

**Appellate Practice Section Council
January 18, 2008
Lansing, Michigan–Hall of Justice**

MEETING MINUTES

Present:

Paul Bernard
Barbara Goldman
Megan Cavanagh
Liisa Speaker

Frank Bernacki
Judith Curtis [by Phone]
Phil DeRosier [by Phone]
Cara Edwards [by Phone]
Linda Garbarino
Christina Ginter
Deb Hebert
Marcia Howe
Ron Lederman [by Phone]
Gerry Posner
Stephen Rhodes
Roz Rochkind [by Phone]
Mike Updike
Peter Van Hoek [by Phone]
Jill Wheaton [by Phone]

Excused Absences:

Graham Crabtree
Anica Letica
Mary Massaron Ross

Guests:

Jennifer Clark
Sandy Mengel
Evelyn Tombers
Vic Valenti

Welcome and Call to Order

- A. Paul Bernard called the meeting to order at 2:08 p.m.
 - B. Introduction of members and guests.
- I. Approval of Minutes
- A. December 13, 2007 (previously circulated). Liisa Speaker made corrections on the list of attendees. Gerry Posner **moved** and Frank Bernacki **seconded** that the minutes of the December 13, 2007 be approved.
- II. Treasurer's Report.
- A. Megan Cavanagh received reports from State Bar and the Section's financial condition looks good.

III. Committee Reports

A. Court Liaison/Rules Comment

1. Paul Bernard reported that Proposed Comment on 7.204 and 7.205 (previously approved by Council), was approved by the State Bar and will be sent to the Supreme Court.

B. Michigan Court Practice.

1. Megan Cavanagh circulated a draft final report for the fast track. Megan will re-circulate once she incorporates comments from council members, and then submit the report to the Supreme Court.

C. Publications.

1. State Bar Theme issue. Marcia Howe reported that the theme issue has been finalized.
2. Newsletter. Deb Hebert reported that they delayed publication of the latest newsletter issue because they needed another article. They plan to submit the newsletter now for February publication. She is exploring ways in which we can receive more article submissions from our Section members. She suggested that each council member take on the responsibility of contributing one article per year, even if it is finding someone outside of council to write that article (e.g., another attorney, judges, etc.). Deb Hebert volunteered to monitor decisions out of the Court of Appeals and Michigan Supreme Court that relate to appellate practice, or to reprint the relevant case squibs. Sandy Mengel volunteered to ask at the Court of Appeals for a regular column in the newsletter. Linda Garbarino volunteered to have her office keep track of pending cases at the Supreme Court (both leave granted and oral argument on applications). Christina Ginter volunteered to prepare a proposed questionnaire for a "Meet the Judges" column. The next deadline for article submissions is April 2008. Judith Curtis **moved** and Deb Hebert **seconded** that each council member commit to soliciting or writing one article per term. Motion carried without opposition.

D. Technology.

1. Listserv. Barb Goldman reported that she removed the limit on the size of messages for the council listserv. She is working on updating the general membership listserv.

2. Court technology issues. Sandy Mengel reported that Michigan Public Service Commission filers can now serve papers through the e-filing system. The Supreme Court also passed a rule that allows parties to stipulate to service by e-mail and the Court of Appeals is prepared to accept that type of proof of service. There is also an e-filing symposium on March 13, 2008 at the MSU Center in Troy, sponsored by the Oakland County Bar Association, which is co-sponsored by the Court of Appeals and others.

E. Federal Practice

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

F. Legislative Action.

1. No report.

G. Good Deeds

1. Evelyn Tombers has requested assistance for the State of Michigan Moot Court Competition. They need a law firm sponsor to cover the cost of food and prize money for students in several categories. In the past, law firm sponsors have also put together the problem, provided judges for the competition, and graded briefs. Evelyn has already prepared the competition problem (termination of parental rights). She requested a \$1500 sponsorship from the Section. She also needs two brief graders to look at 6 briefs each (by March 27). She also needs judges for March 29, 2008 at Cooley Law School in Lansing (9 at 8:00 am; 9 at 10:30 am; 9 at 1:15 pm) plus 6 judges for the semifinals and the final round. Judith Curtis and Mike Updike volunteered to be brief graders. Evelyn will solicit judges on the listserv. Linda Garbarino **moved** and Mike Updike **seconded** that the Section donate \$1500 to the State of Michigan Moot Court Competition. Motion carried without opposition.

H. Economics of Appellate Practice

1. No report.

IV. Old Business

- A. Comment on ADM 2005-36. Nothing more to report. See Court Liaison/Rules Committee, above.
- B. Kathleen McCree Lewis Donations. Paul Bernard received a thank you note. (See attachments to agenda).

V. New Business

- A. State of Michigan Moot Court Tournament. See Good Deeds above.
- B. Law Student Section Moot Court. A law student approached Paul Bernard about the ABA Law Student Section Moot Court Competition for first year law students). Barb Goldman thinks the competition is scheduled for the last weekend in January 2008. No action taken.
- C. Proposed Legislation Regarding Juries. (See attachments to agenda). The State Bar is concerned that the Legislature is trying to regulate items that are traditionally regulated by the Michigan Supreme Court by court rule. Most of the legislation does not pertain to appellate practice. Senate Bill 1002 (proposing that loser pays for attorneys fees) may affect appellate practitioners. Senate Bill 996 (regarding payment of filing fees for certain appeals) is also relevant. No action taken.
- D. ADM 2005-25 (proposed amendment to MCR 2.203) which appears to be related to the *Houdini* case and zoning board appeals. No action will be taken until the Michigan Supreme Court has decided *Houdini*.
- E. Outreach from ADR Section. (See attachment to agenda). The only overlap Council could see with the ADR section was the Court of Appeals' settlement program. Council will remain open to working with the ADR Section in the future.

VI. Next Meeting

- A. February 15, 2007, 2:00 p.m. (Farmington Hills at Secrest Wardle).

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

VII. Adjournment

- A. Meeting adjourned by unanimous vote at 3:54 p.m. Mike Updike **moved** Linda Garbarino **seconded**. Motion carried.