***AJEI Conference***

***“So Many Appeals, So Little Time:  Ways in Which***

***Intermediate Appellate Courts Strive to Handle Growing Caseloads” Panel Discussion***

***November 3, 2017***

*Participants*

Panelist**, Hon. N. Randy Smith**, Circuit Judge, United States Court of Appeals for the Ninth Circuit

Panelist**, Hon. Cheryl E. Chambers**, Associate Justice, New York State Supreme Court, Appellate Division, Second Judicial Department

Panelist**, John P. Doerner**, Principal Court Management Consultant, National Center for State Courts

Moderator, **Ric Schickele**, Career Law Clerk, United States Court of Appeals for the Ninth Circuit

*Learning Objectives*

The panelists will discuss the various ways in which intermediate appellate courts can tackle the problem of increasingly heavy caseloads, including: (1) streamlining the case management system; (2) use of staff attorneys; (2) use of model time standards; and (3) appellate mediation. These topics will be examined at both the state and federal levels, taking into account the perspectives of litigants, counsel, judges and court administrators. The format of the presentation will be dynamic and interactive, encouraging discussion among the panel members as well as participation from members of the audience.

*Topical Outline*

I. Appellate case management in the state and federal courts: where are we now, and where are we going?

* Technological advances that facilitate the preparation of records on appeal
* Use of streamlined (*e.g.*, summary disposition) procedures for dealing with classes of simple cases presenting identical legal issues and similar fact patterns
* Should oral argument be further restricted?

II. Use of Staff Attorneys

* Inventory. After briefing has been completed, staff attorneys can review the briefs and record in each case to identify the primary issues raised in the case and to assign a numerical weight to the case reflecting the relative amount of judge time that will likely have to be spent on the matter.
* Research. Staff attorneys can review briefs and records, and research legal issues, on the most complex cases and/or on the most straight forward cases.
* Non-argument Calendars. Staff attorneys can prepare bench memoranda and proposed unpublished dispositions for cases placed on a non-argument calendar. These cases can be presented to the judges either on the written materials or orally.
* Staff attorneys (motions attorneys) may process all motions filed in a case prior to assignment to a particular panel for disposition on the merits, except for procedural motions disposed of by the Clerk. The motions attorneys can also process emergency and urgent motions, as well as motions for reconsideration of orders filed by motions panels.

III. Model Time Standards for intermediate appellate courts

* How are they established, and how can they be adapted to the particular circumstances of each court?
* Should more appellate courts adopt them?

IV. Appellate mediation programs: what’s working, and what can be improved?

* Which cases are the best candidates for mediation?
* Who are the mediators? Court employed attorneys or private attorneys (who have taken mediation training).
* Should appellate mediation programs be limited to simple cases that can be resolved early and quickly, or should more complex cases also be screened?
* The role of the mediator: facilitator, evaluator, or both?
* How do litigants and counsel feel about the usefulness of appellate mediation programs?