



APPELLATE ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

June 29, 2023

12:00 PM

BlueJeans

Advisory Body Members Present: Hon. Louis Mauro, Mr. Michael Colantuono, Hon. Allison Danner, Mr. Kevin Green, Mr. Jonathan Grossman, Hon. Joan Irion, Hon. Leondra Kruger, Mr. David Andreasen, Ms. Heather MacKay, Ms. Mary McComb, Mr. Jorge Navarrete, Ms. Milica Novakovic, Hon. Charles Poochigian, Ms. Beth Robbins, Mr. Benjamin Shatz, Hon. Helen Williams

Advisory Body Members Absent: Hon. Kathleen Banke, Hon. Marsha Amin, Hon. Laurence Rubin, Hon Stephen Schuett, Ms. Robin Urbanski

Others Present: Mr. Kendall Hannon, Ms. Heather Anderson, Ms. Karene Alvarado, Ms. Chio Saephanh, Ms. Khayla Salangsang

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:01 p.m., and took roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the February 27, 2023, Appellate Advisory Committee meeting as modified.

DISCUSSION AND ACTION ITEMS (ITEMS 1-7)

Info 1

Chair's Report (Information Only)

Presenter: Hon. Louis Mauro

Justice Mauro reported that committee member Marsha Amin has been appointed to the bench in San Diego County. The Chief Justice has approved Justice Mauro's request that Judge Amin be permitted to serve out her term on the committee despite no longer being an appellate lawyer of the Court of Appeal. Justice Mauro also provided an update regarding the budget, including provisions allowing for additional California Highway Patrol protection at four courthouses. Finally, Justice Mauro provided an update regarding the committee member appointment process.

Info 2 (Information Only)

CJER Education Update

Presenters: Karene Alvarado, Director, Center for Judicial Education and Research

Ms. Alvarado reported that the Appellate Judicial Attorney Institute took place in early June and was well received, with participants reporting that they were pleased that the programming contained both “nuts and bolts” topics and academic programs. She also reported that the Appellate Justices Institute will be held in October with topics including legal updates, opinion writing, the Racial Justice Act, chambers management, and ethics.

Info 3 (Information Only)

Remote Appearances at Oral Argument in the Appellate Division

Presenter: Mr. Kendall Hannon

Mr. Hannon updated the committee regarding the status of this proposal. Staff recommended that the proposal not move forward at this time in light of legislative developments and concerns that the proposal may inadvertently alter the rules requiring judges to be present in a courthouse for oral argument. Judge Mauro assured the committee that the question of remote appearances is an important issue for the committee and the Judicial Branch as a whole.

Item 4

Time for Electing and Filing an Appendix (Action Required)

Presenters: Hon. Louis Mauro, Mr. Kendall Hannon

The committee received nine comments and all were supportive of this proposal which will allow appellants to file an appendix before their opening brief and will give respondents more time to elect an appendix.

Action: The committee approved recommending the proposal to the Rules Committee.

Item 5

Forms for Extension of Time (Action Required)

Presenters: Hon. Louis Mauro, Mr. Kendall Hannon

The committee received eight comments on this proposal recommending revisions to the extension of time forms. The commenters generally opposed the proposal’s inclusion of a new item requiring an extension of time applicant to list the work they have done on appeal. Staff recommended removing this item from the proposal, and the draft materials reflect this recommendation. Mr. Colantuono agreed that the item would likely not prove beneficial given the length and type of information that would be provided by litigants. Ms. MacKay found the comments persuasive, and noted that there was no reason a litigant could not state the work they had completed on the appeal to the extent the litigant felt that relevant to their request. Mr. Grossman suggested the possibility of including such an item on the criminal extension of time form, but not the civil forms. Justice Mauro reported that Justice Banke indicated that she would support the use of standard extension of time forms. Mr. Green thanked the commenters for their excellent contributions. The committee voted to recommend the draft materials, with two opposing votes.

Action: The committee approved recommending the proposal to the Rules Committee.

Item 6

Notice of Appeal Form

Presenters: Hon. Louis Mauro, Mr. Kendall Hannon

The committee received six comments and all were supportive of the proposal to revise the civil notice of appeal forms to include an item by which an attorney can indicate they are also appealing to challenge an order requiring them to pay sanctions. In response to a comment, the proposed forms were revised to reflect that an appellant could be seeking to appeal multiple orders. Discussions were held about how case management systems handle cases where multiple orders are being appealed. Additionally, the need for courts to review the appropriate scope of an appeal in such cases was also discussed.

Action: The committee approved recommending the proposal to the Rules Committee.

Item 7

Attachment of Trial Court's Order to a Petition for Review

Presenters: Hon. Louis Mauro, Ms. Heather Anderson

The committee received seven comments and all were supportive of the proposal to revise the rule governing petitions for review in the Supreme Court to provide for attachment of the entire trial court order when petitioner seeks review of a Court of Appeal summary denial of a writ petition. A further stylistic amendment to Rule 8.504(b)(6) was proposed by Justice Danner which would place the instructions governing paper filing behind the instructions for petitions not filed in paper form. The committee approved this amendment. However, after the meeting, this proposed amendment was reversed after it was realized that conforming amendments would be required in other provisions of the rule.

Action: The committee approved recommending the proposal to the Rules Committee.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:47 p.m.

Approved by the advisory body on September 1, 2023.