

MINUTES OF THE MEETING OF THE WISCONSIN JUDICIAL COUNCIL  
MADISON, WISCONSIN  
June 19, 2009

The Judicial Council met at 9:30 a.m. in the Assembly Parlor, Room 2 West, State Capitol, Madison, Wisconsin.

**MEMBERS PRESENT:** Chair Marla J. Stephens, Honorable Ann Walsh Bradley, Michael R. Christopher, Honorable Patricia S. Curley, Honorable George S. Curry, William C. Gleisner, Professor Jay Grenig, Catherine A. La Fleur, Honorable Edward E. Leineweber, Robert L. McCracken, Stephen R. Miller, Kathleen A. Pakes, Professor David E. Schultz, Honorable Mary K. Wagner, Greg M. Weber, Honorable Maxine A. White.

**MEMBERS EXCUSED:** Vice-Chair Beth E. Hanan, Allan M. Foeckler, Representative Gary Hebl, Senator Lena Taylor, A. John Voelker.

**OTHERS PRESENT:** Chief Justice Shirley Abrahamson; Judge Earl Schmidt; Justice David Prosser; Judge Raymond Gieringer; Gwen Wortock; April M. Southwick, Judicial Council Attorney; Tom Bertz, State Bar of Wisconsin; Eric Peterson, Chief of Staff for Senator Taylor; Kate Battiato, Office of Representative Hebl; Nancy Rottier, State Courts Legislative Liaison; Robin Ryan, Legislative Reference Bureau.

**I. Call to Order and Roll Call**

Chair Stephens called the business portion of the meeting to order at 10:20 a.m. All guests and council members were introduced and asked to make a few remarks. Plaques of appreciation were presented to Council members McCracken and Gleisner, whose council terms have come to an end. Chair Stephens summarized the Council's many successfully completed projects over the past year, and recognized the volunteers who contributed to each project.

**II. Approval of May 15, 2009 Minutes**

Council member Schultz requested that a description of the Institute for the Advancement of the American Legal System, an explanation of the proposed pilot project, and clarification that the Council is still discussing whether to take any action on this matter be added to item IV. The minutes were approved by consensus with the requested addition.

**III. Approval of 2009-2010 Meeting Dates**

The following 2009-2010 meeting dates were approved by consensus:

Friday, September 18, 2009  
Friday, October 16, 2009  
Friday, November 20, 2009  
Friday, December 18, 2009

Friday, January 15, 2010  
Friday, February 19, 2010  
Friday, March 19, 2010  
Friday, April 16, 2010  
Friday, May 21, 2010  
Friday, June 18, 2010

#### **IV. Nominations and Election of 2009-10 Chair and Vice Chair**

Council member Christopher reported on behalf of the nominating committee consisting of Council members White, Leineweber and Christopher. The committee nominated Marla Stephens to continue as chair and Beth Hanan to continue as vice-chair of the Council.

**MOTION:** Council member Weber moved, seconded by Council member La Fleur, to adopt the recommendation and appoint Marla Stephens as the chair and Beth Hanan as the vice-chair of the Judicial Council for the 2009-2010 Council year. Motion unanimously approved.

#### **V. Discussion and/or Action Regarding Publication of Legal Notices**

At the last meeting, the Council discussed a letter received by Vice-Chair Hanan from Attorney Heuer regarding his concern about impending newspaper bankruptcies and the publication of legal notices in official newspapers. The Council concluded that this topic is not appropriate for Council action at this time, and requested that Vice-Chair Hanan draft a response to Attorney Heuer. The Council also asked Attorney Southwick to conduct research regarding actions, if any, that other states have taken to address alternative methods of publication and notice. Attorney Southwick reported that several states are currently considering legislation to allow notice via the internet as opposed to print newspapers; however, it appears to be motivated by cost savings and not as a result of newspaper bankruptcies. The Council agreed by consensus to continue to monitor this issue.

#### **VI. Committee Reports**

##### **A. Appellate Procedure**

Chair Stephens reported that the Appellate Procedure Committee drafting workgroup (consisting of Greg Weber, Peg Carlson, Meredith Ross and Chair Stephens) has their final meeting scheduled for July 13, and hope to complete the draft so that it can be reviewed by the full committee over the summer. She asked that the full committee be prepared to meet to discuss it following the September Judicial Council meeting.

##### **B. Criminal Procedure**

Committee chair Schultz reported that since the last meeting, the Legislative Reference Bureau (LRB) completed Chapter 968. He provided a brief summary of the history of the criminal procedure amendment project, explaining that the initial draft was approved by the Council in December 1999. It took several years for the LRB to get the amended chapters into bill form, and they were returned to the Council with many drafting questions. The Criminal Procedure Committee reviewed and responded to those questions. In June 2008, Committee chair Schultz provided the committee's responses to the LRB. Currently, 5 of the 7 chapters have been completed by the LRB and returned to the committee. A subcommittee, consisting of Council members Schultz, Weber, Pakes, and Chair Stephens will respond to some additional notes and questions from the LRB, and then the full Council will be asked to decide how to proceed with the proposed amendments.

### **C. Evidence and Civil Procedure**

Committee chair Leineweber reported that the committee is doing some additional research into the small claims issue. They are also moving forward with the issues contained in the work plan for the review of the rules of evidence.

## **VIII. Other Business**

### **A. PPAC Liaison's Report**

There was no PPAC Report.

### **B. Council Attorney's Report**

Attorney Southwick reported that the Institute for the Advancement of the American Legal System (IAALS) has not completed the draft of proposed rules for the pilot project. They anticipate completion of the draft rules in July, and expect to complete a measurement protocol in August. The measurement protocol will help states collect baseline measurements, as well as data after rule implementation. Attorney Southwick will provide the Council with copies of the drafts, and will place this item on the agenda for further discussion at the September meeting.

Chair Stephens added that Attorney Southwick testified at the Senate Judiciary Committee hearing regarding SB 66 and its provision requiring that the Judicial Council draft statewide OWI sentencing guidelines. Attorney Southwick also prepared a fiscal estimate.

## **IX. Adjournment**

Chair Stephens reminded council members that June 30 is the end of the fiscal year, and asked all members to submit their travel expense reimbursement requests promptly. She also asked that members submit reimbursement requests at least quarterly to aid in Attorney Southwick's preparation of the Council's budget.

Council member Weber requested that adoption of rules of parliamentary procedure be placed on the Council's September agenda for further discussion.

The Council adjourned by consensus at 11:40 a.m.