I. Welcome and Attendance

Karl Myers opened the meeting and thanked participants for joining by video. See below for list of participants.

II. Adoption of Minutes

Karl entertained a motion to adopt the minutes of the March 26, 2020 meeting. Jill Beck so moved, and the motion was seconded and approved. The minutes were approved without modification.

III. Financial Report

Jill Beck presented the financial report. Because it requested an increased allocation, the committee started with a budget of $1200 for the year. So far, it has spent $136.44, all on conference calls. Jill asked Pam Kance whether there is a charge for Zoom calls, and Pam confirmed that there is not. Jill suggested switching to Zoom calls, given that there is no cost associated with them. Karl asked for clarification regarding charges for individuals who dial in by telephone to Zoom meetings. Pam confirmed that the dial-in participant absorbs those costs. Karl also noted that expenditures have been down because we have had no in-person events.

Sharon López noted that even before her presidency, there were recommendations to use Zoom for conference calls because Zoom or some other form of video conferencing is good for member development, particularly for new and younger members.

III. Judicial Conference Proposal Update

Karl provided an update on the judicial conference proposal. He noted that there had been a subcommittee formed to propose a Pennsylvania appellate judicial conference loosely modeled on the Third Circuit’s judicial conference. Our proposal would be for a half-day / one-day conference including educational programming, followed by a social event like a cocktail hour. The subcommittee and the committee as a whole approved the proposal; with Pam Kance’s help approval was obtained from the PBA; and it was approved by the PBA president. Because the proposal involved work over multiple years, it had to be approved by each year’s PBA leadership. PBA President David Schwager sent a letter last week to the Supreme Court justices requesting them to consider the proposal. Karl noted that the timing of the letter was good at this point because the judicial emergency has now ended, allowing more time to focus on regular business. For a date, we proposed May 2021 or May 2022. For now, we will await a response from the justices. Karl noted that we have already received positive feedback from the court based on informal outreach. There were no questions or comments from the committee.
IV. Virtual Oral Arguments and Related CLE

Karl noted that Superior Court is developing a webinar on virtual arguments and turned the floor over to Phil Yoon to give more details. Phil noted that the Superior Court has been conducting virtual arguments over the past several months and that they seem to be going well. The Court is developing a program that would not be a CLE but rather an informational seminar describing the process for participating in a virtual oral argument step-by-step from when the case is listed to when the argument is conducted. It would likely be divided into three segments: (1) listing the case for argument and making a formal request for video argument; (2) registration on WebEx in advance of the argument; and (3) day of argument issues, including testing of video equipment. The program would also include a quick demonstration mock argument.

Phil noted that different panels have conducted virtual arguments somewhat differently. Some panels have directed parties to prepare few minutes of argument and leave time at end for judges to ask questions, while other panels have proceeded more similarly to in person arguments. Each panel decides whether arguments will be conducted by video or telephone, so both approaches would be discussed in the program. The last 10 -15 minutes of the program would be reserved for questions and answers with court staff and possibly a judge. The court is hoping to have the program available in August. Phil requested help from the committee in promoting and possibly providing questions.

Karl said that the committee would of course be happy to assist in whatever way the court would find useful and opened the floor to questions and comments.

Virginia McMichael thought this was a good idea, because some lawyers find the technology to be challenging.

Carol Crisci noted that the workers compensation part of judiciary (i.e., administrative law judges) are not allowed to use Zoom but rather have to use Skype for all business. It is working well at the moment. Karl said he believed that all the Pennsylvania appellate courts are using WebEx streamed over YouTube.

Karl noted that on July 10, 2020, Governor Wolf issued an executive order similar in character to the Supreme Court’s emergency order, which applies to agency proceedings. Agencies have been struggling with figuring out how to dispose of administrative matters. The Governor’s order directs agencies to determine technological approaches to administrative hearings.

V. CLE Update

Karl reported that the committee will be putting on a CLE in August. The committee leadership had a call to discuss programming for this year. It was decided to have a CLE regarding virtual oral argument. It will be co-chaired by Jill Beck and Dara DeCourcy. Jill noted that this is a good alternative to having a large, in-person CLE, which is not feasible now. The CLE will likely be August 27 at 2:00 for one hour. Judge Wojcik, Judge Nichols, and Justice Donohue have confirmed that they will participate. Each will talk briefly about what their court has done with virtual arguments, what has and has not been successful, and will provide suggestions for advocacy. Will be presented through PBI platform. Karl noted that the date and time are somewhat tentative, and thanked Jill and Dara, particularly given the short timeframe. Dara
noted that they will want to coordinate with Phil Yoon to make sure there is not duplication with the Superior Court’s program.

Karl noted that the committee is also planning a tentative late fall/early winter CLE on pandemic-related appeals. The timing is tentative. Althea Bennett and Andrew Sperl are co-chairing.

Phil Yoon noted that Tom Wilkinson had reminded him about a CLE to be presented through PBI on August 18 relating to attorney and judicial ethics. It is called “Blame It On the Strain” but is not exclusively COVID-19 related.

VI. Website

Dara DeCourcy reported that the next postings on the website will be the two educational programs that were discussed that are expected to proceed in August.

VII. Ad Hoc Committee Regarding Appellate Practice Specialty

Althia Bennett was not able to be present, so a report on the subcommittee will be tabled until possibly the next call.

VIII. Rules and Court Technology Subcommittee

Scot Withers is completing his service as chair of the Rules Subcommittee, so Karl solicited volunteers for that role. Karl reported that there have not been significant developments since the last meeting regarding rule changes.

IX. Open Floor

Carol Crisci noted that she is retiring but would like to continue participating with the committee.

Tom Wilkinson reported on the status of H.B. 196, the legislation that would create regional appellate districts. On Friday, July 10, the state government committee passed the bill through to the Senate along party lines, and there is a vote anticipated today on the bill. It is expected to pass. PBA opposes the bill. Because it would amend the state constitution, it would need to be passed in two consecutive sessions. PBA’s legislative affairs staff have been monitoring the situation and speaking to Republicans who might be open to the PBA’s position.

Virginia McMichael noted that she was asked by the Pennsylvania Lawyer to write an article on H.B. 196 and suggested that if anybody has any comments to contact her.

Bill Cluck asked whether the bill could be vetoed, and Tom replied that it could not. Bill Cluck suggested that Virginia contact the minority bar committee because of the disproportionate impact it would have.
X. Adjournment

The meeting was adjourned at 12:39 p.m.

Attendance:
Jill Beck
Rob Byer
Judge Mary Jane Bowes
Norma Chase
Bill Cluck
Chester C. Corse
Carol Crisci (phone)
Dara DeCourcy
Renee Franchi
Bob Graci
Pam Kance
Marie Kramer
Mike Krimmel (phone)
Sharon López
Kevin McKeon
Virginia McMichael
Jean Mosites
Karl Myers
Luz Denise Negron-Bennett
Jim Sargent
Dan Siegel
Carl Solano
Andrew Sperl (phone)
Adam Tragone
Pam Van Blunk
Jessica Webb
Tom Wilkinson
Phil Yoon