

MSBA



Judicial Administration Section **NEWSLETTER**

Hon. Lynne A. Battaglia, Chair *Hon. Ruth Jakubowski, Vice Chair* *David C. Chiu, Esq., Secretary-Editor*
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JAC/MICPEL PRESENTATION ON APPELLATE DECISIONS PACKS THE HOUSE!

By Lynne Battaglia

On June 14, at 11:30 a.m. at the Joint Bench-Bar Conference, a packed roomful of people listened to very timely presentations sponsored by the section and MICPEL including that by

- *Paul Bekman of *Salisbury, Clements, Bekman, Marder & Adkins, LLC*, on recent appellate developments in tort law ;
- *Judge Albert Matricciani on the Business and Technology website and cases in that area;
- *Judge James Eyler on fiduciary responsibility,
- *Judge Peter Krauser and James Archibald of *Venable LLP* and Paul Sandler of *Shapiro, Sher, Guinot & Sandler* on pleading causes of action and recent cases thereupon.

Facilitated by Judge Lynne Battaglia, there was lively discussion by the participants and the audience of the issues presented. Associated Materials that were included in the CD handed out by the MSBA to participants at the Conference included a compendium of Court of Appeals Cases for the last term and selected Opinions of the Court of Special Appeals.

The program was well received despite a dearth of time to cover everything that was planned!

VOIR DIRE SURVEY IS NOW ONLINE!

By Lynne Battaglia

The Judicial Administration Section Council of the Maryland State Bar Association recently conducted a study of Voir Dire practices in Maryland for the purpose of providing information to practitioners and judges.

The Council developed a questionnaire which served as a data gathering instrument designed to assess the current practices throughout the State.

The survey was sent to all of the circuit court judges.

Judges from all of the 24 counties responded and their responses are now online at the Judicial Administration Section Council's portion of the MSBA web page, sorted both alphabetically by judge and also by county.

In addition to their responses, many of the judges attached documents reflecting specific practices within their jurisdictions. These documents have also been

posted on the web.

The results of the voir dire survey can be accessed on MSBA's home page under "MSBA's Latest" or by direct link to the results at: http://www.msba.org/sec_comm/sections/judadmin/voirdire/default.asp

The Judicial Administration Section Council would like to thank the judges who responded for taking time out of their busy schedules in order to support this worthwhile effort.

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JAC Telephone Testimony Proposal To Be Reviewed

By Paul Alpert

The JAS Telephone Testimony sub-committee is pleased to announce that the Trial Subcommittee of the MSBA Rules Committee will hear testimony on our proposed Maryland rule on telephonic testimony on August 16, 2007 at the Rules Committee Conference Room at the Judiciary Education and Conference Center, Annapolis.

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PRACTICE TIPS: OLD & NEW

By Terri Beck

Getting and Using Bank Records

In the category of having been a part of Maryland Law for quite some time, but not always followed is the Financial Institutions Article dealing with financial records.

When seeking to obtain and utilize bank records directly from a bank it is important that a few simple steps be taken.

The Financial Institutions Article of the Maryland Annotated Code provides additional requirements when financial records are being subpoenaed.

Section 1-304 of the Article provides that it is not simply a matter of issuing the subpoena and then introducing the records as "business records".

The Code requires disclosure by the Financial Institution, in compliance with a subpoena if, (1) The subpoena contains a certification that a copy of the subpoena has been

served on the person whose records are sought by the party seeking the disclosure or production of the records; or (2) Contains a certification that service has been waived by the court for good cause.

Criminal penalties can be assessed for non-compliance as noted in Section 1-305.

Amended Pleadings Rules Changed

In the category of relatively new and improved but often overlooked is Section (e) of the Maryland Rules of Procedure, Rule 2-341 which now requires new attention to detail when filing amended pleadings.

The amended pleading must be accompanied by a comparison copy showing, either by lining through or enclosing in brackets, material that has been stricken, and by underling or setting forth in bold face type the new material.

Both the Amended and the "marked" copy are placed in the court file for easy reference by the Court.

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GIFTS & SUMMER READING

By Terri Beck

If you are looking for a book to engage and entertain the middle school age student interested in history or the law, **Leapholes** by James Crippando might be a good start.

The book was written to educate and inspire young readers about the law.

While the story is primarily fiction, it involves time travel to encounter major

participants from actual cases in American legal history.

It is packed both with the suspense of a legal thriller and historically accurate legal concepts from cases like Dredd Scott or principal characters like Rosa Parks.

It is available through the American Bar Association Web Cite at <http://www.abanet.org/abastore>, and was featured in the A.B.A. N.A.B.E. Conference in 2007.

JUDICIAL PROFESSIONALISM SELF-ASSESSMENT TOOL

The Judicial Self-Assessment Tool, which was embraced by the Judges at the Summer conference, is attached in its entirety.

