

Appellate Practice Section Council
October 17, 2008
Farmington Hills, Michigan–Secrest Wardle

MEETING MINUTES

Present:

Barbara Goldman
Christina Ginter
Liisa Speaker

Geoffrey Brown
Graham Crabtree
Judith Curtis
Phil DeRosier
Stuart Friedman
Linda Garbarino
Christina Ginter
Marcia Howe [by Phone]
Ron Lederman
Anica Letica [by Phone]
Stephanie Morita
Stephen Rhodes [by Phone]
Elizabeth Sokol
Peter Van Hoek [by Phone]
Jill Wheaton

Excused Absences:

Frank Bernacki
Paul Bernard
Megan Cavanagh
Linda Garbarino
Gerry Posner
Mary Massaron Ross

Guests:

Nancy Dembinski
Vic Valenti

Welcome and Call to Order

- A. Barb Goldman called the meeting to order at 2:08 p.m.
 - B. Introduction of members and guests.
- I. Approval of Minutes
- A. June 18, 2008 (previously circulated). Jill Wheaton **moved** and Christina Ginter **seconded** that the minutes of the June 18, 2008 be approved (carried unanimously).
 - B. September 18, 2008. Revisions noted to the draft minutes. Stuart Friedman **moved** and Christina Ginter **seconded** that the minutes of September 18, 2008 be approved (carried unanimously).
- II. Treasurer's Report.

- A. Barb Goldman reported that we have a balance that has carried over from the past several years. (See attachment p 5-9)

III. Committee Reports

A. Court Liaison/Rules Comment

1. ADM 2008-24 [proposed amendment to MCR 2.614; Stay of judgment] (attached to agenda at page 10). The proposed rule was referred to the Rule Comment Committee to prepare a comment.
2. ADM 2007-40 [alternate proposed amendments to MCR 7.205; equitable tolling for delayed applications for leave to appeal] (attached to agenda at page 12). The Supreme Court offered to alternatives. Alternative A mirrors the Section's proposed language in Beavers. Graham Crabtree will compose a third Alternative that allows tolling but only when a claim of appeal is dismissed for lack of jurisdiction. The Council will discuss the three alternatives at a later meeting.
3. ADM 2007-42 [proposed amendments to MCR 7.302, 7.314, and 7.316; supreme court rules to mirror 7.212(I)] (attached to agenda at page 15). Stuart Friedman to contact Corbin Davis to find out more about the proposed rule change.
4. ADM 2007-30 [proposed amendments to MCR 2.107 and 2.117; e-filing and e-mailing in circuit court] (attached to agenda at page 18). No action.
5. The Court Liaison/Rules Comment Committee consists of Vic Valenti, Geoffrey Brown, Ron Lederman, and Phil DeRosier. Vic Valenti continues to chair that committee.

B. Michigan Court Practice.

1. No report.

C. Publications.

1. Newsletter. Christina Ginter reported the status of the next issue (deadline October 20, 2008). This coming issue and the next one are set. Committee will circulate new sign up sheet.

D. Technology.

1. Update of membership. Barb Goldman reported that she is still running the listerv. Geoffrey Brown and Stuart Friedman volunteered to join the technology committee.
2. Website update. Barb Goldman reported that the website had not been updated in

a long time. She is sending the meeting minutes from the past year, along with our upcoming meeting dates. Stuart Friedman volunteered to monitor website to add new material and keep it up to date. He also proposed posted past Section amicus briefs on the website.

E. Federal Practice

1. Update of membership. Jill Wheaton, Marcia Howe, and Mary Massaron Ross will comprise the federal practice committee.
2. Status of program. Council wants to follow up with Mary Massaron Ross's suggestion to plan a program with Sixth Circuit clerks and judges. Jill Wheaton and Marcia Howe volunteered to work with Mary Massaron Ross on a program. Council discussed when to hold such a program, possibly spring 2009.

