

MSBA



Judicial Administration Section Newsletter

Hon. Lynne A. Battaglia, Chair
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Hon. Ruth Jakubowski, Vice Chair

David C. Chiu, Esq., Secretary-Editor
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JAS COUNCIL

SCORES TRIPLE PLAY TO CLOSE OUT PRODUCTIVE YEAR!!

The Judicial Administration Section Council has been hard at work this year discussing and implementing various topics and projects that bear upon the administration of justice. There will be a *triple play* of projects culminating at or around this year's joint Judicial/MSBA Summer Conference in Ocean City!

Topping the list is the JAS/MICPEL program, *Pleading Causes of Action In Maryland and Beyond: The Latest Updates, Judicial Perspectives and Practitioner Insights*, which will take place at the summer joint Bench-Bar Conference on Thursday, June 14, 2007, in the 11:30am-1:30pm time slot, and will offer food, a power point presentation, and spirited discussion by an esteemed panel of jurists (the Honorable Eyler, Krauser, Matticiani and Battaglia) and attorneys (Esquires Bekman, Sandler and Archibald) on controversial decisions and reversals by our appellate courts. As an added bonus, a supplement to *Pleading Causes of Actions* will also be available that day.

Second on our list at this year's Summer Conference, the Judicial Administration Council has also been working hard on a **judicial professionalism questionnaire** that will help jurists (re)focus on all the judicial qualities and standards of excellence that every member of every bench should strive to exemplify. Intended as a self-assessment tool, it covers topics such as timeliness, scholarship, demeanor, diligence, integrity, and the treatment of colleagues. It was hoped that jurists at every level-- from masters to administrative law judges to judges all the way up to Maryland's highest court -- would evaluate themselves using the proposed questionnaire. Towards this goal Chief Justice Robert Bell will be asking all the attendees of the concurrent Judicial Conference at Ocean City to use our judicial professionalism survey material to evaluate them selves.

Because the professionalism questionnaire is intended to be a constant reminder of the ideals and goals of every member of the bench, the Council will be distributed in a single page laminated version in order to encourage daily reference. Intended as a constructive tool for improvement, it could also be enlightening for judges to be evaluated by fellow judges using this same questionnaire.

Finally, the Council has been collecting and collating data received from Circuit Court judges responding to **voir dire surveys** distributed at the beginning of 2007. The intent of our voir dire survey has been to assist both courts and practitioners by providing a source for attorneys to consult in order to learn what different jurists in different jurisdictions expect during their jury selection process in their courtroom. Obviously, only those judges who give permission will have their survey results posted as some judges wish to preserve the option of remaining flexible in their voir dire practices rather than have to explain why their voir dire in any given case varies from what is published in our survey. In order for these voir dire survey results to be as accurate and informative as possible, the next logical step will be to have the practicing bar comment or add their own observations to the published results for each jurist. (*Perhaps next year's project Part II? - Ed.*)

The data should be collated in time for distribution at the Summer Conference, and the results will be available at our website at http://www.msba.org/sec_comm/sections/judadmin/.

DOES MARYLAND NEED A STATUTE ON TELEPHONIC CONFERENCING?

One of this term's projects has been to consider a proposal to draft a Maryland Telephonic Conferencing Bill for consideration and review by other MSBA sections and committees.

There is an enormous amount of legislative precedents in other jurisdictions throughout the United States of telephonic testimony/conferencing rules and regulations.

The Oregon Telephonic Testimony Bill was used as a model to draft a similar Maryland bill for consideration.

There has been spirited discussion as to when a Maryland Telephonic Conferencing Bill would be practical and expedite proceedings.

Many concerns were raised, largely centered on the potential for abuse of legislated regulations that up until now had largely been unneeded in Maryland. (It was reported that the Oregon Bill, in practice, is rarely used.)

Other concerns addressed the inability to view or assess visual signs in determining a witness's demeanor and credibility that would be precluded by the use of mandated telephonic testimony (the marijuana plant tattooed on a paternity applicant's face, for example).

A "scratch draft" of the proposed Maryland Telephone Testimony Rule, amended to address most of these concerns, was passed for forwarding to other MSBA sections for committee review.

(Would the rapid advancement of computer technology with photo/video cell phones, computer video-cams and video-mail, soon make many of these issues moot and any related legislation quickly obsolete? Hmmm. -Ed.)

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MASTER & COMMANDER

A survey was presented of Maryland masters, who go by numerous names and titles, including masters, examiners, and chancellors.

Some have very limited specialized roles, such as domestic or juvenile or CINA masters, and others do virtually everything a judge does.

Unlike judges whose roles are governed by the State Constitution, masters are judicial appointees.

In some jurisdictions, there are Circuit Masters who are shared between counties.

What do masters do?
What is their role?

A questionnaire is being finalized for distribution to circuit administrative judges, after approval by the Conference of Circuit

Court Judges. . Stay tuned!

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WHO SHOULD ORDER HOME DETENTION?

Should judicial powers be expanded to allow a judge to *sentence* a convicted criminal to home detention?

Home detention has historically been a condition previously limited to either pre-trial detention or solely within the administration of the Department of Corrections as part of pre-release prior to parole.

At present, it does not appear to be legal in Maryland to sentence to home detention.

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Notes From The Editor:

I sincerely apologize to the Section members for the **dearth of Newsletters** this term. I discovered that being Secretary and Editor took more time than anticipated! I will strive to do better next year! For those who are unable to locate "**our website**" at MSBA's webpage, you can access it directly at http://www.msba.org/sec_comm/sections/judadminl.... The last meeting of this year is currently scheduled for **May 17, 2007**, at the Court of Appeals Building in Annapolis... As always, anyone wishing to **contribute articles** or who has any suggestions may always send them to me or to any Council board member! *Wishing all the best and a relaxing and mild summer!* – **David C. Chiu, Ed.**