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NOTES FROM THE EDITOR

MANY THANKS to this month's contributors for their articles! **CONTRIBUTIONS** for future Newsletters are always encouraged and welcomed! –

CORRECTION to the May 17th Minutes: The Committee on Legislation reported to the Council on May 17 not that every bill our Section backed passed (not all of them made it) but that every bill that was opposed failed. I apologize for the error. -- There will be several openings on the JAS Council in the near future.

NOMINATIONS from the Section are always welcomed! – Section members are also always encouraged to submit any ideas as to

PROJECTS they might like to see or any suggestions on improving their **MEMBERSHIP EXPERIENCE**. – Stay out of the sun! Drink plenty of fluids! And have a wonderful rest of the summer! **David C. Chiu-Ed.**

Judicial Professionalism Self-Assessment Tool

TIME

- Do I start my docket on time?
- Do I allow each side sufficient time to present what they believe to be the factual basis of the case?
- Am I available for conference calls and chambers conferences at the scheduled time?
- Do I issue my opinions and memos in a timely fashion?
- Do I complete the work that is requested of me each and every day?
- Do I return large quantities of work assigned to me as “not completed”?
- Do I show respect for the time and schedule of others by setting appropriate deadlines for filing of briefs, scheduling of follow up appointments, etc.?

SCHOLARSHIP

- Do I take time to keep up to date with recent case law?
- Do I attend continuing judicial education programs and pay attention while attending?

- Do I offer my services as instructor/panel member for CLE programs for attorneys?
- Do I mentor young attorneys who appear before me?

DEMEANOR

- Do I conduct myself with the appropriate level of dignity in public settings?
- Do I project dislike for one class of litigants such as Defendants in Med/Mal cases, or Defendants in criminal cases?
- Do I suggest to counsel that the decision has been made prior to the conclusion of the presentation of the evidence?
- Do I project dislike for particular areas of law, such as family law, estate, criminal etc, that forms a regular part of the docket?
- Do I maintain an appropriate level of sobriety in all public settings?
- Do I explode in anger in public or in the courtroom when the case is not presented as I would like?

- Do I use appropriate salutations and surnames when addressing attorneys and parties in the courtroom?
- Am I courteous and respectful in my dealings with attorneys, litigants, and witnesses, both in court and out of court?
- Am I patient with unrepresented parties?
- Am I patient with inexperienced attorneys?
- Am I sensitive to persons from other cultures?
- Am I sensitive to persons with disabilities?
- Do I insist that attorneys and litigants and my staff show respect to others in my courtroom?
- Do counsel that are regularly in my courtroom feel comfortable that I will abide by the standard rules of procedure or are they in fear of my inconsistent application of the rules?

DILIGENCE

- Do I give each case the level of attention that is merited?

- Do I research unfamiliar areas of law to assure that my opinion is well-reasoned?
- Do I take time to study new statutes and case law?
- Have I given each case my undivided attention throughout the presentation of the case?

INTEGRITY

- Have I avoided the appearance of impropriety in my personal and professional life?
- Do I publicly discuss cases that are before me?
- Have I timely and accurately filed all ethics reports and financial disclosure forms?
- Have I accepted invitations to events as a non-paying guest from specific attorneys who appear before me?
- Have I accepted gifts from successful litigants and or attorneys?
- Have I accepted invitations to attend partisan political events when I am not currently allowed to campaign?
- Have I maintained close personal relationships with attorneys who regularly appear in my courtroom?
- Have I identified myself as a member of the judiciary in order to gain special considerations with police officers, and or commercial or other establishments?

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- Have I engaged in *ex parte* communications with one side/party to a case?
- Before engaging in settlement discussions with counsel, have I gotten the permission from both sides, if the matter was to be heard in my courtroom?
- Have I bullied either side into accepting a proposed settlement, regardless of its soundness or likelihood of the success of the claim?
- Have I strenuously persuaded counsel who appear before me on a regular basis to participate in charitable donations ?
- Have I strived to not only be fair, but to give the appearance of being fair?
- Have I maintained my neutrality throughout the entire case?
- Did I listen to all parties, and did I let them know that I was listening?
- Did my actions today demonstrate my aspiration to make the court I serve a place of truth and justice?

COLLEAGUES

- Am I available to my fellow judges for consultation?
- Do I share information and resources freely with other members of the bench?
- Am I a resource for newer judges or for judges who are less familiar with an area of the law than I?

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- Have I made it known that I am not interested in hearing or sharing gossip regarding other judges or employees of the court?
- Have I spread gossip about colleagues?
- Do I treat my colleagues with the level of respect that I am entitled to receive?
- Do I speak of my colleagues in respectful ways to others?
- Do I publicly show support for the court and its policies?
- Do I refrain from publicly showing my support for any candidate for judicial election?
- Do I privately bolster my fellow judges when I am aware that they are suffering a personal crisis or loss?
- Do I offer myself as a sounding board to other judges?
- Do I actively participate in bench meetings to enhance the efficiency of my court?

EPILOGUE

- Aside from going to work, what have I done to enhance the quality of justice in my courtroom?



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