

LAWYERS ADVISORY COMMITTEE

MINUTES – MARCH 1, 2021

The Lawyers Advisory Committee met **via Zoom**, due to the ongoing COVID-19 pandemic. The meeting was convened by Chair Thomas R. Curtin at 5:00 p.m., and the following occurred:

1. The Chair invited a motion to approve the minutes of the December 7, 2020 meeting. The motion was made and seconded, and the minutes were approved.

Chair Thomas Curtin requested a moment of silence for the Honorable Joel Pisano (Ret.), who had passed. Chief Judge Wolfson provided remarks on her relationship with Judge Pisano as a colleague and a friend.

2. Chief Judge Freda L. Wolfson's Report:

After expressing her sincere gratitude to the Committee members, the Chief Judge commented as follows:

The Court is hopeful that under the new Biden administration, nominations will be made soon to fill the six vacant district judgeships, possibly by the next LAC meeting.

The Covid Protocol will be reviewed by the Board of Judges on March 11, 2021.

The Judicial Conference of the United States has approved funding for an additional magistrate judge position for the Camden vicinage, effective April 1, 2021, bringing the total to four. The candidate replacing Magistrate Judge Joel Schneider (Ret.) and the candidate for the new position are awaiting completion of their FBI background checks.

The Newark vicinage also has two new magistrate judges, who are replacing Magistrate Judges Dickson (Ret.) and Mannion (Ret.). Magistrate Judge Dickson's replacement, Magistrate Judge Jessica S. Allen, started in February and was assigned his docket. The candidate who will replace Magistrate Judge Mannion awaits completion of his FBI background check.

3. Steve Richman reported on the subcommittee's continuing study of disclosure to adversaries of third-party funding, including comments received after the December 7, 2020 meeting.

Chief Judge Wolfson thanked Steve Richman and the subcommittee for its significant effort in crafting this new local rule, which the Board of Judges will review on March 11, 2021.

II. REVISED PROPOSED LOCAL RULE

Changes based on the discussion on December 7, 2020 are redlined.

DISCLOSURE OF THIRD-PARTY LITIGATION FUNDING

Within 30 days of when filing an initial pleading, including the removal of a state action, or promptly after learning of the information to be disclosed, ~~counsel~~ counsel all parties, including

intervening parties, shall file a statement (separate from any pleading) containing the following information regarding any person or entity that is not a party and is providing funding for some or all of the attorneys' fees and expenses for the litigation on a non-recourse basis in exchange for (1) a contingent ~~monetary financial payment interest~~ based upon the results of the litigation or, (2) non-monetary result, ~~or some other financial interest~~ that is not in the nature of a personal or bank loan; or insurance:

- a. The identity of the funder(s), including the name, address, and if a legal entity, its place of formation; and
- b. Whether the funder's approval is necessary for litigation decisions or settlement decisions in the action and if the answer is in the affirmative, the nature of the terms and conditions relating to that approval; and
- c. A brief description of the nature of the financial interest.

The parties may seek additional discovery of the terms of any such agreement upon a [sufficient] showing on good cause that the non-party with authority to make is making-ultimate-material litigation decisions or settlement decisions, the interests of parties or the class (if applicable) are not being promoted or protected, or conflicts of interest exist, or such other disclosure is necessary to any issue in the case.

Nothing herein precludes the Court from ordering such other relief as may be appropriate.

4. Thomas Curtin acknowledged Judge Esther Salas, who thanked the LAC for its sincere condolences. Judge Salas reported that other states, i.e., California and Illinois, have followed New Jersey's lead in passing a Daniel's Law.
5. Karol Corbin Walker informed the Committee that at the ABA House of Delegates' Virtual Midyear Meeting on February 22, 2021, the Delegates approved Resolution 10E to urge Congress to enact greater protections for members of the judiciary. Resolution 10E supports passage of the Daniel Anderl Judicial Security and Privacy Act of 2020. The Virgin Islands Bar Association, National Conference of the Administrative Law Judiciary and the New Jersey State Bar Association sponsored the resolution, the text of which reads as follows:

Urges that Congress enact the Daniel Anderl Judicial Security and Privacy Act of 2020, or similar legislation to prohibit the disclosure of personally identifiable information of active, senior, recalled, or retired federal judges, including magistrate judges, bankruptcy judges, administrative judges, and immigration judges, and their immediate family who share their residence, including but not necessarily limited to home addresses or other personal contact or identifying information.

6. Edward Kole reported on behalf of the subcommittee studying whether L. Civ. R. 33.1 (Interrogatories) should be amended to follow SDNY Local Rule 33.3, which restricts/limits interrogatories. The LAC approved the proposed amendment to L. Civ. R. 33.1 (below) and Chief Judge Wolfson reported that she will present LAC's recommendation and proposed amendment to the Local Rule to the Board of Judges.

(d) Contention interrogatories shall not be served until 60 days prior to the close of fact discovery unless otherwise permitted by the Court.

7. Kerri Chewning, President of the Association of the Federal Bar Association of New Jersey (AFBNJ), reported that the AFBNJ has hosted recent events which were well-supported by the bench – the Chapter 13 Bankruptcy Program on February 5, and the Young Lawyers Division’s Judges and Law Clerks event on February 23, 2021.

Kerri Chewning further reported that the 44th Annual Judicial Conference will take place on March 18th and registration is live for that event, which will feature two panels. The first panel will celebrate the Association's 50th Anniversary and its evolution as part of the federal family. The second panel will be a contemporary discussion on policing and civil rights, which will feature Corey Booker as the keynote speaker. Upcoming events include the Bankruptcy Bar’s William H. Gindin Bench Bar Conference on April 23, 2021 and the William J. Brennan, Jr. Award Reception on September 22, 2021, at Forsgate Country Club.

8. There being no further business, a motion to adjourn was made and seconded. The meeting was adjourned at 6:50 p.m.

Respectfully submitted,

John T. O’Brien