



WSBA

COURT RULES AND PROCEDURES COMMITTEE

Meeting Minutes October 15, 2012

Committee Chair Hillary Evans called the meeting to order at 9:30 a.m.

Members present: Chair Hillary Evans, Gene Barton, Roy Brewer, Dean Chuang (by phone), Paul Crisalli, Anne Cruser (by phone), Maureen Cyr, Tony DiTommaso, Jr., Eric Eisenberg, Sean Flynn, David Iseminger (by phone), Kailin James, Shannon Kilpatrick, Shawn Larsen-Bright, Roger Leishman, Kathleen Nelson, Bryan Page (by phone), Ann Summers, Karen Denise Wilson, Judge Kevin Korsmo (by phone), Judge Blaine Gibson, and Judge Rebecca Robertson.

Members excused from attending: Katharine Bond, Daniel Brown, Leslie Clark, Elizabeth Fraser, Dale Johnson, Nicole McGrath, Jeannie Mucklestone, and Shannon Ragonesi.

Members who did not respond to meeting notice: David Stevens.

Also attending: Ken Masters (BOG Liaison – by phone), Nan Sullins (AOC Liaison), Elizabeth Turner (WSBA Assistant General Counsel—Staff Liaison), and Sherry Mehr (WSBA Paralegal).

Non-Members/Guests present: Jason Amala (WSAJ Court Rules Committee--by phone), Nicole Hecklinger, and Mike Runyan

Welcome/Introductions:

The Chair welcomed the Committee and asked each member to introduce him or herself.

The Chair explained that this year's cycle includes the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ) (subcommittee chaired by Ms. Fraser); and the Rules of Appellate Procedure (RAP) (subcommittee chaired by Ms. Summers). We will also have Subcommittee X, chaired by Mr. Barton, with one of the main issues being CR 6 days/day calendar counting; and Electronically Stored Information (ESI), subcommittee chaired by Mr. Larsen-Bright. The Chair explained that the majority of the

work is done in the Subcommittees and attendance at those meetings is crucial. The Committee follows Robert's Rules of Order during main committee meetings. The Chair explained the rulemaking process to the Committee, and stated that getting the input of other members and stakeholders is very important to vetting and scrubbing a rule. The Chair then discussed the Committee's timeline and deadlines in order for the Board of Governors to get materials to the Supreme Court by their annual deadline. She said the Committee needs to be active in seeking input and responses from the Stakeholders. This process will polish the language of the rules, making sure the language is good and the intention is clear.

Ms. Turner stated the Committee abides by the rule "if it's not broken, we do not fix it", and if a Subcommittee considers an issue but either the Subcommittee or the main Committee determines that there is no problem to be fixed, we don't try to fix it.

Ms. Turner explained the new reimbursement policy – if you travel more than 50 miles one-way to attend a meeting, you will be reimbursed, and if you don't travel 50 miles, the WSBA will only pay travel expenses if the meeting is scheduled for more than 3 hours. Ms. Turner also said that if it's easier to attend the meetings via phone to please do so and if not, please attend in person. Ms. Turner expressed that this is a very active and important Committee – to the Board of Governors (BOG) and the membership as whole.

Mr. Masters (BOG Liaison and former Committee chair) expressed that this Committee is very valuable to the Bar Association and the State of Washington. He explained that BOG protected this Committee and acknowledges how important the Committee is, and that it is understood that this Committee requires a great deal of in-person work, and encouraged people to attend the meetings in person if it is at all possible to do so.

The Chair explained the list of the meeting dates and noted that the November 12, 2012, meeting is set on a holiday and is a phone conference. The meeting could be canceled but we are holding it on the schedule for now.

Minutes: The June 2012 minutes were approved by consensus with no changes or corrections.

Old Business: Ms. Turner reviewed the proposals which the Committee had submitted to the WSBA Board of Governors last year and the status of those proposals, and stated that everything the Committee proposed was approved for submission to the Court. Ms. Turner stated that assuming everything is published for comment, the Committee should not have to deal with too many comments due to this Committee being very good at vetting and scrubbing a rule before it is brought forward.

Ms. Turner then explained how the rules cycle works. The rules cycle is established by the State Supreme Court pursuant to GR 9. Once the Committee approves a proposed rule or amendment, it will submit their recommendation to the WSBA Board of Governors; the Board of Governors in turn either approves the rule for submission to the

Supreme Court, denies it, or sends it back to the Committee for more work. Every rule has to be approved by the Committee; even if an individual proposes a rule, only the Committee can approve the rule. And everything the Committee does must be approved by the BOG; the Committee cannot and does not send things directly to the Court. The process of proposing and submitting rules to the Supreme Court is a very long process.

The Committee receives many proposed rules from a lot of sources. In addition, if a proposed rule change is submitted directly to the Court and it is not from this Committee, the Court will oftentimes send the proposed rule to the Committee for review and comment. If the proposal is not in the rules cycle schedule, it generally goes to Subcommittee X.

The Board of Governors takes the rules process very seriously and needs time to discuss proposed rules. This is known as First Read, and generally takes place one BOG meeting before the actual vote on the Committee's proposals. Ms. Turner explained that the Committee's proposals are due to the BOG in June and July; this does not allow the Committee a lot of time to review the proposed rules. Committee meetings are scheduled before the Board of Governors meetings and that the Subcommittees need to be meeting in between those meetings to complete their work. Ms. Turner said April, May, June and July are especially critical meetings because most of the Committee's work is voted on during those meetings.

The Chair said a lot of the editing is done in the Subcommittees. The Committee, as a whole, will make any corrections, if needed, but tries to avoid drafting in Committee.

Mr. Masters expressed that the Board of Governors believes that this Committee for the past 10 years is perhaps the hardest working committee at the Bar Association, and this is an incredibly strong committee. Last year, the BOG unanimously passed CR 34, which was a remarkable achievement given the approximately 7 years' work involved in getting this rule proposal approved. Mr. Masters said the BOG has very good and open-minded members and is looking forward to hear from this Committee.

Ms. Turner reported that last session the Supreme Court ordered the Revised Family Law Civil Rules proposed by the Local Rules Task Force to be published for comments and the deadline for comments is April 30, 2013. After the deadline, we anticipate that the Supreme Court will then ask the WSBA to respond to comments, which may involve this Committee. The proposed FLCR started off with 5 pages and now are approximately 85 pages.

New Business: Mr. Runyan inquired about the lack of a CR subcommittee; Ms. Turner explained that Subcommittee X will take over both the items carried over from last year's agenda and any new proposals if any CR changes are brought forth. Subcommittee X is responsible for any rule that is not covered by any other Committees.

Mr. Masters suggested the Committee not hesitate to utilize Ms. Turner due to her phenomenal wealth of knowledge, and stated the Committee is in good hands with Ms. Evans at the helm. The Chair closed by requesting that the subcommittees meet after the full committee meeting adjourned.

Meeting Adjourned at 10:30.