

## APPELLATE PRACTICE SECTION

May 21, 2010

Secrest, Wardle, Farmington Hills, MI

### MEETING MINUTES

#### *Present:*

Christina Ginter  
Megan Cavanagh  
Liisa Speaker (phone)  
Phil DeRosier  
  
Gerry Posner  
Geoff Brown  
Jill Wheaton  
Stephanie Morita  
Danielle Schoeny (phone)  
Marcia Howe (phone)  
Judith Curtis (phone)  
Anica Letica (phone)  
Steve Rhodes  
Gaetan Gerville-Reache  
Barbara Goldman  
Linda Garbarino (phone)

#### *Excused Absences:*

Peter Van Hoek  
Stuart Friedman  
Graham Crabtree  
Ron Lederman  
Liz Sokol  
Nancy Dembinski  
Anthony Caffrey  
Paul Bernard

#### *Guests*

Vic Valenti  
Sidney Klingler  
Beth Wittmann (phone)

#### I. Welcome and Call to Order

- A. Christina Ginter called the meeting to order at 2:09 p.m.

#### II. Approval of Minutes

- A. Barbara Goldman **moved** and Geoff Brown **seconded** that the April 16, 2010 minutes be approved as corrected to reflect Stuart Friedman's attendance by phone. *Motion carried* (unanimous).

#### III. Treasurer's Report

- A. Liisa Speaker reported that everything looks to be in order.  
B. There was discussion regarding finalizing the Bench Bar Conference donation.

#### IV. Committee Reports

- A. Court Liaison/Rules Comment  
1. No report.

- B. Michigan Court Practice
  - 1. No report.
- C. Publications
  - 1. There was discussion regarding upcoming deadlines.
- D. Technology
  - 1. No report.
- E. Federal Practice
  - 1. Jill Wheaton and Gaetan Gerville-Reache reported on the 6th Circuit Judicial Conference.
- F. Legislative Action
  - 1. No report.
- G. Good Deeds
  - 1. Stephanie Morita that she has found a suitable gift for Mike Updike.
- H. Economics of Appellate Practice
  - 1. Stephanie Morita reported that the State Bar is expecting the survey to go out before the end of the year.
- I. Ad Hoc Committee on Record Production
  - 1. No report.
- J. 2010 Michigan Appellate Bench Bar Conference
  - 1. Barbara Goldman reported that planning is proceeding. Moderator and reporter training is scheduled for May 22.
  - 2. Liisa Speaker urged council members to contact colleagues, opposing counsel from prior cases, etc., and urge them to attend.
  - 3. Christina Ginter reported that the award for Kathleen McCree Lewis has been ordered.
- K. Annual Meeting
  - 1. Megan Cavanagh reported that the topic will be postjudgment procedures and strategies in state and federal court.

V. New Business

- A. Proposed amendments to MCR 7.204 and 7.205 (comments due by August 1, 2010).
1. Sandy Mengel reported that the proposed changes did not emanate from the Court of Appeals. She also reported that the Court of Appeals has concerns about trial courts being authorized to extend the time for filing claims of appeal or applications for leave to appeal.
  2. There were concerns expressed by several Council members about the proposed changes and their ramifications.
  3. The proposed amendments were referred to the Court Liaison/Rules Comment Committee, which will circulate a report for consideration at the June meeting.
- B. Don Fulkerson requested a donation for the Michigan Center for Civic Education Through Law, which facilitates the Michigan High School Mock Trial Tournament. Gerry Posner **moved** and Linda Garbarino **seconded** to donate \$2,500. *Motion carried.* (unanimous).

VI. Unfinished Business

- A. ADM 2009-25 (law student practice before the Court of Appeals; proposed amendment to MCR 8.120)
1. There was discussion regarding Geoff Brown's draft statement in support of the proposed amendment. Some revisions were suggested.
  2. It was agreed that the statement will be send to the Court as revised.
- B. HB 5371 (COA fees for prosecutors)
1. Sandy Mengel reported that the Court of Appeals is not opposed to waiving filing fees for prosecutors so long as the Legislature replaces the amount of fees lost. Sandy reported that a projected loss of \$50,000-60,000 annually.
  2. There was discussion regarding the Council's prior vote to support the bill.
  3. In light of the information received from Sandy, and upon reconsideration, Gerry Posner **moved** and Liisa Speaker **seconded** to approve a change in the Council's position so that the Section will now oppose the bill. *Motion carried* (10 in favor (7 in person and 3 by phone); 1 opposed; 2 abstaining).

C. Circuit court rules

1. Don Fulkerson reported on the proposed revisions to subchapter 7.100 that were submitted to the Supreme Court on May 10, 2010 by the Circuit Court Appellate Rules Revision Committee.
2. The Council thanked Don, Anica Letica, and the rest of the members of the CCARRC for their hard work on the proposed revisions.

VII. Next Meeting

- A. Thursday, June 17, 2010 at Ciao Amici in Brighton (4:30 p.m.)

VIII. Adjournment

- A. Geoff Brown **moved** and Megan Cavanagh **seconded** that the meeting be adjourned at 3:24 p.m. *Motion carried* (unanimous).

Respectfully submitted,  
Phillip J. DeRosier  
Secretary