

LAWYERS' ADVISORY COMMITTEE

MINUTES - FEBRUARY 18, 2009 MEETING

The Lawyers' Advisory Committee met at the Hilton East Brunswick on February 18, 2009. The meeting was opened by Chair Thomas R. Curtin at 6:30 p.m. and thereafter the following occurred:

1. The minutes of October 16, 2008 meeting were approved without changes.
2. Thomas Curtin introduced Robert G. Shepherd to the Lawyers' Advisory Committee and thanked members for their contributions to the committee.

Thomas Curtin along with Chief Judge Garrett E. Brown, Jr., presented a gift to Judge John Hughes for his many contributions to the LAC and to the Court. Judge Hughes expressed his appreciation for the gift and thanked the members of the LAC and the Court.

3. Chief Judge Garrett E. Brown, Jr., reported that two new Magistrate Judges, Douglas Arpert and Lois Goodman, will be assigned to the Trenton vicinage, and one new Magistrate Judge, Karen Williams will be assigned to the Camden vicinage.
4. Leda Wettre reported on behalf of the Subcommittee reviewing proposed amendments to Local Civil Rule 5.3 concerning motions to seal. Two subsections of the rule were proposed for amendments, (c)(2) and (c)(3). The proposed revisions to (c)(2), address procedures for filing motions to seal confidential documents produced by another party in discovery. The proposed revision of (c)(3), address differences in practice over when a document a party requests to be sealed should be filed under temporary seal before the motion to seal is decided or whether the document should not be filed but rather submitted to the Judge in chambers for in camera review. Thomas Curtin recommended that any additional comments to these proposed amendments be submitted to the subcommittee by March 1, 2009. Ronald Hedges, Francis X. Dee and Jeffrey Greenbaum joined the Subcommittee for its further deliberation on these issues.
5. Philip Sellinger and Peter Pearlman reported on behalf of the Subcommittee considering proposed Local Civil Rule 30.1 concerning "Communications between witness and counsel during cross-examination at depositions and at trial." There was unanimous support for the text of the rule among the subcommittee except for whether to include the word "extended" before the word "recess," which would preclude consultation during short breaks. There was considerable debate over this issue, and Thomas Curtin asked Philip Sellinger and Peter Pearlman to discuss the issues further at the annual Conference presented by the Association of the Federal Bar.

6. Francis X. Dee reported on behalf of the Subcommittee studying whether conflicts of interest issues arise relating to payments to a litigation consultant who also may be called as a fact witness in the litigation. The subcommittee forwarded a letter seeking guidance to the New Jersey Supreme Court Advisory Committee on Professional Ethics, and will report back to the LAC members after receiving a response to the letter.
7. Dennis Drasco, President of the Association of the Federal Bar, discussed a “7th Circuit Jury Project” that the American Bar Association is conducting. The project is to encourage judges to allow jury participation during a trial. The Association of the Federal Bar will take up this topic at its program on March 26 at Mayfair Farms.
8. Donald Robinson discussed whether “Appendix R to the Local Rules, *Guidelines for Litigation Conduct*,” should be elevated to rule status so that the guidelines are more than aspirational. Thomas Curtin recommended a subcommittee be created to explore this issue. LAC members interested participating in this subcommittee may contact Donald Robinson.
9. Judge John W. Bissell discussed the Court’s Alternate Dispute Resolution program and whether an amendment to Local Civil Rule 301.2 should be considered to include an option for early neutral evaluation of a particular matter. LAC members interested in participating in a subcommittee to consider this issue may contact Judge Bissell.
10. The topic was raised of proposed revisions to Local Civil Rule 101.1 to place a higher burden on pro hac vice counsel to disclose any misconduct that occurred in another jurisdiction. Thomas Curtin will review this issue and decide whether a subcommittee should be created to study it.
11. Bill Kane of the New Jersey Lawyers’ Assistance Program explained the broad range of programs offered including programs related to attorney depression, stress and burnout, and a alcohol and drug abuse.
12. The meeting was adjourned at 8:40 P.M. The next LAC meeting will be announced.

Respectfully submitted,

John T. O’Brien