

**Board for Judicial Administration  
Meeting Minutes**

**September 18, 2009  
Red Lion Hotel  
SeaTac, Washington**

**Members Present:** Chief Justice Gerry L. Alexander, Chair; Judge Michael Lambo, Member-Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge Stephen E. Brown; Judge Ronald Culpepper; Judge Susan Dubuisson, Judge Tari Eitzen; Judge Deborah Fleck; Mr. Jeff Hall; Mr. Mark Johnson (by phone); Ms. Paula Littlewood; Justice Barbara Madsen; Judge Glenn Phillips; Judge Christine Quinn-Brintnall, Judge Stephen Warning; and Judge Chris Wickham

**Guests Present:** Ms. Marti Maxwell, Mr. Joe McGuire, and Ms. Sharon Paradis

**Staff Present:** Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, Mr. Ramsey Radwan, and Mr. Chris Ruhl

Chief Justice Alexander called the meeting to order.

June 19, 2009 Meeting Minutes

**It was moved by Judge Applewick and seconded by Judge Dubuisson to approve the June 19, 2009 meeting minutes. The motion carried.**

Reappointment to the BJA Court Security Committee

The Board for Judicial Administration (BJA) received a request from the District and Municipal Court Management Association (DMCMA) to reappoint Ms. Suzanne Elsner to the BJA Court Security Committee.

The BJA also received a letter from the Superior Court Judges' Association (SCJA) requesting that Judge John Lohrmann be appointed to the Court Security Committee.

**It was moved by Judge Phillips and seconded by Judge Baker to reappoint Ms. Suzanne Elsner and appoint Judge John Lohrmann to the BJA Court Security Committee. The motion carried.**

Statutory Construction Taskforce

Judge Eitzen reported that Senator Adam Kline stated he would like a superior court judge to participate on a pre-session statutory construction workgroup. Senator Kline will sponsor a statute this session to create the workgroup and he wants to get a head start on the work. Judge Eitzen thinks judicial participation is a way to remind the

Legislature not to enact statutory rules that might impinge upon the judicial branch of government and judicial discretion. On the other hand, participating might indicate the judicial branch's willingness to be "impinged upon." She is concerned about if and when the workgroup may be impinging on the domain of the judicial branch (interpretation, as opposed to definitions, being reserved for the courts).

Judge Eitzen discussed Senator Kline's request with the SCJA Board of Trustees and Judge Salvatore Cozza indicated an interest in participating on the Taskforce. Some of the SCJA Board of Trustees are concerned about separation of powers issues. Judge Eitzen would like guidance from the BJA on whether the SCJA should participate or not.

There was consensus that judicial representatives should be at the table and they should feel comfortable expressing the view that the Legislature is encroaching on separation of powers issues. It was suggested that a representative from the District and Municipal Court Judges' Association (DMCJA) be included. It is also a possibility that this can be covered by a rule. Justice Charles Johnson will represent the Supreme Court. The first meeting is scheduled for September 30 at the Temple of Justice. Judge Wickham will attend for the SCJA but he would like some direction on the issue.

#### Conference of Chief Justices/Conference of State Court Administrators Resolutions

Chief Justice Alexander and Mr. Hall attended the Conference of Chief Justices and Conference of State Court Administrators conference in August. A number of resolutions were approved during the conference and they fall into two categories: resolutions geared toward congressional issues, and general principle statements. No BJA action is required, Mr. Hall just wants the BJA to be aware of them.

#### BJA Budget Reductions

Ms. McAleenan reported that the BJA budget was reduced for the current biennium. Both of the presiding judges' conferences have been eliminated along with Trial Court Coordinating Grants. The Trial Court Coordinating program will continue but it will not be funded and no grants will be provided.

The Court Independence Response Team and the Domestic Relations Committee are now unfunded but have not been active in several years. Ms. McAleenan would like guidance from the BJA on whether to decommission both committees or let them remain dormant.

**Judge Dubuisson moved and Judge Quinn-Brintnall seconded that the Court Independence Response Team and the Domestic Relations Committee be eliminated. The motion carried.**

### State Budget Update

Mr. Radwan stated that the Economic Forecast Council released their latest state budget forecast yesterday and a handout was distributed with forecast information. Governor Gregoire took steps in July to further reduce executive branch agency budgets. Judicial branch agencies will most likely have to cut about 2% from their budgets in the near future.

