



WSBA

LOCAL RULES TASK FORCE

Meeting Minutes (telephonic meeting)

September 12, 2011

Co-Chair Justice Johnson called the meeting to order at 12:10 pm.

Members present: Co-Chair Justice Charles Johnson, Jean Cotton, Colleen Harrington, Peter Karademos, Ron Miles, Gail Nunn, Judge Kimberley Prochnau, and Julie Rattray. Also attending were Nan Sullins, Jane Morrow, Elizabeth Turner (WSBA staff liaison) and Anna Schmidt (WSBA Paralegal).

Justice Johnson asked about the status of the ongoing work on the proposed Family Law Civil Rules (FLCR). Ms. Cotton stated a presentation was made to Superior Court Judges Association (SCJA) last Saturday. It will come back for action before the SCJA in October at their fall conference. Also, Judge Eitzen and Judge Prochnau are going to the SCJA Juvenile and Family Law Subcommittee meeting on the 18th, after which they will bring the FLCR before the Board. The SCJA Board asked if we could provide them with a redline showing how the FLCR differ from the Civil Rules. Judge Prochnau is attempting to do that.

Justice Johnson asked if we should put a short article in the *Bar News* either thanking or commenting on the progress of counties that are working on amending their local rules.

Meeting Minutes

The June 7, 2011 meeting minutes were approved by consensus with all in favor (Ms. Harrington abstained as she wasn't at the previous meeting).

Old Business

FLCR: Ms. Cotton stated that the FLCR workgroup has made some progress and will bring a report back after the SCJA's October meeting. She also made a presentation before the Access to Justice Board, which seemed positive. A letter from the chair of the ATJ's subcommittee that reviewed the rules appeared supportive of the proposal. Mr. Karademos went to a Family Law Sections meeting and presented the proposal before about 150 people, who seemed supportive of the proposal.

Discussion ensued regarding whether the Task Force needs to approve the changes to the FLCRs. Ms. Turner stated that the changes don't affect the substance of the rules we have proposed, but that adding in the text of the CRs would need to be presented to

the BOG; Justice Johnson stated the general agreement of the Task Force is enough to send the proposed FLCR out to the groups for review. Ms. Cotton will bring the amended FLCR before the Task Force as a whole to vote on after the SCJA's October meeting. Ms. Rattray stated the Access to Justice Committee recommended a number of changes to the FLCR's that she agrees with and asked if their suggestions be circulated to the Local Rules Task Force Members.

Volunteers' Updates: Ms. Cotton has worked with four or five of the counties, many of them have family law rules buried within their local rules. Ms. Cotton is unsure of how to deal with numbering issues of these types of local rules since the Task Force is still in the process of amending the proposing FLCRs. Mr. Karademos stated he just suggests counties wait to amend local family law rules.

Discussion ensued regarding whether the judges are noticing that the LRTF is volunteering to assist them clean up their local rules. Judge Prochnau said they would know if they sent a representative to the Spring Conference. She pointed out that there are some counties that feel they have re-written their rules (updated them) and aren't getting any recognition for that. Justice Johnson suggested firing off another letter extending the offer to those we haven't heard from. Judge Prochnau stated that it would be really good to first check to see if that county has already updated their local rules. Justice Johnson suggested we include in the letter a question asking the county to let the Task Force know if they've already updated their local rules. Discussion ensued regarding counties that continue to create local rules. Justice Johnson asked that we let him know if there are counties creating a large number of local rules.

