke'; 'Margaret A. Rolando'
Cc: 'Madorsky, Marsha G.'; Brenda Ezell
Subject: 2014 RPPTL Fellowship Program

Good afternoon everyone. Marsha is preparing for a trial and asked that I send this information to you on her behalf.

The RPPTL Fellowship Program Committee has completed this year's grueling process of selecting 4 Fellows from the highly qualified pool of applicants. Here are the names (along with a short bio) of the Fellows that we selected:

Real Property:

Julia Jennison is a partner at Lewis, Longman & Walker, West Palm Beach, FL. She is a 2004 graduate of the University of Miami School of Law and her practice is focused on environmental, land use, real estate and natural and water resources law. She is active in the ELULS, having served as CLE co-chair, and is also a member of the Realtors Association of the Palm Beaches, Florida and National Associations of Realtors, and Commercial Real Estate Women. In addition to the published article from the April 2012 Journal of American Water Works Association titled "US Supreme Court to Consider Hearing Significant Stormwater Runoff Decision" which she submitted as her writing sample, she is also credited for the following publications and presentations:

- Endangered Species Act Implementation Issues: News From the Southeast Region, presented at the CLE International Endangered Species Act Conference, November 18, 2005
- Conflicts of Interest: Real or Perceived, presented at the Environmental & Land Use Law Section Hot Topics Conference, April 25, 2008
- Co-Authoring EPA and Corps Wetland Mitigation Regulations, published in Florida Specifier, 2007
- The Economic Stimulus Package and What it Means to Florida, presented at the Environmental & Land Use Law Section Hot Topics Conference, April 24, 2009
- Co-Authoring Two Tribes Embrace Green Development for Off-Reservation Projects, published in the American Bar Association Natural Resources and Environment, Fall 2009
- Water Supply: New Directions in Florida Law: presented at American Planning Association Florida Conference, September 16, 2009

Melissa Van Sickle is a partner at Clark, Partington, Hart, Larry, Bond & Stackhouse, in the Tallahassee, Florida office. She is a 2002 graduate of the Florida State University College of Law and handles all areas of commercial and residential real estate transactions. She regularly represents financial institutions for the closing and enforcement of all types of real estate related loans, and also represents title companies and their insureds in title disputes. Melissa was formerly senior counsel for The St. Joe Company. She practices in the Tallahassee office, which she opened for the firm in 2011. Her professional recognition and community involvement includes: Tallahassee Democrat's 2014 "25 Women You Need to Know"; 2011 Recipient of the Tallahassee Bar Association Thomas M. Ervin Distinguished Young Lawyer Award; and she was selected to Florida Trend's Legal Elite 2011 "Up and Comers." Melissa is the immediate past president of the Tallahassee Bar Association, is also a past president of the Young Lawyer Section and was recently appointed to the 2nd Circuit's Committee on Professionalism and The Florida Bar Voluntary Bar Liaison Committee. She is a member of the William H. Stafford American Inn of Court and volunteers regularly with Justice Teaching. Melissa is a proud graduate of Leadership Tallahassee Class 29, and fosters shelter dogs through Last Hope Rescue and the Leon County Humane Society. She is currently a Florida Bar Leadership Academy Fellow in Class I (2013).

Probate & Trust:

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T. John (John) Costello is Of Counsel in the Estate Planning Practice Group of Kelly Kronenberg's Fort Myers office. John earned his law degree in 2009 with honors from Emory University School of Law where he received the Dean's Award in Federal Wealth Transfer Taxation and participated in the TI:GER Program (Technological Innovation: General Economic Results) at the Georgia Institute of Technology. John focuses his practice on estate planning, probate, and related litigation. He also advises clients on intellectual property matters and has served as lead counsel in copyright, design patent, and trademark actions in federal court. Prior to attending law school, John worked as a Software Engineer for Northrop Grumman Corporation in both Melbourne, Florida and San Diego, California. John is currently First Vice President of the Lee county Estate Planning Council, having served as second vice president in 2013 and will be president in 2015. He has been a member of the Lee County Bar Association's RPPTL Section since 2009. John has published an article titled "Ensuring Your Inherited IRA Gift Will Be Well Received" in *Lifestyle Estero*, in November 2012. He has also spoken at the Financial Planning Association of Southwest Florida and was quoted in *InvestmentNews* in December 2010.

Michael Sneeringer is an associate with Nelson & Nelson, PA, in N. Miami Beach, Florida. He was admitted to the Florida Bar in 2012. He practices in the areas of estate planning, probate administration and asset protection planning. Michael is a cum laude graduate of St. Thomas University School of Law where he was an assistant site coordinator (2010) and a site coordinator (2011) for the St. Thomas University School of Law VITA Program (Volunteer Income Tax Assistance Program) and also was an Executive Editor on the Intercultural Human Rights Law Review. Michael coordinated the 2010-2011 Susan J. Ferrell Intercultural Human Rights Moot Court Competition for the St. Thomas University School of Law International Moot Court Team. Additionally, Michael was an intern for the Honorable William L. Thomas in Miami-Dade County. Michael was recently published in the August 2013 edition of the RPTE eReport with an article titled "~~Asset Protection~~-Estate Planning: Trusts and Estates Attorneys are More Than Just Trust and Estate Drafters". Additionally, in October 2013, he became Associate Articles Editor for the ABA RPTE Section's Probate & Property Magazine.

Please let Marsha or me know if you have any questions or concerns.

Thanks!

Brenda

Brenda B. Ezell

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