There was a legislative hearing with the House Appropriations Committee on Wednesday to update the Legislature on the state judicial branch budget reductions. They asked Mr. Hall how the judicial branch would accommodate the Governor's recent expenditure reduction request and Mr. Hall replied that it only applied to executive branch agencies and the committee chair acknowledged that the Governor's actions do not apply to the judicial branch and the committee members were very accepting of that.

The Administrative Office of the Courts (AOC) is currently working on the supplemental budget process.

### Superior Court Budget Reduction Survey

Mr. Hall reported that the Superior Court Budget Reduction Survey reflects budget reductions superior courts have taken to date. The 2010 estimated reduction is the target number courts have been given for their budgets. Most interesting is the list of ways the reductions were applied in the courts—mostly staff reductions, furloughs, and salary reductions.

The reduction information is being provided to the BJA because oftentimes it is helpful to see what other courts are doing regarding reductions. Also, the National Center for State Courts has an online chart showing reductions taken in each state that might be helpful to Washington courts.

AOC received a request to survey courts of limited jurisdiction and AOC will go forward with that survey in the near future. During the BJA meeting, a request was made to also survey juvenile courts.

### Cowlitz County Superior Court Funding Report

Cowlitz County Superior Court asked AOC to assist them in determining an adequate level of court funding in Cowlitz County. The funding report was included in the meeting materials.

Judge Warning thanked Mr. Hall, Mr. Marler and the other AOC staff involved for quantifying the concept of adequate funding. The Cowlitz County Superior Court judges are hoping the county commissioners will be open to the report.

### BJA Dues

Ms. McAleenan reported that the fund balance in the private BJA account has ranged from \$15,000 to \$30,000 in the past. It is now down to just over \$9,000. It is time to discuss if BJA dues should be collected. The existing funds are insufficient for legislative dinners during the next long legislative session.

**Judge Fleck moved and Judge Phillips seconded to collect BJA dues at the same level as previously assessed in 2006-2007. The motion carried.**

### Regional Courts

Ms. McAleenan said the bill related to regional courts that was drafted last year is based on a carrot approach. Given the realities of the current fiscal situation, the money necessary for that approach does not exist. Ms. McAleenan just wanted to bring this issue back for a discussion of how the BJA would like to proceed. No action is required unless the BJA would like something specific done at this point in time.

After discussion, there was consensus from the BJA members that we should keep this on the back burner and remaining on the table for a better economic climate.

### Development of Filing Fee Workgroup

Ms. McAleenan stated that in the Court Funding Task Force Report, on page 15, there is a recommendation stating that the BJA should seek legislation to report annually to the Supreme Court and the BJA recommending updates to fees based on inflation. This has not been done in the past, and Ms. McAleenan thought it was timely that an inflationary review be undertaken. The meeting packet contains fee amounts from the past and what inflation would do to the fees at set intervals.

Ms. McAleenan is looking for a nod from the BJA to develop a Filing Fee Workgroup to discuss this issue and bring a recommendation back to the BJA in October.

It was determined that Chief Justice Alexander and Judge Lambo will appoint the Workgroup members. Ms. Maxwell would like to serve and Judges Eitzen, Phillips, and Appelwick, along with the Bar will make recommendations for Workgroup members.

### Trial Court Coordination Final Report Summary

The Trial Court Coordination funding has been eliminated due to budget reductions and the final report was distributed in the meeting materials.

## WSBA

This is Mr. Johnson's last BJA meeting and he thanked the BJA members for all the work they have accomplished. He stated that it has been an honor to work with the BJA this year.

Chief Justice Alexander expressed his thanks to Mr. Johnson for the work he has done as President of the Washington State Bar Association (WSBA). Washington has been blessed with a great string of WSBA Presidents and Governors and the fact that Mr. Johnson has been involved in the BJA is appreciated.

Ms. Littlewood reported that the Web site MyWSBA is a new one-stop shop for Bar members. Members can change their contact information, pay license fees, and manage CLEs. Judicial status members will be able to utilize select portions of the new Web site.

