

**Maryland State Bar Association
Administrative Law Section Council
Meeting Minutes**

~~January 9, 2008~~

March 4, 2008

Location: Tio Pepe's, Baltimore, Maryland

In Attendance: Andy Baida, Judy Bressler, Hon. Tom Dewberry, ALJ Yvette Diamond, Bob Drummer, Jack Gohn, Nathan Greenbaum, Hon. John Fader, Hon. Tom Dewberry, Hon. Joseph H.H. Kaplan, Linda Lamone, Andrea Leahy-Fuckeck, Elissa Levan, Michelle McDonald. Guest: Hon. Glenn Harrell.

Meeting

Meeting called to order at 6:50 p.m. by Andrea Leahy-Fuckeck

I. Approval of Minutes

Minutes were unanimously approved, as corrected via email prior to the meeting with respect to the spelling of Michele's name and the reference to Joel Smith under "Committee Reports", Item V.

II. Chair's Report

The Chair introduced a guest speaker and long serving member of the Council, Judge Glenn Harrell, who described the Advanced Science and Technology Adjudication Resource (ASTAR) program, a national program in which 39 states now participate designed to train judges to preside over cases involving novel or complex scientific issues. Maryland, which has been involved in the creation of the program from the outset through the efforts of Chief Judge Bell, graduated its first class of judges in December 2006 and now has 13 judges participating in the second training class. In addition to training trial judges, several members of the appellate bench, including Judge Harrell, have taken or are taking the training courses.

As a consequence of the adoption of the ASTAR program, counsel will be able to request special assignment to an ASTAR-trained judge at the time of filing an initial complaint. The administrative judge for each jurisdiction will assess the request and determine whether special assignment is appropriate. A copy of the list of ASTAR judges provided by Judge Harrell will be included with these minutes.

III. Announcements:

None.

IV. Treasurer's Report

Bruce Martin reported that we have expended \$566 for meals and \$25 for other items, leaving us with an available balance (before the cost of the March 4 meeting) of \$2,996.

V. Committee Assignments

- a. *Legislative* – Bruce Martin reported on HB 398/SB 265 (APA, Scope of Judicial Review); HB 1341 (standing for non-profits in administrative proceedings); HB 811 (amending the provisions pertaining to the dental board); and HB 2151 (establishing a task force to study task forces). After lively discussion and some disagreement, particularly concerning the dental board bill, it was determined that the Section will take no position. Bruce distributed a written summary report with respect to some additional bills he wished to bring to our attention. A copy of that report will be included with these minutes.
- b. *MICPEL* – Joel Gohn and Michelle McDonald suggested the theme to be “Celebrating 50 years of the Maryland Administrative Procedure Act.” The focus of the program is substantive with a birthday bash twist. The committee discussed scheduling the program in the Fall ‘08. The theme was approved by motion. See attached notes from December 11, 2007 meeting for more details concerning the event.
- c. *Spring Dinner* – Andrea reported that the Governor’s Office unfortunately is unable to make a firm commitment to attend our event. Consequently, Andrea recommended that the Council move to “Plan B”, a panel of speakers including Ralph Tyler, and possibly Steve Larsen, with a third panelist to be suggested by the State and Local Government Section, our co-sponsor. She further proposed, for geographical centrality and ease of parking, that the event be held at one of the airport-area hotels. A motion was made, seconded and adopted to implement Andrea’s proposal.
- d. *Annual Meeting* – Bob Drummer reported on preparations for the presentation of the play, *Satellite Parking*, by Paul Handy, for our Annual Meeting. He distributed a handout with the proposed details. The handout, which includes, *inter alia*, a description of the play, the cast, and the proposed panel speakers, will be included with these minutes. In addition to the panel speakers listed on the handout, Dr. Bogrov, a psychiatrist at Sheppard-Pratt Hospital, is expected to participate.

Bob reported that we are attempting to procure our regular time slot of 8 - 10:30 am on Thursday morning. Our second choice slot will be Thursday from 10:30 to 11:30 am. Andrea believes we have in fact been given the earlier time slot.

- e. *Public Education Outreach* – ALJ Diamond reported that we will be participating, as we have each semester for the past several years, in the University of Maryland ASPER Fellow program on Monday March 10. Council members participating will be Judge Fader, Chief Judge Dewberry, Jack Gohn, Jody Plymyer, and ALJ Yvette Diamond. In addition, the Section will make our regular presentation to Prof. Rochvarg’s Administrative Law class at the University of Baltimore Law School on April 7. Council members expected to participate in that effort will be Andy Baida, Bob Drummer, and Jody Plymyer.
- f. *Publication Committee* – Elissa Levan reported that she has sufficient content for a newsletter to be published shortly and thanked the members who submitted material, in particular Judy Bresler. Andrea will be assembling a Chair’s column, including information as to our various endeavors obtained during this meeting, and Bruce Martin will be assembling a brief description of any pending legislation he feels should be brought to the particular attention of our members. Elissa expressed her optimism that another newsletter might be forthcoming prior to the Annual Meeting, and reminded members of the need to start thinking about content for that purpose. [Ed. Note: The suggestions from the prior Council meeting were not discussed at the meeting but are repeated below for that purpose. Some of the prior ideas, included:

- *Sanctions*
- *Unions. State Relation Board*
- *Human Relations Commission*
- *Appellate Review – timely filing of appeals*
- *Judy Bresler suggested sending in a synopsis of an interesting case illustrating/highlighting a point. This may help alleviate the daunting task of writing. Could be a monthly submission.*
- *Judge Dewberry suggested that he could send an e-mail to the ALJ’s for them to suggest an interesting case recently heard. Similar to the submissions to the Daily Record. Could include a discussion regarding an interesting argument.*
- *Judge Fader suggested that Andy Baida and Bob Drummer write an article re: Arcardi Doctrine after Pollack.*
- *Another topic: areas of conflict in the Court of Appeals and Court of Special Appeals*
- *Michelle McDonald suggested Administrative Mandamus Rules*
- *Discovery in administrative hearings*
- *Discussion regarding mediations/arbitrations or creative settlements*
- *Throw out the question to the section members/council for ideas*

- *Jack Gohn offered to write a significant article to be submitted no later than September 2008.]*

III. Membership Report

Nathan Greenbaum reported that there were no nominations for the Council but that there was a need for a nomination for the position of Treasurer for next year. Andy Baida graciously agreed to stand for election.

IV. OAH Liaison report

Chief Judge Dewberry reported that the Governor had re-appointed him to a new six-year term.

V. Old Business

None.

Meeting ended at approximately 9:00 p.m.