

### LOCAL RULES TASK FORCE

Meeting Agenda
December 5, 2013
11:00 a.m. to 1:00 p.m.
Washington State Bar Association
1325 Fourth Avenue – Suite 600
Seattle, Washington 98101

### 1. Call to Order/Preliminary Matters

 Approval of the June 24, 2013 meeting minutes (see minutes, pp. 410-412)

### 2. Discussion Items

- Justice Johnson's Family Law Rules letter to the Task Force (pp. 413)
- Where will the Task Force go from here?
  - o Charter expires 12/31/2014

### 3. Adjourn



## Meeting Minutes June 24, 2013

Co-Chair Lish Whitson called the meeting to order at 11:18 a.m.

<u>Members present</u>: Co-Chair Lish Whitson, Co-Chair Justice Charles Johnson, Judge Joseph Burrowes (by phone), Jean Cotton (by phone), Colleen Harrington (by phone), Donald Horowitz, Peter Karademos (by phone), Ron Miles (by phone), Judge Kimberley Prochnau, Julie Rattray, Jeffrey Tilden, Commissioner Rebekah Zinn. Also attending were Elizabeth Turner (WSBA staff liaison), Susan Machler (BOG Liaison), and Jane Morrow (litigation section).

Members excused: Gail Nunn, Judge Bruce Spanner.

<u>Members who did not respond or attend:</u> Randolph Gordon, Judge Paris Kallas, Barbara Miner, Judge Steven Scott, Kevin Stock.

### **Meeting Minutes**

The July 17, 2012, meeting minutes were unanimously approved.

### **Old Business**

<u>Updates on work with counties:</u> There was discussion regarding the ongoing work of task force members with various counties, and reference to the Master County list included in the meeting materials.

Response to Comments Received on FLCR. Jean Cotton reported that the comment period on the revised FLCR ended April 30, 2013. Comments were received from various groups and entities, and the family law work group met to develop a response to the comments, which is before the Task Force today. Some of the comments recommended minor changes; some of the comments were more substantial; and some of the comments recommended changes that are outside the scope of this group's charter. The chart in the meeting materials includes all but two of the comment letters received; all the comment letters are included in the meeting materials. The workgroup is suggesting some edits to the revised FLCR to incorporate the comments that the workgroup approved; not all of the comments can be addressed by changes to the proposed rules.

The other two members of the workgroup that were present, Pete Karademos and Judge Prochnau, stated that Ms. Cotton had thoroughly covered everything in her report; Judge Prochnau thanked everyone who worked on the workgroup report.

Don Horowitz stated the report was very helpful and easy to understand but that he had three issues.

- CR 34: Mr. Horowitz stated that a pending amendment to CR 34 is currently at the Court; he has not seen any opposition to the proposed amendment, and wondered if the FLCR should incorporate the proposed amendment. Judge Prochnau stated that the workgroup thought it better to wait and see if the Court adopts the proposed amendment before incorporating it into the revised FLCR.
- Rule 81: As proposed, Rule 81 uses the language "Except where inconsistent with rules . . ." but does not state which set(s) of rules. Mr. Horowitz wanted to modify it to read "state-wide rules." Ms. Cotton responded that the existing language is consistent with CR 81, which is a key goal in copying language from the CRs into the FLCRs. Mr. Horowitz suggested sending the comment and questions to the WSBA Court Rules Committee; Judge Prochnau disagreed and reminded the group that the idea was that these rules would be a "first step" and that there would be later steps to make this and other rules consistent and more clear (perhaps by different bodies than the LRTF).
- Rule 16: Mr. Horowitz is concerned with the language of 16(c), which seems inconsistent with protecting individual addresses and information in domestic violence and other situations where necessary to protect personal safety. He suggested the rule allow for redaction and that this could be accomplished with the addition of one or two sentences. Ms. Cotton responded that the rule must be taken in context and that the issue could be resolved by motions as necessary in any particular case. The Task Force reached consensus that Rule 16 should be amended to allow for redaction but felt it more appropriate that the workgroup develop language rather than attempting to draft in committee; the workgroup will develop and circulate language via e-mail.

Ms. Rattray requested that Rules 100-102 be amended to include a specific reference to GR 34; after discussion, the Task Force thought that was appropriate.

After further discussion, it was moved, seconded, and unanimously carried to submit the workgroup recommendations, including the proposed additions to Rule 16(c) and Rules 100-102, to the BOG for submission to the Court. These will be on the July 26 BOG agenda for first read and will be voted on at the September BOG meeting.

<u>Future work</u>. Chair Whitson stated that if/when the FLCR are adopted by the Court that all 39 counties will need to revisit their local rules, and reiterated the need to recruit volunteers statewide to work on all the counties' rules. He opined that the Task Force will need to be ready to work with all the counties, which will include revising the work done in 2007 and reviewing what changes to their rules have been done since the 2007 review. Jane Morrow stated that the Litigation Section remains ready and willing to help, and believes that implementation of the FLCR will give the Task Force a good way

to segue into reviewing the CRs/local rules as a whole, without the focus on family law. Ms. Morrow inquired about increased support from the BOG, as several Litigation Section members who had volunteered to help in the past were never contacted by the BOG members who were supposed to contact them. BOG Liaison Susan Machler noted the issue.

Judge Prochnau inquired of Justice Johnson and Nan Sullins about King County's "zero rules," and asked whether they had to be published as rules or whether they could be published/posted elsewhere on the county website and not as part of a rule set. She will consult with them further.

There being no further business to come before the group, the meeting adjourned at 12:30 p.m.; next meeting date TBD.

# The Supreme Court

State of Mashington

CHARLES W. JOHNSON

JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2020 FACSIMILE (360) 357-2103 E-MAIL J\_C.JOHNSON@COURTS.WA.GOV

TO:

WSBA Local Rules Task Force

FROM:

Justice Charles W. Johnson

DATE:

November 13, 2013

RE:

Family Law Rules

The full court considered the proposed new set of Family Law Rules at its conference last week. I am extremely disappointed the final decision of the court was to not adopt this new set of rules.

Since I have worked on this for almost 23 years, I am extremely disappointed, and I know that this is a disappointment to each of you as members of the task force. Many of you drafted the original rules, which were published for comment as well as the subsequent revisions. This effort took hundreds of hours of work and a willingness to listen to suggested changes submitted by the many stakeholders and work to incorporate those revisions if they were appropriate. I recognize and appreciate all you have done and thank you for your work.