APPELLATE ADVOCACY COMMITTEE
Pennsylvania Bar Association
July 17, 2019 at 12:00 (by conference call)

1. Roll Call

See attached.

2. Introduction of New Officers

Karl Myers informed the Committee that nominations and self-nominations had been solicited for Secretary and Treasurer and that Jill Beck has been appointed Treasurer and Andrew Sperl has been appointed Secretary of the Committee. Jill and Andrew each introduced themselves.

3. Subcommittee Kickoffs

Karl Myers noted that volunteers for subcommittees were solicited when the Committee met at Committee/Section day in Lancaster and that the next step is for the subcommittees to begin their work. Karl listed the subcommittees and identified their liaisons:

- Rules and Court Technology / Scot Withers
- Education and Events (combined) / Karl Myers and Althia Bennett
- Website / Dara DeCourcy (Bill Cluck and Scot Withers also participating)
- Judicial Conference / Karl Myers

Karl also identified the names of members who have volunteered so far for each subcommittee and solicited additional volunteers:

- Rules
  - Already volunteered: Michael Krimmel, George Bibikos, Judge Solano.
  - New volunteers: Judge McCullough, Judge Lally-Green, Judge Graci, Virginia McMichael, Brian Slipakoff,
- Education and Events
  - Already volunteered: Judge Solano, Judge Klein, Maria Nucci
  - New volunteers: Judge Graci, Judge Bowes, Jill Beck,
- Website
  - Already volunteered: Dara DeCourcy, Scot Withers, Bill Cluck
  - New volunteers: Judge Klein
- Judicial Conference
  - Karl explained the purpose of the subcommittee, for those who may not have been on past calls. Goal is to organize a judicial conference which would take place after the Commonwealth Court’s 50-year anniversary in
2020. It would be loosely modeled after the Third Circuit conference. Karl explained that he is sensitive to adding another obligation for judges. Idea is that it would be a day long CLE / luncheon / wine and cheese, not necessarily at the same scale as the Third Circuit conference.

- There was discussion with Judge Bowes and Judge Klein, in particular, about how this compares with judge-only conferences that the Superior Court has held.
- Karl reports that there is openness to the idea from Chief Justice Saylor’s chambers and Justice Wecht’s chambers.
- Initial goal of subcommittee is to come up with more concrete proposal for consideration and comment.
- Already volunteered: Judge Brobson, David Robbins, Carol Crisci, Philip Yoon, Jill Beck, Michael Krimmel, Maria Nucci, Judge McCullough
- New volunteers: Judge Bowes, Judge Solano, Judge Graci, Althia Bennett, Judge Lally-Green.

After today’s call, plan is for the liaison for each subcommittee to reach out to the participants.

4. **Rules Report**

Scot Withers reported on updates to the rules.

At the last conference call, in March, the Committee discussed the adoption on March 15 of amendments to Pa.R.A.P. 511 regarding cross-appeals. Effective date of those amendments was July 1.

There were recently another set of amendments approved, to Pa.R.A.P. 905, 1922, 1925, and 1931. Effective October 1. Concern filing of notice of appeal and transcript rules.

There are two proposed rule changes pending and open for public comment.

First is proposed amendments to Public Access Policy. Comment period expires August 28. Tries to impose consistency across the Commonwealth in how confidential information is filed, and makes the confidential information form the standard method for filing (as opposed to redacted / unredacted).

Second, there are proposed amendments to Pa.R.A.P. 904 and 907. Comment period expires August 30. The proposal relates to initials in case names.

Scott noted that new rules and proposed amendments are available online. Judge McCullough also offered to provide copies of proposed rules to anyone who would like them.

5. **Open Floor**

Karl Myers noted two articles of interest in the latest edition of the Pennsylvania Lawyer magazine. One is by Judge Bowes concerning recent changes to the rules regarding citation to unpublished opinions. Second, Virginia McMichael has an article about using technology in preparing briefs and reproduced records.
Karl Myers also noted that he and Judge Solano would be presenting a webinar at noon on July 30 through PBI regarding the rule change regarding citation to unpublished opinions.

Judge Bowes raised the issue whether it would be beneficial to have a program for certifying appellate practitioners in Pennsylvania. Members of the Committee had an extended discussion about the potential benefits and drawbacks of such a program. Virginia McMichael suggested that it would be helpful. David Robbins suggested that it would have the negative effect of causing some general practitioners, or their clients, to believe they are not qualified to engage in appellate practice. Judge Klein noted that previous attempts to introduce any kind of certification were met with opposition from other members of the bar. Judge Klein suggested that an informal program may be better received. Pam Kance reported that workers’ compensation is the only certification that is endorsed by the PBA. The Family Law Section is also working toward having certification. Jeremy Mercer noted that there was discussion at the last House of Delegates of a proposal to relax or remove the restriction on specialization. Bill Cluck indicated that at the House of Delegates meeting, the legal ethics committee considered an issue raised by IP lawyers regarding certification and attorney advertising. His recollection was that the initiative failed and that it was met with controversy. Karl Myers suggested forming an exploratory committee. Judge Bowes, Judge McCullough, Virginia McMichael, David Robbins, Andrew Sperl, Jean Mosites, Jeremy Mercer, and Jill Beck volunteered. Karl Myers also requested that Pam Kance send him any materials that related to the discussion at the House of Delegates meeting.

Bill Cluck, who is also chair of the Environmental and Energy Law Section, noted that section had been engaged in discussions about whether to provide a judicial education program on climate change science and inquired of the judges on the call whether there would be interest in that. Judge Klein, Judge Bowes, and Judge McCullough provided feedback and noted that such cases arise infrequently. Judge Lally-Green suggested working with a law school.

Jeremy Mercer noted that the Federal Practice Committee will be holding a federal practice institute on October 25 at the University of Pittsburgh law school. It is an all day event, with 6 hours of CLE available, and will include an appellate component. Speakers will include, among others, Judge Hardiman, Judge Fisher, and Rob Byer. There will be a thematic focus on environmental and oil/gas issues. Judge Bowes noted it is homecoming weekend at Pitt and that there is also an event at the law school that weekend.

6. Adjournment.

Meeting adjourned at 12:50.

Respectfully submitted,

Andrew R. Sperls
ROLL CALL

Jill Beck
Althia Bennet
George Bibikos
Hon. Mary Jane Bowes
Norma Chase
William Cluck
Hon. Robert Graci
Pam Kance
Hon. Richard Klein
Michael Krimmel
Hon. Maureen Lally-Green
Hon. Patricia McCullough
Virginia McMichael
Jerry Mercer
Jean Mosites
Karl Myers
David Robbins
Brian Slipakoff
Hon. Carl Solano
Andrew Sperl
Woody Turner
Scot Withers
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Excused: Dara DeCourcy