- Benton – Ms. Turner noted that we have no task force representative assigned to this county, and that pursuant to the discussion at our last meeting she had sent BOG Liaison Marc Silverman emails to see if he's talked to Lee Kerr about coming up with a volunteer from that county, but hasn't heard back from him yet. Ms. Cotton will question Mr. Silverman regarding this when she sees him next.
- Island – Again, we have no task force representative assigned to this county. Mr. Silverman was going to talk to Phil Buri. As previously stated, Ms. Turner hasn't heard back from Mr. Silverman.
- Kittitas – No task force volunteer; status is same as Benton County (Mr. Silverman was planning to talk to Lee Kerr)
- Klickitat/Skamania – Ms. Turner reported that Jane Morrow had successfully recruited a group of local attorneys to work on the rules but that there was no Task Force volunteer assigned to the group; Mr. Silverman was going to contact Loren Etengoff.
- Lincoln – Ron Miles (lead) sent recommendations to Judge Strohmaier, and is now attempting to contact Judge Strohmaier to see how he was proceeding with their recommendations.

- Pacific/Wahkiakum – Jean Cotton reported that it had taken a year to get these a Word version of these rules sent to her but she now has that and plans to review them soon.
- Pierce – No task force lead assigned since Mr. Horowitz declined, after the last meeting, but three task force members are working on this county; Ms. Morrow still needs to talk to representatives of this county regarding what they've already done to update their local rules.
- Snohomish – (Paris Kallas, lead) Ms. Nunn has sent some emails to Judge Kallas to find out more information regarding what has been accomplished so far, but hasn't heard anything back yet. Ms. Turner received an email from Judge Kallas saying that she and Jeff Tilden are "in full swing."
- Stevens/Ferry/Pend Oreille – Ron Miles (lead) and Pete Karademos were successful in getting recommendations out to Judge Baker in Stevens County,
- Whitman – Ron Miles (lead), Colleen Harrington, and Pete Karademos visited with Judge Frazier. He is looking at keeping his administrative rules intact, since they are in line with the state rules.

Judge Prochnau reported that the King County Local Rules Committee discussed excluding local rules that have to do with administrative-only tasks since these rules have nothing to do with litigants' actions. Most court administrators have internal websites where the rules could exist, but King County's group feels that a couple of rules make it awkward to remove these rules that deal with internal management (specifically, GR 29, which requires the electing and removing of a judge is according to local rule, and GR 7, which requires a complete set of local rules be available for review). Judge Prochnau sent an email to Ms. Sullins with her concerns, which she will forward to the Justice Johnson for possible dissemination to the task force. Discussion ensued regarding numbering such rules as "zero local rules," placing them at the very front of the local rules book, and making it clear these rules are internal. Judge Prochnau stated that King County already does this, but it still adds to the bulk of the local rules book. Judge Prochnau believes GR 29 was adopted to develop a strong form of "local government" for the county judges. She questions why they must incorporate GR 29 as a local rule. Justice Johnson will look into the history of this rule.

Ms. Cotton has one other rule issue that was brought forth by ATJ. In their efforts to do "plain language," there are terms of art that they just cannot change and terms that are quite archaic. ATJ suggested that, at some point in time, someone put a glossary of terms in the book. Ms. Cotton thought that was a pretty good idea. Justice Johnson suggested it would be better to remove archaic terms that lawyers don't use anymore. Ms. Cotton suggested a glossary of terms for the FLCR that they're proposing. Ms. Rattray suggested beginning by looking self-help glossaries in publications that already exist. Ms. Cotton would like us to at least consider a very limited glossary of basic terms.

Judge Prochnau stated that the FLCR proposal looks more daunting than it actually is, and suggested creating an electronic version to highlight what is different in it from the

Civil Rules. Ms. Cotton offered to work on a redline, and Pete Karademos offered to assist her. Judge Prochnau will transmit a copy of her attempt to redline the FLCR to Task Force members when she is done.

New Business

Ms. Turner suggested that, after the SCJA Board votes on the FLCR, the Task Force have another telephonic meeting to review what will be submitted to the BOG. None of the members were sure when exactly the Family Law rules will go before the SCJA, but they decided to use October 8th as the date. Ms. Turner will schedule the next Local Rules Task Force meeting in October after the 8th.

The meeting adjourned at 12:57 pm