

## LAWYERS ADVISORY COMMITTEE

### MINUTES – NOVEMBER 19, 2018

The Lawyers Advisory Committee met at the Hilton East Brunswick. The meeting was convened by Chair Thomas R. Curtin at 6:30 p.m. and the following occurred:

1. Thomas Curtin began by recognizing LAC member Sharon King and her husband, Stanley King, for having received the Dr. Martin Luther King, Jr. Champion of Social Justice and Equality Award, presented by Rutgers Law School's Black Law Students Association. The Chair also acknowledged that the Kings were featured in the October 28, 2018 Philadelphia Inquirer article entitled "South Jersey's civil rights power couple fight for justice. 'We try to give a voice to the voiceless.'"
2. The Chair invited a motion to approve the minutes of the January 24, 2018 meeting. The motion was seconded and the minutes were approved.
3. In his report to the LAC, Chief Judge Jose Linares spoke about the current judicial vacancies. The Chief Judge has expressed to the Association of the Federal Bar and other legal organizations his concerns about the issues caused by the vacancies. He reported that despite the vacancies, the Court is addressing matters in an effective and efficient manner.

Chief Judge Linares introduced the new Chief of the Federal Probation Office, Susan Smalley. Susan commented on the responsibilities of the U.S. Probation Office as well as its new initiatives and programs. She reported specifically on the Court's "Reentry Programs" and "Pretrial Opportunity Program," which are taking place in all three courthouses.

4. Curtin recognized First Assistant U.S. Attorney, Rachel Honig, who reported on behalf of the United States Attorney, Craig Carpenito. Honig addressed funding issues at the Department of Justice under the Continuing Resolution, during the governmental shutdown. She reported that nonetheless, the New Jersey U.S. Attorney's Office has been able to hire additional Assistants to work on recently created fraud units, such as that investigating Medicare/Medicaid fraud.
5. Chief Judge Linares remarked on the September 25, 2018 Notice to the Bar on the reappointment of Magistrate Judges Bongiovanni and Donio, whose appointments are due to expire on March 23 and April 13, 2019, respectively.
6. The Chief Judge announced the posting for the positions of "Two Full-Time United States Magistrate Judges," one each for the Newark and Trenton locations. Interested, qualified members of the bar may submit an application up until December 31, 2018.

7. Jack O'Brien presented a proposal to amend Local Civil Rule 54.1, governing the taxation of costs. He explained that the goal is to simplify the procedure and to make two significant changes: 1) eliminate the "notice of motion" requirement; and 2) require that the parties "meet and confer" before submitting the motion. The LAC voted and provisionally approved the proposed amendment.
8. On behalf of the subcommittee to amend L. Civ. R. 5.3, Dennis Gleason presented the following for consideration by the LAC, which voted in favor of recommending to the Board of Judges these changes:
  - Amending the Local Patent Rule to be consistent with Local Civil Rule 5.3 by eliminating the certification of counsel requirement in an application for a confidentiality order.
  - Amending Appendix S to require that documents designated as "confidential" under the confidentiality order be filed under seal, subject to a motion to seal.
  - Including an explanatory note, indicating that only in rare instances, such as the commencement of an action, may material be filed under seal without a confidentiality order, and that such a filing must follow the other precepts of Local Civil Rule 5.3.
  - Amending Local Civil Rule 5.3(c)(2) to include language expressly noting that other filings, such as pleadings and transcripts of court proceedings, are subject to procedures for sealing.
  - Replacing the use of "redacted" in Local Civil Rule 5.3(c)(2)(i) with "sealed" to eliminate confusion.
  - Incorporating language in Local Civil Rule 5.3(c)(3) reminding the parties that motions containing confidential documents should include only those portions of a document necessary for the resolution of the motion and not the entire document. The aim is to reduce the volume of material subject to a motion to seal.

- Amending Local Civil Rule 5.3(c)(4) to extend the time to file a redacted public version of papers filed under seal. This will allow the parties a reasonable opportunity to narrow the scope of the materials subject to sealing. The current one-day time period has been roundly criticized by practitioners as impractical and overly burdensome.
- Adding language in the ECF notice when a notice of transcript has been filed to expressly state that a motion to seal, if warranted, must be filed within 14 days of the notice.

As the LAC members voted and approved the proposed amendments, the full report will be forwarded to the Chief Judge.

9. Stacey Adams reported on proposed revisions to “for attorney eyes only” text in paragraph 9 of Appendix S (Model Order). Magistrate Judge Wettre recommended a review of the introductory remarks addressing the concern. Curtin appointed a subcommittee consisting of Magistrate Judge Wettre, Stacey Adams, Peter Pearlman and Dennis Drasco.
10. There being no further business, a motion to adjourn was made and seconded. The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Jack O’Brien