

**Appellate Practice Section Council
May 16, 2008
Farmington Hills, Michigan—Secrest Wardle**

MEETING MINUTES

Present:

Paul Bernard
Barbara Goldman
Megan Cavanagh
Liisa Speaker

Frank Bernacki
Graham Crabtree [by Phone]
Judith Curtis [by Phone]
Christina Ginter
Ron Lederman [by Phone]
Gerry Posner
Stephen Rhodes [by Phone]
Mike Updike
Jill Wheaton

Excused Absences:

Phil DeRosier
Tim Diemer
Cara Edwards
Linda Garbarino
Anica Letica
Mary Massaron Ross
Peter Van Hoek

Guests:

Vic Valenti

Welcome and Call to Order

- A. Paul Bernard called the meeting to order at 2:05 p.m. [No quorum]
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- I. Approval of Minutes
 - A. April 18, 2008 (previously circulated). No objection to the April minutes, which will be submitted for approval at the June meeting.
- II. Treasurer's Report.
 - A. No report.
- III. Committee Reports
 - A. Court Liaison/Rules Comment

1. No report (other than governmental immunity appeals, described below). Paul Bernard noted that we did submit comments on Rule 2.119 to the Supreme Court.
- B. Michigan Court Practice.
1. No report.
- C. Publications.
1. Newsletter. The next submission deadline is July 14, 2008. Linda Garbarino is working on a standard of review article and Mike Updike is working on article about military appeals.
- D. Technology.
1. Listserv. Barb Goldman reported that she notified everyone in Section who did not have email address. Gerry Posner is still planning on submitting proposed revisions to the listserv policy so Council can consider amendments to the listserv policy.
- E. Federal Practice
1. No report.
- F. Legislative Action.
1. Graham Crabtree offered a brief report on pending legislation.
- G. Good Deeds
1. No report.
- H. Economics of Appellate Practice
1. Mike Updike reported that he and Stephanie Morita will try to meet with Don Fulkerson next week to discuss working group's proposed language to modify the transcript rules.
- I. 2008 Annual Meeting.
1. Barb Goldman reported that she sent the program description to the State Bar. She has lined up for the panel Justice Kelly, Judge Saad, and John Jacobs. Council discussed other possible panelists.

IV. Old Business

- A. Governmental Immunity Rules Amendments. [Agenda pp 14-15]. Council discussed some of the problems we have with the proposed revisions. Paul Bernard will revise draft comments to proposed amendments. Hearing on proposed amendment is scheduled to occur on May 21, 2008. Council will not send a representative to speak at that hearing. Council is not taking a position on the substance of the rule, but has concerns about the proposed amendments. Council is happy to form a task committee to work with the Supreme Court on devising an amended rule.
- B. Court Reporting Rule Proposals. See above Economics of Appellate Practice.
- C. Listserv Policy. See above Technology.

V. New Business

- A. Elections Committee. Paul Bernard, Christina Ginter, and Liisa Speaker will serve on the committee.
- B. Proposed Amendments to MCR 3.901, 3.930, 2.107, 2.117.
 - 1. MCR 3.930 regarding trial court record in juvenile cases (State Bar wants comments by June 2008). Council discussed problems with the proposed amendments as it relates to the timing of the appeal and availability of trial court record, and destruction of documents without notice. MCR 2.518 also states that documents can be destroyed without notice. Council noted that the disposal time should come after the time for filing an appeal and that documents should not be disposed without notice to the parties.
 - 2. MCR 2.107 regarding electronic service. Council did not have any comment.
 - 3. MCR 2.117 regarding appearances. Council did not have any comment.
- C. Annual Report. Paul Bernard will need to submit annual report by May 31, 2008 and asks for each committee chair to report.

VI. Next Meeting

- A. June 18, 2008, 4:30 p.m. (Ciao Amici in Brighton). No remote access for dinner meeting.

VII. Adjournment

- A. Meeting adjourned by unanimous vote at 3:00 p.m. **Jill Wheaton** moved and **Gerry Posner** seconded to adjourn meeting.