

**Appellate Practice Section Council Meeting Minutes**  
**November 18, 2016, 2:00 PM**  
*Suburban Collection Showplace*  
*46100 Grand River Ave, Novi, Michigan 48374*

*Council members present:*

Gaetan Gerville-Reache (Chair)  
Joanne G. Swanson (Chair-elect)  
Stephanie S. Morita (Treasurer)

Anne Argiroff  
Judith A. Curtis  
Barbara H. Goldman  
Bradley R. Hall  
Richard C. Kraus  
Jerry Posner  
Bridget B. Powers  
Larry J. Saylor (via telephone)  
Ann M. Sherman  
Lauren M. London  
Scott Bassett  
Phil DeRosier

Beth A. Wittmann, Ex-officio  
Nancy Dembinski, Ex-officio

*Excused Council Member Absences:*

Conor Dugan  
Elizabeth L. Sokol (Secretary)  
Jill Wheaton, Ex-officio  
Mark Magyar  
Valerie Newman  
Christina Ginter  
Graham Crabtree

*Others Present:*

Judge Michael Talbot  
Jerry Zimmer  
Brian Shannon  
Joe Richotte

**I. Welcome and Call to Order - 2:06 p.m.**

**II. Approval of Minutes**

Stephanie moved to approve the minutes from October 21, 2016, Bridget seconded. Motion approved by acclamation.

**Comments from Judge Michael Talbot:**

Judge Talbot discussed the Court of Appeals' new e-service of opinions, which is slated to start in January. Judge Talbot encouraged all practitioners to provide their email addresses to the court. The court will utilize the addresses that are on True Filing in order to conduct e-service on the parties. The court will first send e-service of opinions, and e-service of orders will be at a later date.

Judge Talbot mentioned that there will be an update and revision of the method for transfer of circuit court files to the Court of Appeals.

Judge Talbot also indicated the court taking the initiative to send orders to require the ordering of transcripts in parental termination appeals.

Judge Talbot also said the Court of Appeals may be revising the order in which appeals are heard by the court. Judge Talbot would like appeals to be decided within 18 months of filing. If a practitioner requests a 56-day extension for filing the brief on appeal, as it currently stands, that case still will be heard ahead of other appeals that were filed later but completed briefing earlier. Judge Talbot wants to change the policy so that appeals are decided in the order in which briefing is completed. Those practitioners who do not request additional time to file their brief will get oral argument and a decision first.

Finally, Judge Talbot brought to the Council's attention a recent report on the creation of briefs in the electronic age, and asked the Council to consider it and propose any rule changes they feel will improve the e-briefing in the Court. At this point, 80 percent of briefs are filed electronically. Gaëtan will circulate the report to technology committee (see part V.B., below).

### **III. Treasurer's report**

Stephanie set forth 7 different scenarios for the budget, which is included in the agenda packet. Council discussed the possibility of increasing Section dues by \$5 in order to increase our budget so that we can contribute to the same causes to which we previously contributed, including the Michigan Supreme Court Historical Society and the Michigan Youth in Government. Lauren made a motion to increase the donation line item by \$1000 this year and increase dues by \$5 in 2017. Bridget seconded. Jerry objected and suggested increasing the line item by \$1000 next year. Motion passed.

Stephanie moved to approve the budget set forth on page 39 of the agenda packet for this fiscal year. Lauren seconded. Jerry opposed. Motion passes.

### **IV. Committee Reports**

- A. Court Liaison/Rules Comment - (Phil/ Gaëtan) – No report.
- B. Michigan Court Practice - (Beth/Joanne/Larry) - No report.
- C. Publications - (Nancy/Liz/Bridget/Lauren L./Howard) - The committee requested articles for February and Liisa agreed to write an article. Barb requests that criminal practitioners submit criminal law issues to her for inclusion in the Cases of Interest section in the Journal.
- D. Technology - (Barb) – Barb suggested that if any section members are having problems with emails bouncing to check their spam folder.
- E. Federal Practice - (Jill/Richard) – No report. Gaëtan will follow up with Jill regarding a possible federal practice seminar. There was some discussion regarding the possibility of arranging for a group swearing in at the Supreme

Court.

- F. Legislative Action - (Graham) – No report.
- G. Good Deeds - (Joanne/Christina)- No report.
- H. Economics of Appellate Practice - (Judith/Liisa/Lauren D./Brad) – The committee will present a report on the seminar once reviews come in.
- I. Annual Meeting - (Joanne) (September 28-30, 2017, Cobo Center, Detroit) – No report.
- J. Bench Bar - (Phil/Barb/Liisa) – An email went out with the dates of March 27-29, 2019 for the next conference. The report from the 2016 conference is done and available on the website. The website also contains a review of the app as well as the 2016 conference handouts. The next telephone conference January 5, 2017 at 3:00 p.m.

## **V. New Business**

### **A. Office of Secretary**

Liz Sokol has tendered her resignation from the office of Secretary. Jerry moved to approve the resignation, and Larry seconded. Council voted to accept the resignation. Gaëtan requested that anyone who wishes to be considered for nomination to the position of Secretary contact him. Gaëtan will create a nominating committee, which will choose a new Secretary, hopefully from interested persons who request nomination.

### **B. E-brief formatting rule reform**

Given Judge Talbot's comments, above, Gaëtan suggested the formation of an ad hoc committee to address possible e-brief formatting rule amendments. Scott, Joe Richot, Richard, Larry, Brian Shannon, Gaëtan, and Barbara all expressed interest in joining the committee. Gaëtan will send a link to the report and then the committee members can review the report and make recommendations.

## **VI. Unfinished Business**

### **A. ADM File No. 2015-02, Proposed amendment to MCR 7.213 (Mediation)**

The Family Law Section is still looking into the proposed amendment to MCR 7.213 and will provide a report to Council as soon as possible. Jerry Zimmer indicated that family law cases are not included in the mediation program. The issue was tabled until next month. Jerry reported a 45 percent success rate with settlement of appeals that were included in mediation program.

- B. Probate Section proposed rule changes under Public Act 186 of 2016 and Public Act 287 of 2016

Liisa reported that the Supreme Court is working on an ADM file to accept what the Probate Section has offered to the court on an interim basis so that there are at least rules in place, even though they may be changed and will be opened up to public comment. Liisa suggested that we wait and see what the Supreme Court issues and comment at that time. Liisa reported that there is an automatic stay for 21 days after filing the claim of appeal, which corrects a typo in Liisa's email to Gaetan (attached to the agenda packet). There was additional discussion regarding the impact of the rules on probate appeals and the retroactivity of the rules. Liisa recommends no action by Council at this time, but Council can continue the conversation once we see the ADM.

- C. Budgeting Alternatives

Please see Treasurer's Report, above.

- D. Michigan Supreme Court Historical Society

No action taken by Council at this time.

## **VII. Next Meeting/Adjournment**

Next meeting is on Friday, December 16, 2016 @ 2:00 p.m. via teleconference. Brad moved to adjourn, and Jerry seconded. Motion approved by acclamation.

Respectfully submitted,

Beth A. Wittmann, Ex Officio