I. **Introduction and Welcome**

Karl Myers called the meeting to order and welcomed members of the Committee. Karl expressed optimism that this is the last time that we would meet only virtually. Karl asked Pam Kance for confirmation that Committee/Section Day in May will be in-person. Pam confirmed that the meeting will be in-person and that it will be the week of May 9, with Committee/Section Day to be held on May 12. The meeting will be at the Hershey Lodge. Karl noted that our Committee will meet at 11:00 a.m.

II. **Adoption of Minutes**

Karl introduced the minutes, which had been circulated by Pam the day before the meeting. Karl opened the floor for discussion; there were no comments. Christopher Merken moved to adopt the minutes, and Philip Yoon seconded the motion. The minutes were adopted unanimously by acclamation.

III. **Financial Report**

Karl turned the floor over to Jill Beck for the financial report. Jill reported that there were no updates from the last meeting. There may be some costs later in the year if the Committee is able to resume in-person programming.

IV. **Subcommittee Reports**

A. **Education & Conference**

Karl reported for the Education and Conference Subcommittee. Karl suggested that at our upcoming meeting in May, the Committee should discuss ideas for in-person programming in the future, and encouraged members to give thought to potential ideas in advance of that meeting.

Karl noted that the Supreme Court’s 300th anniversary celebration is on track for May. It will be comprised of an argument session at Old City Hall and a symposium hosted by Justice Kennedy at the Constitution Center. The dates have previously been noted.

Tom Wilkinson said that he is aware of discussions regarding financial support by the PBA and Philadelphia bar leadership, and noted that the PBA intends to be supportive of the event. Only bar associations have been asked to contribute.

Karl also provided an update on the Commonwealth Court practicum. It had been scheduled to take place during the Commonwealth Court’s argument week in April. However, the Commonwealth Court anticipates an extremely challenging caseload of election-related matters. Also, the Court lost now-Justice Brobson, and two of its judges are newly elevated. Accordingly,
the Court took the rare step of canceling its April argument session, and it has likewise been
decided to move the practicum to Tuesday, September 13, at 1:00 pm. It is expected that the
practicum will be in person following the usual format, including the wine and cheese session that
affords an excellent opportunity to meet members of the bench and Court staff.

Richard Kline commented that going forward, it may still be worthwhile to include a virtual
component to meetings because of the opportunity for greater attendance. Karl agreed that
meetings between Committee/Section Days should be virtual, and noted that Zoom has been more
effective than conference call.

B. Website

Karl turned floor over to Dara to report for the Website Subcommittee. Dara reported on
the Subcommittee’s work since the January Committee meeting. The website has been updated
with the first videos, including the leadership welcome message; Robert Graci on petitions for
allowance of appeal; Jill Beck on challenging precedent; Phil Yoon on appealing under the PCRA;
and Kandice Hull on amicus curiae briefs. There are five more videos in progress, which are
anticipated to be posted through May or June. All of the videos are posted on the public section of
the website so they are available not only to members but also to those interested in membership.

In the Subcommittee’s upcoming meetings, they will discuss Judge Bowes’s previous
suggestion regarding posting links to members’ blogs, as well as other social media issues, and the
offer by new member Stephen Edwards to include updates on recent Third Circuit decisions. The
Subcommittee is open to other suggestions for future videos or comments on ones that have already
been posted.

Maureen asked what are the five videos already in progress, in order to avoid duplication.
Dara responded that not all of the topics are finalized. The Subcommittee is recommending topics
to members who have volunteered to prepare videos, but the choice of topic is up to the presenter.
Topics will be finalized at the Subcommittee’s next meeting, which will likely be in mid-April,
and Dara offered to send a list of topics in progress at that point.

Karl thanked Dara and the Subcommittee for their continued efforts and noted the value of
the videos to potential new members, particularly younger lawyers. He also thanked Stephen for
volunteering to contribute to the website.

Jill Beck provided a list of suggested topics for future videos: Oral Argument 101; Drafting
101; 1925(b) Statements; Petitions for Reconsideration Versus Post-Trial Motions; PCRA
Appeals; Amicus Briefs; Marketing Appellate Work; and Managing Client Expectations. Karl
commented that those are all very good topics. Phil noted that Jill was very helpful in helping him
create his video, and Jill thanked him for his participation.

C. Rules and Court Technology Subcommittee

Carl Solano reported for the Rules and Court Technology Subcommittee. First, there is a
proposal to amend Rules 1607 and 1608, which relate to petitions for specialized review. These
rules are part of a new chapter, added a few years ago, relating to specialized situations such as
bail issues. Since the chapter was adopted, practitioners have sometimes been filing the wrong
type of petition. The amendments are to add a provision, similar to that appearing in other parts of the rules, providing that if the wrong type of petition is filed, the Court may treat it as the correct type of filing rather than dismiss the petition. The deadline for submitting comments is April 29.

Also, yesterday it was reported that there is another constitutional amendment under consideration in the House of Representatives. This proposed amendment would relate to the way that court rules may be changed. Currently, the Supreme Court has plenary authority to promulgate rules and declare that inconsistent statutes are suspended. Proposed H.B. 1910 would amend the Constitution to provide that rules promulgated by the Supreme Court may not be inconsistent with Pennsylvania law, which would mean that statutes enacted by the General Assembly would supersede the rules and could not be suspended. The Judicial Administration Committee will discuss whether the PBA should take a position. Timing on the proposal is unclear at this point.