Next week is the WSBA Annual Dinner and Board meeting. During the dinner they will present the 2009 Outstanding Judge Award to Judge Lesley Allan, the 2009 Award of Merit to Judge Fleck, and the Lifetime Service Award to Judge Robert Harris. The Bar will also swear in the new Bar President Sal Mungia along with the other new officers and governors.

At their Board of Governors meeting next week they will adopt the budget. Included in the budget is funding to overhaul the WSBA Web site. \$200,000 is being allocated to launch a statewide moderate means program in which lawyers agree to take cases for a reduced fee. In addition to their budget, the meeting will include:

- The Court Rules Committee will report on the rules they have been reviewing—one is regarding electronically stored information.
- The Discipline Review Committee will present their final report.
- The Professionalism Outreach Initiative will be discussed. The Bar has been talking with law school deans regarding Bar volunteers and staff using one law school class period to talk about professionalism. The law schools have been very receptive.
- President-Elect Mungia's Mentor Program will be discussed.

The Home Foreclosure Legal Aid Project has just under 400 attorney volunteers participating in the program.

### Reports from the Courts

**Supreme Court:** Chief Justice Alexander reported that the Supreme Court tabled the legal technician rule change for a year. The rule change would result in substantial costs and it would be difficult for attorneys. The Supreme Court will take this up again in June 2010.

Justice Madsen reported that Tim Fuller, the Reporter of Decisions, is retiring October 9. The Supreme Court is currently interviewing for the position.

The Supreme Court authorized the Washington Pattern Jury Instructions Committee (WPIC) to use its royalties to fund additional staff.

The Supreme Court is beginning a long-range plan for the Supreme Court.

The Supreme Court will be traveling to Port Angeles in October to hold court at Peninsula College.

**Court of Appeals:** Judge Appelwick reported that the Court of Appeals judges are trying to get the work done with their current resources. All three divisions are using videoconferencing and have been able to cut some travel costs.

Judge John Schultheis is retiring at the end of the year.

**Superior Courts:** Judge Eitzen stated that the SCJA has their first Legislative Committee meeting immediately following this meeting. The SCJA arrived at some policies and positions for this coming legislative session and some positions they might take in 2011 such as recognition of the importance of commitment to speaking with one voice with the BJA; not seeking increased funding for 2010; and examining the issue of increased filing fees for 2011.

**Courts of Limited Jurisdiction:** Judge Phillips reported that the DMCJA is currently exploring with the SCJA which juvenile cases would more appropriately and beneficially be heard in juvenile courts. Once an agreement on this refinement of jurisdiction is reached, the DMCJA and SCJA will be asking the BJA to sponsor legislation next year.

The DMCJA will be co-sponsoring a courts of limited jurisdiction pro tem training CLE with the WSBA. The co-sponsorship agreement has been finalized and classes are scheduled to be held in Spokane and Seattle next spring.

### Association Reports

**Association of Washington Superior Court Administrators (AWSCA):** Ms. Maxwell thanked the AOC, especially Ms. Sondra Hahn, for her help with the Superior Court

Budget Reduction survey. Another survey will be distributed at the first of the year. The superior court administrators are really watching the budget numbers and trying to help each other become creative.

**District and Municipal Court Management Association (DMCMA):** Mr. McGuire reported that the DMCMA is distressed about not having training dollars. They are not sure what they will do about training in the future.

The DMCMA held a Board meeting two weeks ago in Ellensburg to get more participation from courts in Eastern Washington.

King County courts have been discussing potential flooding issues and are making plans in case flooding occurs this winter.

**Washington Association of Juvenile Court Administrators (WAJCA):** Ms. Paradis reported the WAJCA completed their fall conference. During the conference, there was significant discussion about the budget proviso language regarding block grants and amendment to the funding distribution formula.

The WAJCA has been informed by the Juvenile Rehabilitation Administration (JRA) that the 2% budget reduction imposed by the Governor will impact juvenile courts but not until the last 18 months of the biennium.

#### Administrative Office of the Courts

Mr. Marler reported that there have been problems getting court employees to judicial education programs in this economy. AOC staff are using technology—online, interactive, web-based programs—to educate court staff in the current economy.