

LAWYERS' ADVISORY COMMITTEE

MINUTES - JUNE 19, 2008 MEETING

The Lawyers' Advisory Committee met at the Hyatt Regency in New Brunswick on June 19, 2008. The meeting was opened by Chair Thomas R. Curtin at 6:30 p.m. and thereafter the following occurred:

1. The minutes of February 7, 2008 meeting were approved without changes.
2. Thomas Curtin introduced new members to the Lawyers' Advisory Committee and thanked members for their contributions to the committee.
3. Chief Judge Garrett E. Brown, Jr., presented a gift on behalf of the Lawyers' Advisory Committee to the past chair, Philip Sellinger, to offer gratitude for his years of service as Chair to the Committee.
4. Chief Judge Brown reported the status of the Court:
 - Judge Jerome B Simandle has been appointed as Chair to the Patent Rules Committee which will review whether the District of New Jersey should adopt a Local Rule addressing Patent litigation.
 - District of New Jersey is currently third in the nation in Patent filings and second in the nation in Multidistrict Litigation filings.
 - Jury Utilization has decreased due in part to complex criminal and civil trials.
5. Judge Simandle discussed an amendment to L. Civ. R. 56.1. The revision clarifies the procedure for identifying whether there are material facts are in dispute in a summary judgment motion. Judge Simandle reported that the Board of Judges at their June meeting approved the amendments to the rule along with explanatory comments appearing after the rule.

Civ. Rule 56.1 SUMMARY JUDGMENT MOTIONS

(a) Statement of Material Facts Not in Dispute

On motions for summary judgment, the movant shall furnish a statement which sets forth material facts as to which there does not exist a genuine issue, in separately numbered paragraphs citing to the affidavits and other documents submitted in support of the motion. A motion for summary judgment unaccompanied by a statement of material facts not in dispute

shall be dismissed. The opponent of summary judgment shall furnish, with its opposition papers, a responsive statement of material facts, addressing each paragraph of the movant's statement, indicating agreement or disagreement and, if not agreed, stating each material fact in dispute and citing to the affidavits and other documents submitted in connection with the motion; any material fact not disputed shall be deemed undisputed for purposes of the summary judgment motion. In addition, the opponent may also furnish a supplemental statement of disputed material facts, in separately numbered paragraphs citing to the affidavits and other documents submitted in connection with the motion, if necessary to substantiate the factual basis for opposition. The movant shall respond to any such supplemental statement of disputed material facts as above, with its reply papers.

(b) Social Security Matters

In review of Social Security matters, briefs and administrative record submissions shall be governed by L. Civ. R. 9.1.

6. Judge Simandle reported on behalf of the Patent and Rules Committee which had its first meeting on June 10, 2008 at the Trenton Courthouse. The goal of the committee is to propose local patent rules to improve and expedite patent litigation in the District. The next meeting is set for July 22, 2008 at the Trenton Courthouse. The committee plans to complete a final draft of a proposed rule by September.
7. Judge Hughes and Donald Robinson reported on behalf of the subcommittee regarding a standard form of order for confidentiality agreements for discovery materials and sealing of documents. The subcommittee recommends proposing a default order, if the parties cannot agree on a confidentiality agreement. Any comments on this subject should be submitted to the subcommittee by July 19, 2008.
8. Philip Sellinger and Peter Pearlman reported on behalf of the subcommittee concerning "Communication between witness and counsel during cross-examination at depositions and at trial." Due to the lack of clarity on this issue and the different rules in other jurisdictions, the subcommittee will continue to research this issue and report back its findings at the next LAC meeting.
9. Dennis Gleason discussed the "Revision of Computation of Time" as it relates to the Court's Local Rules. Mr. Gleason reported that the Federal Rules of Civil Procedure will be promulgate amendments in 2009 which will revise computation of time in units of seven. A subcommittee was formed to review

the impact on local rules and propose any recommended revisions. The following individuals were appointed: Dennis Gleason, Chair, James Murphy and Jack O'Brien.

10. Dennis Gleason discussed whether a Local Rule should address "Administrative Termination Orders" entered by the Court. Chief Judge Brown stated that these types of Orders are used by the Court for various administrative reasons and a new Local Rule governing "Administrative Terminations" is not needed at this juncture.
11. Dennis Gleason discussed an Opinion entered by the Appellate Division of the State of New Jersey regarding the cost of per page charged by court reporters for deposition transcripts. Chief Judge Brown stated that The Judicial Conference of the United States sets the cost for transcripts for federal courts.
12. Francis X. Dee raised a potential conflict of interest issue regarding an attorney paying a consultant in a particular matter which the consultant will be called as a fact witness in the same case. A subcommittee was formed to review this issue and the following individuals were appointed: Francis X. Dee, Ronald Hedges and William Mentlik.
13. The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

John T.O'Brien