

**Appellate Practice Section Council  
December 13, 2007  
Telephone Conference**

**MEETING MINUTES**

***Present:***

Paul Bernard  
Barbara Goldman  
Megan Cavanagh  
Liisa Speaker

Frank Bernacki  
Graham Crabtree  
Phil DeRosier  
Tim Diemer  
Linda Garbarino  
Christina Ginter  
Cara Heflin  
Anica Letica  
Gerry Posner  
Steven Rhodes  
Roz Rochkind  
Mike Updike  
Peter Van Hoek

***Excused Absences:***

Judith Curtis  
Deb Hebert  
Marcia Howe  
Mary Massaron Ross  
Jill Wheaton

***Guests:***

None

Welcome and Call to Order

- A. Paul Bernard call the meeting to order at 2:05 p.m.
  - B. Introduction of members and guests.
- I. Approval of Minutes
- A. November 16, 2007 (previously circulated). Mike Updike **moved** and Frank Bernacki **seconded** that the minutes of the November 16, 2007 be approved.
- II. Treasurer's Report.
- A. Paul Bernard has not received report from State Bar, nor has Megan.
- III. Committee Reports
- A. Court Liaison/Rules Comment
    - 1. No Report.

B. Michigan Court Practice.

1. Megan Cavanagh is working on providing report and will distribute as soon as it is complete.

C. Publications.

1. State Bar Theme issue. Paul Bernard reported that all the materials have been sent to the State Bar recently.
2. Newsletter. Christina Ginter will contact Deb Hebert or Marcia Howe to find out status of newsletter.

D. Technology.

1. Barb Goldman will be updating listserv in January 2008. No other report.

E. Federal Practice

1. No report. Paul Bernard believes that Mary Massaron Ross is working on putting together spring program.

F. Legislative Action.

1. Graham Crabtree reported that the Legislature dealt with one issue regarding the Court of Appeals, 2007 Public Act 64. This Act delayed the roll back of Court of Appals motion fees until October 1, 2012. HB 4501 (proposed increases in Court of Appeals filings and copies fees was not part of the budget package this year). House Joint Resolution FF regarding a proposed increase in constitutional mandate for judicial retirement from age 70 to 75 (discussed under new business).

G. Good Deeds

1. We received checks from State Bar for donations in memory of Kathleen McCree Lewis and the donations have been sent out.

H. Economics of Appellate Practice

1. Mike Updike submitted questions to the State Bar in response to their request for the economics of law practice survey.

I. R.I.P.

1. Circuit Court Appellate Rules will no longer be on agenda.

#### IV. Old Business

- A. *Beavers* Amicus Brief. Paul Bernard reported that the Supreme Court granted our motion for leave to file amicus brief. Liisa Speaker circulated report from oral argument last week and the report is attached to the agenda packet. Gerry Posner proposes that we will wait until the Supreme Court rules on *Beavers* before we decide whether to submit a formal rule change. We are referring it to the Court Rules Committee.
- B. Proposed amendment to 7.204. Paul Bernard has circulated a proposed comment. Based on the comments of council members, Paul suggested that our comment reflect our concern with the fact that the proposed rule removes discretion from trial court to extend time to file a motion beyond the 21 day period. Council discussed the proposed comment. Christina Ginter proposed that we add a statement in comment recognizing that we appreciate them incorporating our comments last time.

#### V. New Business

- A. Katrina model court rule. Paul Bernard reported that the ABA has proposed a court rule for the provision of pro bono legal services by lawyers from other states when a particular state has suffered a natural disaster that interrupts their judicial system in some substantial way. Council decided that the proposed model court rule does not pertain to the Appellate Practice Section. Council declined to submit a comment.
- B. House Joint Resolution FF to Increase Mandatory Age of Judges to 75 years of age. Council declined to submit a comment as the topic does not have any unique affect on appellate practice.

#### VI. Next Meeting

- A. January 18, 2007, 2 p.m. (Lansing). Paul Bernard will contact Evelyn Tombers about scheduling the meeting at Cooley and Sandy Mengel about meeting at the Hall of Justice.

Call-in Number: 800-270-1153; pass code: 124048#.

#### VII. Adjournment

- A. Meeting adjourned by unanimous vote at 2:58 p.m. Mike Updike **moved** Gerry Posner **seconded**.