APPELLATE ADVOCACY COMMITTEE
Pennsylvania Bar Association
September 18, 2019 at 12:00 (by conference call)

1. **Roll Call**

  See below.

2. **Introduction of YLD Liaison**

   Karl Myers introduced Abbie Trone as our YLD liaison. She practices at Schmidt Kramer in Harrisburg. She graduated from Widener University in 2019. She specializes in motor vehicle and premises liability law and already has experience in appellate practice.

3. **Adoption of Minutes of July Call**

   Karl entertained a motion to adopt the minutes of the Committee’s July 17, 2019 call. Robert Graci made a motion, which Carol A. Crisci seconded. There was no opposition to the motion. However, Jeremy Mercer noted that his first name was incorrectly listed as “Jerry” in the attendance list.

   As such, the minutes were approved, with the correction to Jeremy Mercer’s name in the attendance list.

4. **Financial Report**

   Karl Myers delivered the financial report (which he noted was a report on our budget request to PBA, rather than a traditional report on funds and expenditures).

   Each year, PBA requests that the Committee submit a budget request. Typically, the Committee’s budget is around $800-900, which is consistent from year to year. Karl reported that this year, the officers decided to request $1700, which is nearly double the previous budget of $900. The justification is that we have increasingly active subcommittees, more frequent conference calls, and more ideas for events. Accordingly, we want to make sure we have sufficient funds in case our expenditures exceed our current budget of $900. However, it is possible that PBA may not grant our entire request. That said, the budget is not set in stone, and PBA typically will approve increases for good cause.

   We are currently awaiting a response from PBA to our request.

   There were no questions.

5. **Rules Subcommittee Report**

   Scot Withers delivered the Rules Subcommittee report.
Since the July 17, 2019 meeting, the Appellate Court Procedural Rules Committee has posted a single proposal for public comment (even though the rules proposed to be amended are not in the appellate rules). The proposed amendments are to Pa.R.J.A. Nos. 101 and 103; Pa.R.C.P. Nos. 51 and 129; Pa.R.C.P.M.D.J. 201; and Pa.O.C. Rule 1.1. The proposed amendments clarify the use of commentary in rulemaking and citation format. The publication report for the proposed amendments discusses the justification for the amendments, in particular, to address formatting and citation inconsistencies, renumbering of the domestic relations rules and rules of civil procedure, and addressing differences between commentary and official reports so that there is uniformity. This is a continuation of the Supreme Court’s efforts to achieve uniformity of the rules. The comment deadline for these changes is November 15, 2019.

There were no questions.

6. Website Subcommittee Report

Dara DeCourcy delivered the Website Subcommittee report.

The Subcommittee has been busy. It has conducted 3-4 conference calls since March. The Subcommittee includes Dara DeCourcy, Scot Withers, Bill Cluck, and Richard Klein. The Subcommittee initially brainstormed about potential additions and changes to the website. Bill Cluck developed a list of potential ideas, and Richard Klein developed a survey from those suggestions. With assistance from Pam Kance, that survey has been circulated to the Committee members. Currently, 18 members have responded. Members who had not yet responded were encouraged to do so. The results of the survey will be used to determine what the membership considers most important to add to the website.

In the meantime, some changes have already been implemented. The webpage now has four main categories: “About”, “Listserv Signup”, “News and Publications”, and “Meetings and Events.” The “News” category has four subcategories: “Articles”, “Case Reviews”, “OnReview”, and “Superior Court Timeline.” In the “Articles” category, three recent articles have been added, including two that appeared recently in the Pennsylvania Lawyer. The third is a recent article by Richard Klein.

With respect to case reviews, permission was obtained from Teresa Sachs and James Haggerty to post their recent case review.

The “OnReview” section consists of articles from the Committee’s old newsletter, which has not been published since 2007. At the suggestion of Pam Kance, each of the previous issues is preserved in the archive. It would be great if publication of the newsletter could be resumed.

With respect to the “Superior Court Timeline,” Dara DeCourcy recalled that about a year ago, someone had volunteered to review for accuracy the checklist for briefs that is included on the timeline. Anyone interested in volunteering for this should email Dara and Pam Kance.

Dara DeCourcy asked for suggestions on what should be posted under the “Meetings and Events” section.
Richard Klein noted that when you click on articles or the case review, the content is not displayed on the browser, but instead is downloaded. He suggested including an indication that the item will be downloaded rather than displayed in the browser. However, it was determined that this is likely an issue limited to Firefox. The membership had a short discussion of software preferences for word processing and internet browsing.

Richard Klein noted that the 18 responses received so far were less than the Subcommittee had hoped for. Based on the responses, the most popular suggestions for the website are a roster of members, list of meetings, and list of events. Also popular is a listing of cases where allocatur has been accepted. Third in popularity are links to other sites, basic instructions for appeals, identifying post-trial protocols, and interviews and articles. He also suggested circulating the survey again.

