

## LAWYERS' ADVISORY COMMITTEE

### MINUTES - JANUARY 26, 2006 MEETING

\_\_\_\_\_The Lawyers' Advisory Committee met at the East Brunswick Hilton in East Brunswick, New Jersey on January 26, 2006. The meeting was opened by Chair Philip R. Sellinger at 6:30 p.m. and thereafter the following occurred:

1. The minutes of the November 14, 2005, meeting were approved.
2. Chief Judge Brown stated his appreciation to the LAC and the committees appointed to select Magistrate Judges in the Newark vicinage. He reported the President has nominated four persons to fill the positions of four District Judge vacancies. Chief Judge Brown hopes for speedy confirmations of the four nominees which will give the court its full 17 District Judges.
3. Michael Griffinger reported on behalf of the subcommittee appointed to study proposed Local Civil Rule 26.1, regarding Local Civil Rule 26.1(d), concerning potential conflicts of interest of court reporters. Michael Giffinger summarized the committee's report which recommended to defer to making a recommendation with respect to the proposed Rule and continue to monitor the situation.
4. Donald Robinson requested that Local Civil Rule 4.1 be amended in order to comport with Fed. R. Civ. P. 4(c)(2), entitled "Service With Complaint; By Whom Made." Donald Robinson discussed that the current Local Civil Rule 4.1 implied that issuance of an order for special service of process was a mandatory prerequisite to using a private process server, when in fact the opposite is true under Fed. R. Civ. P. 4(c)(2). The proposed amendment was approved by the LAC. It will be placed on the agenda for Board of Judges' meeting after the Court's Rules Committee reviews the amendment. The amended rule would read as follows (bracketed sections indicate new text):

The Clerk is authorized to sign and enter orders specially appointing a United States Marshal, Deputy United States Marshal, or other person or officer to serve process [when such appointments are required or requested] pursuant to Fed. R. Civ. 4(c).

5. Mary Sue Henifin reported on behalf of the subcommittee on the availability of jurors viewing videotaped testimony of witnesses. During the meeting, a survey authored by the Federal Judiciary Center ("FJC") was distributed. This publication surveyed federal courts throughout the judiciary in regards to courtroom

technology. Mary Sue Henifin discussed the State Courts in Kentucky where that state adopted videotape of courtroom proceedings in lieu of traditional court reporters. Kentucky reported mixed success with this type of technology. Members discussed problems with videotaped proceedings at the state court, especially when the matter proceeds to appeal.

6. Donald Robinson reported on behalf of the subcommittee appointed to study to amend Local Civil Rule 54.1 in regards to taxation of costs. Mr. Robinson explained that two drafts of the proposed amended rule are circulating among the members of the subcommittee. The members of the subcommittee will meet to discuss the two drafts.
7. James Murphy, Chief Deputy Clerk, reported on behalf of the Court advising that the Clerk's Office will begin to permit pro hac vice counsel in receiving, upon request, Notices of Electronic Filing (NEF). A Public Notice will be published in the Law Journals.

Mr. Murphy also reported, that on May 1, 2006, the Court will begin to permit attorneys file electronically initial pleadings such as Complaints and Notices of Removals. Attorneys will be able to pay electronically the requisite filing fees. The Clerk's Office will offer training throughout the district in regards to this new policy.

8. Philip Sellinger reported on behalf of the subcommittee appointed in regards to the practice of several judges of prohibiting the filing of motion unless the judge has previously granted leave to file such motion. Mr. Sellinger explained that while there may not be an express prohibition to prohibit the filing of motions, nevertheless, it's confusing to practicing attorneys because of the perception that certain Judges may prohibit the filing of motions. Mr. Sellinger circulated among the members a draft letter, under his signature, to Chief Judge Brown outlining the concerns the bar has concerning this issue. The members agreed that this letter should be forwarded to the Judges.
9. Donald Robinson reported on behalf of the Court's Historical Society advising that on February 9, 2006, a reception will be held for members of the Historical Society in the Whipple Room in Newark. Mr. Robinson reported that he and Judge Hedges will be meeting with the publisher in order to meet the May publication date for the book "This Honorable Court." Once the publication date is finalized, a date for the Gala will be announced. He reported also that Mary Gaskill and Jim Murphy won the Historical Society's essay contest and will each receive \$500.

The meeting was adjourned at 7:45 p.m.. It was agreed that the next Lawyers' Advisory Committee meeting would be scheduled for May 3, 2006 at 5:30 p.m. at the Hilton East Brunswick.

Respectfully submitted,

John T. O'Brien