

Law

For MSBA panel, timing is Supreme

STEVE LASH

Daily Record Legal Affairs Writer

June 10, 2009 8:13 PM

Organizers of Thursday's panel discussion on the Supreme Court's direction under President Barack Obama could not have asked for better timing when they planned the Maryland State Bar Association session back in February.

In the last six weeks, Justice David H. Souter announced his retirement from the high court and Obama nominated Judge Sonia Sotomayor to replace him. This turn of events has delighted the organizers, who said they expect the session to be among the most well-attended at MSBA's Annual Meeting in Ocean City.

"It couldn't be more timely," said Court of Special Appeals Judge Robert A. Zarnoch, co-chair of the session. "We have a Supreme Court nominee waiting in the wings."

Co-chair Andrew H. Baida agreed.

Sotomayor's nomination is "going to be front and center" during the session, said Baida, a Daily Record columnist and partner at Rosenberg Martin Greenberg LLP in Baltimore.

The potential for a new justice "obviously elevated to a much higher level" interest in the discussion of the Supreme Court, he added.

Thursday's session, "Double Impact: An Assessment of Recent Supreme Court Decisions and the High Court's Direction During the Obama Presidency," is sponsored by MSBA's Appellate Litigation Committee and the litigation section.

On the panel will be Thomas C. Goldstein, the founder and editor of the SCOTUSblog Web site and a partner at Akin Gump Strauss Hauer & Feld LLP in Washington; Thomas G. Hungar, a partner at Gibson, Dunn & Crutcher LLP in Washington who served as deputy U.S. solicitor general from 2003 to 2008; and Alan B. Morrison, a veteran high-court litigator who was a visiting professor at American University's Washington College of Law.

Goldstein said he will discuss what can be expected during Sotomayor's confirmation hearings before the Senate Judiciary Committee, scheduled to begin July 13, and how — if confirmed — she might decide some of the hot-button issues that come before the court, including affirmative action.

"We've made ourselves a little more timely," Goldstein said of the session. "The panel's going to be very forward-looking."

It will also discuss cases pending before and recently decided by the justices, Morrison said. These include:

* *Bartlett v. Strickland*. The high court ruled in March that the Voting Rights Act does not require state officials to redraw districts to favor blacks when blacks do not comprise a voting majority in a particular area;

* *Caperton v. A.T. Massey Coal*. The court ruled June 8 that due process required Brent Benjamin, an elected justice on West Virginia's supreme court, to recuse himself from a case involving a company run by Don Blankenship, who had contributed about \$2.5 million to his campaign. Benjamin joined the West Virginia court's 3-2 decision to overturn a \$50 million award against the company, of which Blankenship was chairman; and

* *Ricci v. DeStefano*. This case, expected to be decided within the next few weeks, regards an appeal brought by white New Haven, Conn., firefighters whose passing grades for promotion were thrown out by the city because too few minority applicants had passed. Sotomayor, a judge on the 2nd U.S. Circuit Court of Appeals, ruled in the city's favor.