

LAWYERS' ADVISORY COMMITTEE

MINUTES – NOVEMBER 23, 2015

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

1. Thomas Curtin welcomed all members and thanked them for their efforts on behalf of the LAC Committee and expressed his gratitude especially to the District and Magistrate Judges for their continued contributions to the LAC.

Thomas Curtin recognized the contributions made by Judge Madeline Cox Arleo and U.S. Attorney Paul Fishman to the Prisoner Reentry Program currently taking place at the federal courthouse in Newark.

2. The Minutes of June 9, 2015 were approved without changes.
3. Chief Judge Jerome B. Simandle acknowledged Thomas Curtin for having received the Daniel J. O'Hearn award as New Jersey's Professional Lawyer of the year by the New Jersey Commission on Professionalism.

Chief Judge Simandle commented on President Obama's visit to New Jersey and the President's roundtable discussion at Rutgers University-Newark that included the District of New Jersey's Prisoner Reentry Program. Judge Arleo, U.S. Probation Officers and a recent graduate participated in the program. President Obama applauded the District of New Jersey's achievements in this program.

Chief Judge Simandle noted the recent passing of Judge Joseph E. Irenas on October 16. Judge Simandle acknowledged the significant contributions which Judge Irenas made to the Court despite his serious health issues. Judge Irenas participated in Professionalism Day as a panelist at the Camden Courthouse the evening before he passed. A memorial is set for January 9th at Princeton University's Chapel. Chief Judge Simandle also acknowledged the passing and contributions to the Court of former Magistrate Judge William Hunt, who sat in Newark.

Chief Judge Simandle reported that the Court continues to have four judicial vacancies for which the President has nominated three individuals. These vacancies are occurring at a time of record filings in our Court - 10,000 filings during this year. Weighted filings per Judge, at approximately 700, is at an all-time high and eclipses the nationwide average of 500 per judge.

Chief Judge Simandle thanked John Fietkiewicz, Chief Counsel for the U.S. Attorney, for his corroboration with the Federal Public Defender and the Criminal Defense Bar in preparing a Criminal Protocol for criminal matters [discussed in detail under agenda item #9].

Judge Jose Linares, as Chair of the Court's Case Management Committee, also praised the U.S. Attorney's Office for working with the Criminal Defense Bar and the Federal Public Defender's Office to develop the Criminal Protocol. Judge Linares further commented that his committee is attempting to determine the most efficient manner of creating a new case load for newly appointed judges.

Thomas Curtin introduced Jeffrey Jacobson, Chief Counsel to Attorney General Hoffman, who reported on behalf of General Hoffman that the State Deputies are working very hard with a heavy case load and limited resources.

4. The policy of non-publication of subcommittee draft reports was debated. After a lengthy discussion, the LAC re-affirmed the policy that a subcommittee's draft report, particularly the report of the Subcommittee on L. Civ. R. 5.3, is **not** a public document that can be circulated to the public. It was noted that this adopted policy does not preclude lawyers from discussing the contents of a report with other lawyers.
5. Shoshana Schiff reported on behalf of the Subcommittee reviewing procedures, including forms used for Writs of Execution. In particular, the Subcommittee is determining whether it is appropriate for the Clerk of Court to require that an affidavit accompany the Writ. Judge Bissell questioned whether the U.S. Marshal's Service requires the submission of an affidavit. The Subcommittee will continue to review this matter.
6. Donald Robinson and Keith Miller recommended the formation of a Subcommittee to review our local court rules in light of the recent amendments to the Federal Rules of Civil Procedure, effective December 1, 2015. Thomas Curtin selected subcommittee members: Peter Pearlman, Jeffrey Greenbaum, Frank Dee, Ronald Hedges, Jack O'Brien and Magistrate Judge Leda Dunn Wettre.
7. Dennis Gleason discussed a supplemental report on behalf of the Subcommittee reviewing L. Civ. R. 5.3 for possible amendment. Thomas Curtin recommended that Dennis Gleason circulate within 14 days a version reflecting comments made.
8. Jeffrey Greenbaum raised the issue of whether our local rule governing *pro hac vice* admission should be amended to require court approval for any withdrawal of appearance by *pro hac vice* counsel. Thomas Curtin requested that Jeffrey Greenbaum prepare a draft recommendation for proposed amendment.
9. John Fietkiewicz, Chief Counsel to the U.S. Attorney, reported on behalf of a committee comprised of the U.S. Attorney's Office, the Federal Public Defender's Office and the Criminal Defense Bar, regarding the recently filed Standing Order which establishes a protocol for scheduling criminal cases. The goals of the new Standing Order are to: a) require criminal practitioners to meet and confer (as in civil practice) to propose a discovery schedule and motion schedule; b) encourage both sides to talk about their case - more than the federal rules require; and c) arrange a final pretrial conference before the Court to determine if there will be a guilty plea or

if the case will go to trial. If a trial is necessary, there shall be a 45 day window between the final pretrial conference and the trial date to allow for trial preparation. Training will be offered to the CJA attorneys, attorneys attending the March conference sponsored by the Association of the Federal Bar and to the Clerk's Office.

The meeting was adjourned at 8:30 p.m. Thomas Curtin will notify the members of the date of the next LAC meeting.

Respectfully submitted,

John O'Brien