



WSBA

LOCAL RULES TASK FORCE

Meeting Minutes October 11, 2007

Co-Chair Lish Whitson called the meeting to order at 12:10 p.m.

Members present: Jean Cotton (by phone), Judge Michael Cooper (by phone), Judge Blaine Gibson, Colleen Harrington, Lisa Hayden, Judge David Kenworthy, Ron Miles, Barbara Miner, Salvador Mungia, Gail Nunn, Steven Scott, Marc Silverman, and Judge Mary Yu. Members excused: Justice Johnson, Jeffrey Tilden, and Judge Rietschel. Also attending: Bob Welden (WSBA General Counsel), Judge Paris Kallas (King County Superior Court Local Rules Committee Chair), Meghan Eagan (Judge Yu's legal extern), Jan Michels (Ex Officio), Nan Sullins (AOC Liaison) and Anna Schmidt (WSBA Paralegal).

Call to Order/Preliminary Matters

Mr. Whitson introduced the two new members of the Task Force, Judge Kenworthy and Ron Miles. Mr. Whitson directed the members to look at the charter, which outlines the charge of the task force.

Approval of Minutes: Judge Yu requested that, on the first page of the minutes, in paragraph four, the second line be amended to "Judge Yu, speaking as the SCJA Civil Rules and Procedures Committee Chair..." The amended minutes were approved unanimously.

Subcommittee Reports

Mr. Whitson reported that the subcommittee chairs or their delegates met by conference phone on Monday. They decided that each subcommittee would give a short report of their analysis so far.

Mr. Whitson suggested that the Family Law Subcommittee consider grouping all current Civil Rules into the Superior Court Special Proceedings rules. The Subcommittee would determine how the special rules would be numbered. Mr. Whitson asked the subcommittee to determine a timeline for this project. Discussion ensued regarding whether small county courts would take exception to this type of arrangement. Judge Cooper opined that most small county courts would find such an arrangement acceptable. Ms. Cotton suggested the Subcommittee begin with a sampling of small counties' local

rules, which they would bring to the larger committee, to first determine whether such an effort is worthwhile. Mr. Whitson asked the subcommittee to decide on their own how to proceed with this project and then report back their decision to the Committee. Ms. Hayden requested that Gail Nunn take over her position as chair of the Family Law Subcommittee. Ms. Nunn consented.

Mr. Silverman presented the analysis for the Large Counties Subcommittee. The Subcommittee as a whole liked the notion of requiring case schedules statewide, although they appreciated that some small counties might be opposed to such a rule. In addition, the Large Counties Subcommittee found a lot of confusion and inconsistency in the placement of certain local rules and unnecessary duplication of rules. Subcommittee Chair Steve Scott directed the Committee to look at the Subcommittee's Report from the last meeting. He opined that the Committee should ask whether a specific rule belongs in the local rules, whether its placement is appropriate, and whether it creates a "trap for the unwary?"

Judge Kallas reported that the King County Local Rules Subcommittee is currently looking at their own local rules to remove anything duplicative or unnecessary. She opined there are reasons for some differentiation, some of which includes better access to justice for pro se litigants. Discussion ensued regarding the appropriateness of using local rules to increase a pro se litigant's understanding of the rules. Ms. Michels reported that the 1994 Local Rules Coordinating Committee was clear that local rules should not be substantive. Mr. Welden pointed out that many people nowadays look at the local rules electronically and look for specific rules through word searches, which argues for consistent terminology. Discussion ensued regarding an enforcement mechanism to prevent the creation of local rules that are substantive. Judge Yu opined that the local courts should submit proposed local rules to the Supreme Court for review. Judge Gibson suggested a process in which the Supreme Court reviews a local rule only if a complaint has been filed. Ms. Cotton suggested that local rules be put out for comment (currently, King County's local rules require that proposed rules are put out for comment).

Ms. Harrington presented the analysis of the Medium Counties Subcommittee. She first explained that the litigation section had been at the forefront of bringing this task force together by writing a letter to the BOG requesting that all local rules, except those dealing with case or docket management, be abolished. Ms. Harrington reported that the Medium Counties Subcommittee found similar problems as reported by the Large Counties Subcommittee: improper placement or numbering, noncompliance with the CR 83, and lack of uniformity. Discussion ensued regarding whether one could clearly differentiate between local rules falling under the category of case or docket management and those that do not.

Judge Gibson presented the analysis of the Small Counties Subcommittee. The Subcommittee found the same problems as the other subcommittees: numbering systems and rules don't always correlate with the Civil Rules or are inappropriately placed. Judge

Gibson opined that one has to read through the entire set of a county's local rules to find all those that apply to a case.

Assignments

Mr. Whitson requested that the members re-shuffle into the following three groups: Court Administrators and Clerks (Barbara Miner – point person), Lawyers (Colleen Harrington – point person), and Judges (Judge Cooper – point person). Each group will review the work products from the Large, Medium, and Small Counties Subcommittees and reason what is good, bad, and indifferent about the information therein. Each group will try to find common threads of issues that can be resolved.

Next Meeting Date

A tentative meeting date has been set for December 6, 2007.

The Task Force meeting adjourned at 1:15pm.