F. Legislative Action.

1. HB 6372 [retroactive application of medical malpractice decisions] (attached to agenda at page 22). No action.
2. Update of membership. Graham Crabtree and Elizabeth Sokol comprise the legislative action committee.
3. Graham Crabtree reported on the judiciary budget. The final appropriation was close to \$262 million. The supreme court budget has not been cut. Additional positions at the Court of Appeals and at SADO did not pass in the budget.

G. Good Deeds

1. Michigan Youth in Government Donation. (Attached to agenda at page 25). Council discussed previous donations. Ron Lederman **moved** and Elizabeth Sokol **seconded** that Council support Evelyn Calogero's request for the Section to make a donation of \$1500 to the ABA for the Michigan Youth in Government program. Stephanie Morita proposed that we amended the proposal to earmark the funds for scholarships for students to participate in the conference. The motions was so amended: The Section will contribute \$1500 to Michigan Youth in Government program specifically to underwrite scholarships for conference fees. Motion carried unanimously.

H. Economics of Appellate Practice

1. New Chair. Barb Goldman appointed Stephanie Morita as chair of the committee.
2. Update of membership. Stephanie Morita and Liisa Speaker comprise the committee.

3. Vic Valenti opened discussion of the "Stiffman study" that was performed many years ago regarding the economics of appellate practice. Barb Goldman reported that the State Bar will perform surveys for us if the Section prepares the questions.

4. Stephanie Morita reported on the transcription project, which is on going. Barb Goldman proposed that we resurrect the record production committee. Judith Curtis, Peter Van Hoek, Geoffrey Brown volunteered to become members of that ad hoc committee. Members suggested that we invite Mike Updike and Don Fulkerson to serve on the ad hoc committee. Barb Goldman will contact Sandra Mengel about the record production committee at the Court of Appeals.

I. 2008 Annual Meeting review.

1. Barb Goldman reported on the annual meeting. Discussion on what went well and improvements to make for next year.

J. 2010 Michigan Appellate Bench Bar Conference. Jill Wheaton volunteered to contact Mary Massaron Ross for an update on the committee.

K. 2009 Annual Meeting. Barb Goldman will share materials with Christina Ginter.

IV. Old Business

A. ADM 2007-28 [amendment of MCR 3.901, 3.930; destruction of exhibits] (attached to agenda at page 29) (attached to agenda at page 29). No action.

B. ADM 2006-09 [amendment of MCR 7.202(6)(v); final order rule] (attached to agenda at page 32). No action.

C. Section Briefs. Elizabeth Sokol volunteered to submit notices to Section Briefs.

D. Listserv Policy. (Attached to agenda as page 33). The Committee will meet to discuss the policy and will attempt to make a recommendation to Council at a later meeting, tentatively no later than December 2008.

V. New Business

A. Press Policy. Barb Goldman reported that the Section does not have a policy and proposed that a subcommittee form to recommend a press policy. Jill Wheaton moved and Liisa Speaker seconded a motion to have the Chair be the spokesperson to the press for the Section, followed by the Chair Elect.

B. Vision Statement. Barb Goldman reported that some sections have vision statements and proposed that the Appellate Practice Section discuss whether to create a vision statement.

Discussion about the posted Mission Statement of the Section, which might qualify for the "vision statement."

- C. Janus Research inquiry. (Attached to agenda at page 34). Discussion about inquiry and Council agreed that it was not interested in pursuing anything further on that front.

VI. Next Meeting

- A. Schedule of 2008-2009 Meetings. (Attached to agenda at page 35). Council discussed dates and changed the date of the March 2009 meeting until March 13, 2008 and changed the April 17, 2009 meeting to occur in Farmington Hills (instead of Grand Rapids).
- B. Discussion of phone in number for committee meetings.
- C. Next meeting: Friday, November 21, 2008, Farmington Hills
Call-in Number: 800-270-1153; pass code: 124048#.

VII. Adjournment

- A. Ron Lederman **moved** and Stuart Friedman **seconded**. Motion carried. Meeting adjourned by unanimous vote at 3:51 p.m.