

## APPELLATE PRACTICE SECTION

December 14, 2006

*Teleconference*

*Present:*

Linda Garbarino  
Barbara Goldman  
John Bursch  
  
Janet Boes  
Megan Cavanagh  
Mark Cooney  
Phillip DeRosier  
Christina Ginter  
Marcia Howe  
Anica Letica  
Mary Massaron Ross  
Stephen Rhodes  
Roz Rochkind  
Liisa Speaker  
Mike Updike  
Vic Valenti  
Jill Wheaton

*Excused Absences:*

*Guests:*

Paul Bernard  
Ron Lederman  
Gerald Posner

- I. Welcome and call to order. The Chair called the meeting to order at 2:10 p.m.
- II. Approval of minutes of meeting of November 17, 2006. One correction was noted. It was **moved** (Mark Cooney) and **seconded** (Mike Updike) that the minutes be approved as corrected. *Motion carried* (unanimous).
- III. Treasurer's Report.  
See agenda packet for full report. Income has been good and expenses have been stable.
- IV. Committee Reports.
  - A. Court Liaison/Rule Comment.
    1. ADM 2005-36 (proposed amendment of MCR 7.204 and 7.205, claim of appeal from denial of motion for reconsideration) (comment deadline March 1, 2007). Vic Valenti indicated that the committee will look at this proposal and report later.
  - B. Michigan Court Practice. No report.
  - C. Publications.
    1. Newsletter. Marcia Howe reported that the next issue of the Appellate Practice Section newsletter is nearly complete. The publications committee will try to produce another issue before the 2007 Michigan Appellate Bench Bar Conference, ideally in early February of 2007.

2. Michigan Bar Journal appellate practice theme issue. No report.
- D. Federal Practice. No report.
- E. Technology. No report.
- F. Economics of Appellate Practice. No report.
- G. Good Deeds. See item (K)(2), *infra*.
- H. Legislative Action. No report.
- I. Circuit Court Appellate Rules. No Report.
- J. 2007 Annual Meeting. No report.
- K. 2007 Michigan Appellate Bench Bar Conference.
  1. Lifetime Achievement Award. Linda Garbarino circulated the names of several potential recipients of the Appellate Practice Section's Lifetime Achievement Award. All the nominees were praised for their contributions to appellate practice. After discussion, it was **moved** (Mary Massaron Ross) and **seconded** (Marcia Howe) that the Appellate Practice Section's Lifetime Achievement Award be given to the Hon. James L. Ryan of the United States Court of Appeals for the Sixth Circuit. *Motion carried* (unanimous). Mary Massaron Ross will call Judge Ryan and find out if he can be present for the banquet on May 3, 2007. Linda Garbarino will make arrangements for preparation of a plaque.
 

It was **moved** (Mary Massaron Ross) and **seconded** (Janet Boes) that all past recipients of the awarded be invited to attend the banquet. *Motion carried* (unanimous). Linda Garbarino and Mary Massaron Ross will work together to get in touch with these individuals.
  2. [New item.] Contribution for mailing costs. Linda Garbarino read a request from Sandra Mengel, asking that the Section contribute \$1500 to help fund two mailings about the bench bar conference, in January and February 2007. Several members noted that cosponsorship of the appellate bench bar conferences was part of the Appellate Practice Section's "core function" and a contribution would be appropriate. It was **moved** (Vic Valenti) and **seconded** (Mike Updike) that the Appellate Practice Section donate \$1500 to the Michigan Appellate Bench Bar Foundation to defray the cost of mailing announcements of the 2007 Michigan Appellate Bench Bar Conference. *Motion carried* (unanimous). Mary Massaron Ross and John Bursch will coordinate with John Jacobs, treasurer of the bench bar foundation. Marcia Howe will work with Mary on the announcements.
 

Mary indicated that the conference would probably request an additional contribution in 2007. The Section provided \$2500 for the 2004 conference. It was agreed that approval of a contribution in 2006 would not foreclose the possibility of additional donations at a later date.
  3. [New item.] Family law break-out sessions. Liisa Speaker reported that there is still a need for practitioners to plan the break-out sessions on family law. Phillip DeRosier had two recommendations.

4. [New item.] Web site posting. Janet Boes agreed to prepare a posting about the conference for the Appellate Practice Section's web site. Mary Massaron Ross recommended having a "Save the date" item ready by early January 2007.

V. Old Business.

- A. ADM 2003-59 (proposed amendment of MCR 2.112 and 7.206, original actions under the Headlee Amendment). Linda Garbarino did not hear from Dennis Pollard but will call him and report in January. Upon consideration, she decided not to send a letter to the Supreme Court (see minutes of November 17, 2006, Item VI(A)), because she would not want the court to expect something that the Council was not able to produce.

VI. New Business.

Judge Whitbeck sent a letter to Linda Garbarino, dated November 22, 2006, requesting proposals for improving operation of the Court of Appeals. It appears to be the same project as the "Court Improvement Program" (the "T. J. Lesinski Award") of 2005. The letter requested responded by January 2, 2007.

John Bursch and Megan Cavanagh raised the possibility of resubmitting the proposals that the Appellate Practice Section made in 2005, particularly given the short time frame. After discussion, it was agreed that the Council should thank Judge Whitbeck for his interest; direct his attention to the 2005 proposals; and indicate that we anticipate that additional suggestions for improvement of the Court of Appeals' operations would emerge from the bench bar conference.

It was **moved** (Mike Updike) and **seconded** (Vic Valenti) that the Chair write to Judge Whitbeck, enclosing a resubmission of the Appellate Practice Section's 2005 proposals to the "Court Improvement Program," and indicating that the Council hopes to offer additional suggestions after the 2007 Michigan Appellate Bench Bar Conference. *Motion carried* (unanimous). Linda Garbarino will draft a letter and circulate it to the Council.

VII. Next Meeting.

**Friday, January 26, 2007, 2:00 p.m. Cooley Law School, 300 S. Capital Avenue, Lansing (517-371-5140). Call-in number 1-800-270-1153, pass code 124048#.**

VIII. Adjournment.

It was **moved** (Mark Cooney) and **seconded** (Mike Updike) that the meeting be adjourned at 3:15 p.m. *Motion carried* (unanimous).

Respectfully submitted,

Barbara H. Goldman

Secretary