Various members asked questions about the specifics of the proposal, and Carl responded that the proposal does not contain a lot of detail, other than to provide that the Supreme Court may prescribe general rules except as provided by law.

Karl noted that if the Judicial Administration Committee decides to recommend a comment, members may be asked to vote on whether this Committee should likewise take a position.

V. Diversity and Inclusion

Jill reported on the Committee’s continuing diversity and inclusion efforts.

Jill, together with Karl and Maureen McBride, have worked to draft a letter, as discussed at the Committee’s last meeting, to be sent to diverse attorneys and law students and to appellate practitioners to identify diverse students and practitioners who may be interested in participating on the Committee. The letter has been sent to Phil and to Kathleen Wilkinson for their input. The letter is not a “hard sell” but rather an effort to spread awareness of what we do and to extend an invitation to participate.

In response to a question from Judge Bowes, Jill clarified that the initial letter will be sent either to managing partners or to appellate division heads at law firms to identify potentially interested practitioners. Then, another communication will be sent to the individuals identified.

Karl thanked Jill for her efforts and expressed optimism that it will be fruitful. He noted that Committee members may be asked for contact information for potential recipients. The final version of the letter will be sent to Kathleen Wilkinson for final approval before it is disseminated.

VI. Pro Bono

Maureen offered a brief update on pro bono efforts. Further to the discussion at the Committee’s last meeting, Maureen suggested that one possibility for engagement might be to provide guidance or assistance to community legal service organizations on an informal basis.

Various members discussed the challenges that sometimes arise in distinguishing between informal advice and more formal involvement that can raise ethical issues. Carl Solano noted that
sometimes a letter documenting the limited nature of any advice can be helpful. Jill Beck commented that in connection with a recent matter, she learned that Pennsylvania allows ghostwriting briefs, but that is prohibited in Maryland, where it would constitute unauthorized practice of law.

Chester Corse observed that the Legal Ethics Committee has authored opinions on each of these issues. In addition, that committee has forthcoming an opinion regarding ethical obligations in connection with attorneys traveling across state lines and performing work.

Dan Siegel, the chair of the Legal Ethics Committee, elaborated and said that formal opinion 2011-100, issued in conjunction with the Philadelphia bar, addresses limited scope engagements. With respect to work in other jurisdictions, that raises issues under Rule 5.5 that jurisdictions are still grappling with given that the Rules do not adequately address geography and technology. The Legal Ethics Committee anticipates recommending guidance to attorneys working in Pennsylvania who are not licensed in Pennsylvania.

Regarding next steps, Maureen suggested that if it is possible to develop agreements that properly define the limited scope of an engagement, it would make sense to make it known to community members, such as legal services organizations, that Committee members may be able to offer assistance on such a basis.

Judge Bowes also suggested that she and Phil Yoon could help explore the possibility of obtaining referrals from courts. The Supreme Court has a referral program, administered by David Fine – it may be possible to develop something similar for Superior Court.

VII. Open Floor

Karl opened floor for discussion of other issues.

Maureen asked whether any of the other initiatives in the General Assembly, in particular HB 38, are expected to move forward. Debbie Gross responded that legislators have been busy on other issues, so things are quiet for now. HB 38 can be voted on until the end of this legislative session. Carl said that it was possible there could be movement in the next few weeks now that the Supreme Court has ruled on reapportionment.

Judge Bowes raised the issue of developing a certification for appellate practice. Karl responded that an ad hoc committee, led by Althea Bennett, had been investigating that issue. It had not moved forward because of the logistical issue that those administering a certification program would not be allowed to obtain certification. Althea confirmed that understanding and offered to provide the materials she had gathered to Judge Bowes. Karl suggested adding the issue to the agenda for the next meeting.

Chester Corse provided some background on certification as he was involved in drafting the rule of professional conduct regarding certification. He noted that there is a pending initiative that would allow practitioners to advertise themselves as “specialists” without defining that term, which would create a loophole in the certification process.
Judge Bowes asked if it would be possible to have separate email lists for committee business and for substantive practice questions. Pam confirmed that it was possible, and Karl asked for more background. Judge Bowes explained that it might be better for judges to be able to opt out of lists that included attorney questions. Karl suggested tabling the issue and said he would discuss the possibility with Pam of having dual listservs.

VIII. Adjournment

The meeting adjourned at 1:01 a.m. The next meeting will be May.

Roll Call

Jill Beck
Althea Bennett
Hon. Mary Jane Bowes
Norma Chase
William Cluck
Chester Corse
Dara DeCourcy
Stephen Edwards
Lucinda Glinn
Debbie Gross
Pam Kance
Richard Klein
Maureen McBride
Christopher Merken
Karl Myers
Leon Peace
William Phelan
David Robbins
Dan Siegel
Carl Solano
Andrew Sperl
Andrew Stafford
Paul Stockman
Tom Wilkinson
Philip Yoon