Karl Myers agreed that it would be good to see additional responses and, based on the number of responses, surmised that some on the call had, perhaps, not yet responded. Karl suggested circulating another reminder next week, which the Subcommittee and Pam Kance agreed was a good idea.

Richard Klein also suggested that when new items are added to the website, an email should be sent at least to the Committee to alert them to the addition. Karl Myers asked whether there would be a way to automate such alerts. Pam Kance suggested that sending updates to the listserv would be the best way to update the membership.

Richard Klein also noted that if the Committee decides to implement a blog, it could include interviews that need only be a couple of pages long. A short summary could be sent to the listserv, with a link to the website.

Karl Myers congratulated the Subcommittee on being so productive in such a short period of time.

7. Education/Conference Subcommittee Report

Karl Myers delivered the report of the Education/Conference Subcommittee.

The Subcommittee had a call on August 20, 2019 to discuss the format and logistics of a potential Pennsylvania appellate judicial conference. First, it will be necessary to determine schedules; and second, to obtain the Supreme Court’s input about whether and how to conduct a statewide conference.

Jill Beck offered on the Subcommittee’s August 20 call to solicit input from the Supreme Court justices and their chambers about their views on a conference. She reported that she has had discussions with five of the seven Supreme Court justices and has spoken with staff for the other two (Justices Todd and Dougherty). Jill has a meeting scheduled with Justice Todd next week, and reported that Justice Dougherty planned to get back to her next week. Jill reported that so far, the Justices and their staff have seemed receptive. Chief Justice Saylor suggested not building any conference around his involvement because he prefers not to be a presenter at CLEs, but he advised that he would be happy to deliver some opening remarks at a conference. He also offered the Pennsylvania Judicial Center in Harrisburg as a potential site, but he
understood that both the location and the date were still to be determined. Justice Baer also indicated that he does not typically participate in CLEs, but that he would consider participating if it seemed appropriate. Justices Wecht, Mundy, and Donohue were all open to participating. The Justices and their staffs suggested scheduling the conference at a time and location where they would already be present, i.e., either the day before or after an argument session, in order to accommodate their travel schedules.

Jill also got questions from the Justices and their staff about the format of a potential conference, i.e., how long it would be. Jill explained to them that was still being determined, but that it would likely be a full day educational conference, with a social event at the end. The Justices seemed receptive to that.

Jill said that she would update with any further information from the Justices or their staffs. When we get to the point of scheduling, we may want to consider having the conference the day before an argument session, because it can be difficult to predict whether the sessions will be two or three days long. In that case, it would likely be a Monday, which may also be more convenient for practitioners. Karl Myers agreed, and noted that argument sessions often overlap with argument sessions of the Commonwealth and Superior Court.

Karl thanked Jill for making such significant progress in reaching out to the Court in a short amount of time.

Karl reported that the next step will be to reconvene the Subcommittee, discuss what Jill had learned, and to continue planning. A potential target date would be Spring/Fall of 2021.

8. Appellate Certification Subcommittee Report

Karl Myers delivered the report of the Appellate Certification Subcommittee because Althea Bennett, the Subcommittee chair, had a last minute conflict and could not be on the call.

The Subcommittee had an initial call, and it is still in an information gathering stage. The initial question is whether the Committee wants to pursue a certification option at all. Pam Kance has been helpful in gathering information about other certifications.

Karl Myers reiterated his thanks to everyone who has been participating in the work of the Subcommittees.

9. Open Floor

Karl Myers noted that Inna Materese is with the PBA membership committee, which encourages membership and cross-committee collaboration. He thanked her for her efforts and for joining the call, and said that the Committee welcomes any suggestions for growing membership. Inna said that she is likewise open to any suggestions or requests for help.

Karl opened the floor to any other comments.
The next meeting of the Committee will be at PBA’s Committee and Section Day, November 14, at the Red Lion Hotel in Harrisburg. There is also a Commonwealth Court session that week.

It was noted that the Commonwealth Court had a session the previous day at Dickinson Law School and it was asked whether those sessions are recorded. Karl Myers noted that en banc sessions are broadcast on PCN but is not aware of panel arguments being recorded. Richard Klein noted that based on his experience, the policy of Superior Court is that panel arguments are not recorded. It was suggested that this might be governed by a rule of judicial administration.

10. Adjournment

The meeting was adjourned at 12:45pm.

Respectfully submitted,

Andrew R. Sperl

Members Present:

Norma Chase
Abbie Trone (YLD Liaison)
Robert A Graci
Scot R. Withers
Karl S. Myers
Todd Pappasergi
Andrew Sperl
Inna Materese
Jill Beck
Dara DeCourcy
Pamela Kance (PBA Staff Liaison)
Hon. Victor P. Stabile
Carl Solano
Carol A. Crisci
Richard B. Klein
Adam Tragone
William J. Cluck
Jeremy A. Mercer
Maria Nucci