

STATE CIVIL LITIGATION SECTION

Minutes of Quarterly Meeting

June 11, 2008

The second quarterly meeting of the Philadelphia Bar Association State Civil Litigation Section (“CLS”) was called to order by Co-Chair, Thomas Wilkinson. In attendance were forty-five members. An announcement was made that at the July 2, 2008, regular meeting of the Rules and Procedure Committee, a presentation on pandemic management will be presented. All members of the Section and the Committee were encouraged to attend.

Tom Wilkinson then announced the CLE programs to be sponsored by the Section at the 2008 Bench-Bar and Annual Conference as follows:

1. Verdicts and Settlement Trends in Philadelphia County will be presented by Judge Sandra Mazer Moss, Peter Hoffman, Esquire, Matthew Casey, Esquire and Mark Tanner, Esquire.
2. Preparing for Your First Jury Trial will be co-sponsored with the Young Lawyers Division and feature Judge Patricia A. McInerney, Judge Jacqueline F. Allen, Carolyn M. Chopko, Esquire, Scott Reid, Esquire, and moderated by Judge Daniel Anders.
3. Controlling Your Private Investigator, Hope Comisky, Stuart Drobny (Stumar Investigations), Paul Kazaras and Sayde Ladov.
4. Trial Practice Tips will be presented by Tom Kline.

Chancellor-Elect Sadye J. Ladov then provided a preview of the 2008 Bench-Bar and Annual Conference to be held on September 19-21, 2008 at Bally’s Atlantic City, New Jersey. She noted that there will be over twenty hours of CLE offered, also including presentations by the Family Law Section and Criminal Justice Section. It was emphasized that the Conference will begin with a Friday Lunch CLE, “Race & the Law: Conversation About Diversity” presented by guest speaker Verna Myers. Ms. Ladov stressed that diversity exceeds color and gender. The presentation will leave the audience with a compelling, broader and better view of diversity. At the Saturday Plenary Lunch, there shall be a comprehensive dialogue on the “2008 Presidential Election, Politics and the Law”, featuring points of view from Dr. G. Terry Madonna, Director of the Franklin and Marshall Center for Politics & Public Affairs, and Larry Ickel. The Sunday Plenary Breakfast will involve a panel of criminal defense attorneys and corporate litigators in a program entitled “Caught in the Public View: Representing High-Profile Clients”. Among this group of presenters, is Neal R. Sonnett, Esquire, who has represented clients such as General Manuel Antonio Noriega.

Nadeem Bezar then introduced Justice Seamus P. McCaffery, highlighting his impressive biographical profile, a copy of which is attached to these minutes.

Justice McCaffery expressed his appreciation for the CLS. He emphasized that he lends his support to the Philadelphia Bar Association because of its tremendous dedication to the citizens of Pennsylvania and the law. Philosophically, Justice McCaffery explained that he is elected by the people and that, therefore, he works for the people, specifically for and with the attorneys. He further stressed that he is here in Philadelphia to work with Chief Justice Ronald D. Castille who wants the sitting Justices to be visible. "Ours is not a mysterious group," he said.

Justice McCaffery noted that the mission of the Supreme Court is to do what's right. All six Justices are extremely dedicated individuals. He and Justice Debra Todd are, in his words, "still learning." Because the Justices are spread across the state, they rarely see each other. He explained that the Supreme Court is made up of teams of attorneys hired on merit, all of whom are extremely talented. Justice McCaffery said his leadership formula involves surrounding himself with "first round draft choices." In doing so, his work product represents a collaborative effort of "the brightest and the best." His Chief Clerk has thirty years of appellate experience and his Deputy has twenty-five years of experience. To assure that the Court's work product is the best, at least five attorneys review each case with each justice. It then is reviewed by twenty-five to thirty lawyers. "There are no conspiracies," he explained because the Supreme Court is "not an error correcting Court." He looks at the big picture to "assure that the rule and role of law are applied across the board." Justice McCaffery explained that "we cannot afford to get it wrong."

Justice McCaffery made clear to all Section attendees that because we are practicing in the field, he may not be aware of certain issues or concerns. "I'm approachable," he said, with emphasis on delivering any concerns we may have to him.

Justice McCaffery also explained in detail his work as Mental Health Liaison and his vision for establishing a statewide Veterans Court. Post-traumatic stress disorder is the critical issue for Veterans who have resorted to self-medication in the form of alcohol and drugs. He sees these individuals "not as bad but as mad" with mental health issues that require a new remedial approach. Relating back to his accomplishments with his Night Court Program, Justice McCaffery emphasized the need to give back to communities, to identify problems and become problem solvers. He is seeking funding to allow the creation of problem solving Courts for the development of a plan across the State particularly with regard to the mental health and Veterans issues.

Justice McCaffery also indicated that the days of his persona as "the Eagles Court Harley Davidson riding Judge are also long gone." He rose in the military from a Private to the rank of Colonel and in civil service from a beat cop to Justice of the Supreme Court. "America is an incredible country and I'm here to give back."

Justice McCaffery then noted the medical malpractice reform measures that have resulted in reduced frequency of filings throughout Pennsylvania and particularly in Philadelphia County. Statewide, in 2000, there were 2,632 filings. In 2007, there were only 1,617 filings. In Philadelphia County in 2000 there were 1,085 filings as compared to 586 in 2007. "We are going to be responsible to the needs of the legal community" he said, because "you are our barometer and you have a direct line to us."

He then took questions from the floor. Laura Feldman asked about the seventh Justice issue and the problem with potential 3-3 splits. Justice McCaffery confirmed that Chief Justice Castille and the entire Court are not happy with the current situation. He suggested that “merit election” removes the politics and delay as witnessed by the rejection of Governor Rendell’s nominations. He stated he has no knowledge of any rumored “short list.”

Ron Kovler questioned whether there are any potential and/or pending UM/UIM recommendations in the Supreme Court Rules Committee addressing the Supreme Court’s decision in the Koken case. Justice McCaffery did not know the workings of the Committee at the present time in this regard. Tom Wilkinson also asked whether the Court has taken a position on proposed legislation requiring a Certificate of Merit in product liability cases. Mr. Wilkinson noted that the Pennsylvania Bar Association viewed the legislation to invade the exclusive rule making authority of the Supreme Court. Again, this issue had not yet reached the Court. Justice McCaffery did indicate that certain Restatement of Torts 3d issues are percolating their way up to the Court.

Although it is a six Justice Court, he is unaware of any 3-3 opinions being held back. He noted that some procedural matters have been put on hold administratively until a seventh Justice is appointed or elected. He made absolutely clear that Chief Justice Castille is adamant about delivering opinions that provide the right outcome based on stare decisis. Their process is not about politics (Democrats vs. Republicans); nor is it regional (East vs. West). The Court’s job is to do its homework and deliver justice that is reasoned, absolutely fair and accurately determined with proper skill, integrity and respect for the positions presented to the Court.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Robert T. Szostak, Esquire
Secretary, State Civil Litigation Section