

Minutes from June 11, 2007, Judicial-Media Committee Meeting

Judicial-Media Committee members present: Mr. G. Claude Albert, Judge Douglas Lavine, Mr. Scott Brede, Judge Patrick Clifford, Attorney Joseph D'Alesio, Judge Nina Elgo, Mr. Paul Giguere, Judge Robert Holzberg, Mr. Ken Margolfo, Mr. Chris Powell, Judge Barbara Quinn, Mr. Patrick Sanders, Judge Michael Shay, Judge Barry Stevens, Attorney Stanley Twardy Jr., Ms. Adriana Venegas. Absent: Mr. Morgan McGinley, Ms. Dana Neves and Attorney Charles Howard.

Members of the Fire Brigade were invited to the meeting. Those who attended were: Judge David Gold, Ms. Heather Collins, Judge Patrick Carroll III, Judge Patrick Clifford, Ms. Karen Florin, Attorney Michael Kokoszka, Mr. Zach Lowe, Ms. Lynne Tuohy.

Agenda Item No. 1: Call Meeting to Order

Judge Lavine called the meeting to order at approximately 2:30 p.m. and introduced Chief Justice Chase T. Rogers.

Agenda Item No. 2: Welcoming Remarks by Chief Justice Rogers

Chief Justice Rogers made brief remarks, which are attached.

Agenda Item No. 3: Approval of Minutes

The committee unanimously approved the minutes.

Agenda Item No. 4: Fire Brigade, Subcommittee Reports by Various Chairs

- Fire Brigade: Judge Lavine described the Fire Brigade as an informal way to resolve disputes between the media and courts. Judge David Gold, who is co-chair of the Fire Brigade, reported to the committee that the Fire Brigade had met once and also that Middlesex Judicial District Chief Clerk Mike Kokoszka had agreed to serve as co-chair along with Judge Gold and Heather Collins.

Judge Gold said that the primary task done so far by the brigade is to recast its mission. Initially, he said, the group was to be first responders to disputes, but members concluded that they would better serve in a role of reviewing and assessing disputes after the fact. According to Judge Gold, the clerks and External Affairs would remain as first responders. In addition, a training program has been started for court clerks, and all court clerks will receive this training, he said. As part of the training, clerks are receiving guide books that outline what's disclosable and what's not, he said. It is anticipated that members of the Fire Brigade will contribute further to updating this guide, Judge Gold said. He added that the Fire Brigade will work with External Affairs to identify and review responses to access issues, and to determine what access issues need to be addressed. A consistent application of the rules is important, Judge Gold said.

Ms. Collins said that the Fire Brigade discussed having one clerk at each Judicial District serve as a "go-to person." This would be someone who knows the rules

thoroughly and could respond quickly to access issues, she explained.

Regarding the training of court clerks, Attorney D'Alesio reported that the process is about 80 percent complete. He also provided handouts that the clerks have received, which outline what is and is not disclosable.

Mr. Powell said he was "stunned" that this process is so far along and was grateful for that. He asked that when the access guide is updated and in a form that everyone is comfortable with that it be distributed to news organizations. He also said it should be posted at the clerks' offices for the public. Attorney D'Alesio added that the access handouts received by the clerks during their training could be posted on the Branch's website as a stop gap between now and the completion of the access guide.

Mr. Albert asked Attorney D'Alesio and Attorney Kokoszka whether the following situation had arisen: a clerk, nervous about disclosing documents that are disclosable, ask other clerks or judges whether the information should be sealed. Attorney D'Alesio said the situation has come up, and that the response is: if the sealing time is expired, it's expired. Attorney Kokoszka said he advises his clerks the same. Judge Carroll added that a judge shouldn't seal a document unless there's a statutory reason.

- *Events Subcommittee* – Ms. Tuohy reported that the committee has met by telephone conference to date. Members discussed trying to do a forum at the Judges Institute, but decided it was too late to do one this year, she said. Ms. Tuohy added that Attorney Lou Pepe had agreed to serve on the subcommittee. Specifics of suggested events will be discussed at the subcommittee's next meeting, she said.

Judge Lavine added that he views this subcommittee as "the seeding ground" for potential speakers at future committee meetings. He asked anyone who has ideas for topics or events to let him know. Mr. Powell responded that one idea would be to survey judges regarding their complaints about the media and to invite them to speak about those complaints.

- *Survey Subcommittee*

Mr. Brede reported that the Survey Subcommittee met and discussed whether members of the public should be surveyed, but determined that such a task would entail a different mission than what the subcommittee is charged with. Still under discussion are whether to include clerks in the survey and whether the responses should be anonymous. The subcommittee has broken into two groups – judges and journalists – and hopes to have the survey forms complete by the end of the summer, he said. In response to a question, Mr. Brede said any members of the committee could offer suggestions for questions.

Agenda Item No. V: Discussion

Judge Holzberg reported that Chief Justice Rogers and Judge Quinn (deputy chief court administrator) have asked he and Judge Michael Sheldon to prepare a program for all judges regarding sealing and unsealing documents and closing courtrooms. The program is mandatory and scheduled for Oct. 4, 2007. The chief administrative judges will be contacted to determine hot-button issues, and breakout groups will be held along divisional lines (i.e., criminal, civil, family, juvenile). The program will go hand-in-hand with the training clerks are receiving, he added.

Judge Lavine said he would be meeting with Judge Holzberg and Judge Sheldon to discuss what kind of programs regarding the media could be planned for the Judges Institute. He also mentioned the most recent issue of "The Judges Journal," which is devoted to the interaction between judges and journalists.

Judge Lavine added that the subcommittees would be asked for timelines regarding their respective projects at the next meeting of the Judicial-Media Committee.

Agenda Item No. VI: Old Business

At the committee's meeting in March, Attorney Chuck Howard requested a summary of which Public Access Task Force recommendations mention action by the Judicial-Media Committee. Judge Lavine referred committee members to a summary that members received. Attorney Joe D'Alesio also updated committee members on the work of the Judicial Branch Identity Theft Committee.

Between Agenda Item No. VI and No. VII, members of the public -- Mr. Steven Erickson, Mr. Bill Mulready and Mr. Chris Kennedy -- addressed the committee regarding their concerns and complaints about the judiciary and Judicial Branch. Judge Lavine responded that the Judicial-Media Committee has a limited charge and suggested that they contact the Office of the Chief Court Administrator with their complaints.

Agenda Item No. VII: New Business

The committee scheduled its next meeting for Monday, Sept. 10, 2007, at 2 p.m. at a location to be determined.

Agenda Item No. VIII: Introduction of Attorney Floyd Abrams

Mr. Albert introduced noted First Amendment Attorney Floyd Abrams.

Agenda Item No. IX: Presentation by Attorney Abrams

Attorney Abrams addressed several matters, including online accessibility of court records, Connecticut's shield law, and cases he's handled. Attorney Abrams -- who represented New York Times reporter Judith Miller and Time magazine reporter Matt Cooper -- also discussed the Scooter Libby case as it relates to the media. In addition, he noted trends he sees occurring in the courts and foresaw state courts increasingly referring to the free-press provisions of their own state constitutions in deciding press issues.

Attorney Abrams then answered questions from the audience, which included committee members and members of the public.

Agenda Item No. X: Adjourn Meeting

The meeting adjourned at approximately 5:20 p.m.