

**DELAWARE STATE BAR ASSOCIATION
E-DISCOVERY AND TECHNOLOGY LAW SECTION**

QUARTERLY MEETING MINUTES – TUESDAY, APRIL 28, 2020

Attendance online via Blue Jeans: Bill Denny, Joan Kluger, Sara Beth Kohut (via phone), James Levine, Bruce McCullough, Greg Strong

I. Old Business

- A. Approval of Minutes from January 14, 2020, quarterly meeting
 - 1. The Minutes were approved
- B. Report on CLE program planning ó Sara Beth
 - 1. Sara Beth reported that the CLE for May 20, 2020, has not been publicized yet because we do not have materials prepared. It was agreed to delay the date. Joan will check with DSBA for possible June dates.
 - 2. Adjustments to the topic öWhat Delaware lawyers need to know about other statesøprivacy lawö
 - a. Remote working issues; security; interaction with the courts
- C. Report on Section web page
 - 1. James will follow up with Ayesha Bennett about compiling additional materials for the webpage.

II. New Business

- A. Section Elections
 - 1. Nominations approved:
 - a. Chair: James Levine
 - b. Vice-Chair: Sara Beth Kohut & Greg Strong
 - c. Secretary: Bruce McCullough
- B. Discussion of recent articles/developments
 - 1. Sara Beth discussed Penn. Bar Assøn Committee on Legal Ethics & Profø Responsibility Formal Op. 2020-300, 4/10/20 öEthical Obligations for Lawyers Working Remotely.ö <https://aboutblaw.com/Qbw>.

2. Bill reported on *Mirlis v. Greer*, 17-4023, (2d Cir., Mar. 3, 2020) (https://www.ca2.uscourts.gov/decisions/isysquery/4fee4e11-2dd9-46bc-9ba1-f1f01e7ae4c5/258/doc/17-4023_opn_SLC.pdf#xml=https://www.ca2.uscourts.gov/decisions/isysquery/4fee4e11-2dd9-46bc-9ba1-f1f01e7ae4c5/258/hilite/). Appellant non-party witness was a victim of childhood sexual abuse. Video deposition was introduced at trial and a non-party sought release of the video to post on his internet blog. The District Court ordered the video excerpts introduced at trial should be released but the Court of Appeals reversed. The District Court did not take into account the privacy interest and in this case it overcame the presumption of public access.
3. James noted that Apple and Google reported working together for COVID-19 voluntary anonymous contact tracing through a phone app. Besides privacy issues, it is questionable whether enough people would sign up to make it effective. <https://techcrunch.com/2020/04/16/covid-19-could-have-its-own-patriot-act-but-we-need-privacy-guarantees/>.

C. Pro Bono Opportunities

1. As a follow up on the request of DSBA President Bill Brady for each Section to focus on pro bono activities this year, Sara Beth discussed a joint electronics recycling project with International Association of Privacy Professionals (IAPP) for schools. It was thought that we cannot predict at this point when we can plan for an activity involving a gathering.

III. Schedule of Meetings

- A. Quarterly meetings: July 28, 2020, October 27, 2020, and January 27, 2021, at Pepper Hamilton LLP, 1313 N. Market Street, Suite 5100; at noon with lunch
- B. Annual meeting: April 27, 2021, at Pepper Hamilton LLP, 1313 N. Market Street, Suite 5100; at noon with lunch

IV. The meeting was adjourned.

Respectfully submitted,

Bruce McCullough