

## **LAWYERS' ADVISORY COMMITTEE**

### **MINUTES – JANUARY 21, 2015 MEETING**

The Lawyers' Advisory Committee met at the Hilton in East Brunswick. The meeting was opened by Chair Thomas R. Curtin at 6:00 p.m. and thereafter the following occurred:

1. Thomas Curtin welcomed all members and thanked them for their good work on behalf of the LAC Committee. Thomas Curtin announced Elizabeth Sher as a new member of the LAC.
2. The minutes of September 3, 2014 were approved without changes.
3. Chief Judge Simandle, along with Thomas Curtin, applauded the court's Historical Society for its gala, which celebrated the court's 225<sup>th</sup> anniversary.

Chief Judge announced that the jury room located at the Trenton Courthouse will be named after former Chief Judge Anne E. Thompson and the date for the dedication is set for May 7, 2015. Chief further announced that the jury room located at the Newark Courthouse will be named after Judge Dickinson R. Debevoise.

Chief Judge Simandle announced that Judge Madeline Cox Arleo has been sworn as a U.S. District Judge and the date of her formal investiture will soon be announced. Chief reported that the court will soon have four vacancies: Judges Martini; Pisano; Hochberg; and Chesler. While Judges Pisano and Hochberg will depart after retirement, Judges Martini and Chesler are expected to remain on the bench as Senior Judges.

Chief Judge Simandle reported that the Board of Judges, at its last meeting, approved amending paragraph 14(b)(1) of the Court's Policies and Procedures, although, the Board of Judges did not approve amending L. Civ. R. 79.2.

Chief Judge Simandle discussed the court's progress in addressing the approximately 1,400 cases involving Sandy litigation. Certain LAC members commented on their experiences in mediating Sandy matters. Paul Blaine, Chief of the Civil Division at the U.S. Attorney's Office, reported on behalf of FEMA and indicated that arbitration may be a more efficient ADR proceeding than mediation.

4. Shoshana Shiff reported on a "generational change" at New Jersey's bankruptcy court, due to expected retirements. Within the next six months, three judges will be retiring: Chief Judge Gloria Burns in Camden, after 21 years on the bench; and Newark Judges Donald Steckroth and Novalyn Winfield, judges since 2001 and 1991, respectively. The three Judges leaving this year have a combined 60 years of experience on the bench. Judge Kathryn Ferguson, who sits in Trenton, will replace Judge Burns as Chief Judge, and Judge Vincent Papalia was recently installed in Newark.

5. On behalf of the Board of Judges' Rules Committee, Chief Judge Simandle discussed possible modifications to L. Civ. R. 101.1(c), pertaining to the admission of attorneys pro hac vice. Proposed changes to the rule would allow pro hac vice counsel to appear on the docket and to file papers. LAC members commented on these modifications and Chief Judge Simandle indicated that he would communicate the LAC's comments and concerns to the Board of Judges.
6. Leda Wettre reported on behalf of the subcommittee recommending the elimination of the requirement that a Certificate of Service be filed with the Court where all parties have been served. In September 2014, the LAC voted on and approved the recommendation and asked the subcommittee to determine which local rules needed to be amended as a result. Leda Wettre noted that L. Civ. R. 7.1, governing the Court's motion practice, will need to be amended as follows:

**(d) Filing Motion Papers**

(1) No application will be heard unless the moving papers and a brief, prepared in accordance with L. Civ. R. 7.2, and proof or acknowledgment of service on all other parties, if required, are filed with the Clerk at least 24 days prior to the noticed motion day. The brief shall be a separate document for submission to the Court, and shall note the motion day on the cover page.

(2) The brief and papers in opposition to a motion, specifying the motion day on the cover page, with proof or acknowledgment of service thereof on all parties, if required, must be filed with the Clerk . . . .

(3) If the moving party chooses to file papers in reply, those papers including a reply brief specifying the motion day on the cover page, with proof or acknowledgement of service thereon on all parties, if required, must be filed with the Clerk. . . .

**D.N.J Electronic Case Filing Policies and Procedures**

14(b)(1) . . . . A certificate of service must be filed with all documents filed electronically, except as otherwise provided in the Local Rules.

6. Robert Shepherd discussed a recent DNJ opinion, addressing whether a party may reopen after the 60 day settlement order has expired. The majority of the LAC members answered in the negative, based upon Third Circuit case law.
7. Dennis Gleason reported on behalf of the subcommittee reviewing whether L. Civ. R. 5.3 should be amended, in response to the overwhelming experience of the LAC members that, in practice, the Rule has been unnecessarily burdensome for the court and practitioners. The subcommittee discussed proposed changes to L. Civ. R. 5.3, 16.1 and Appendix S.

After lengthy discussion among the LAC members on the proposed amendments, Thomas Curtin requested that Dennis Gleason and the subcommittee consider the points raised at the meeting and report at the next meeting.

The meeting was adjourned at 8:20 p.m. Thomas Curtin will notify the members of the date of the next LAC meeting.

Respectfully submitted,

John T. O'Brien