

CIVIL LITIGATION RULES DRAFTING TASK FORCE

Meeting Minutes
February 22, 2018

Members Present:

Chair Ken Masters, Stephanie Bloomfield (by phone), Jeffrey Damasiewicz (by phone), Nick Gellert (by phone), Hozaifa Cassubhai (by phone), Rebecca Glasgow (by phone), Ruth Gordon (by phone), Kim Gunning (by phone), Hillary Evans Graber (by phone), Caryn Jorgensen (by phone), Brad Smith (by phone), Shannon Kilpatrick (by phone), Averil Rothrock (by phone), Michael Subit, Roger Wynne, Judge John Ruhl, Judge Brad Maxa (by phone) and Judge Paula McCandlis.

Members Excused or Not Attending:

Jane Morrow, Judge Rebecca Robertson, Judge Aimee Maurer

Also Attending:

Kevin Bank (WSBA Assistant General Counsel)

Chair Ken Masters called the meeting to order at 9:30 a.m.

Minutes

The January minutes were approved by consensus with one minor change.

Subcommittee Reports

Initial Case Schedules

Chair Roger Wynne presented the subcommittee's latest draft, which included a chart that sets out the deadlines in a chart format. He explained that the purpose of the proposed case schedule rule is to set a minimum state-wide requirement. Individual counties may choose to add additional elements, such as confirmation of joinder, by local rule or otherwise.

The subcommittee recommends using weeks rather than days for counting down the 1 year timeline to the trial date, and how non-court days should be handled. The Task Force discussed whether the rule should refer to CR 6, or alternatively, whether it should be silent regarding non-court days. A majority of the Task Force favored addressing the issue in the rule.

Mr. Wynne stated that the subcommittee is still working on the list of exceptions.

Chair Ken Masters noted that the rule was close to being ready for vetting and stakeholder input.

Initial Disclosures

Judge McCandlis presented the subcommittee's latest draft. She stated that the subcommittee was fine-tuning at this point. There was a discussion as to whether a cooperation requirement should remain in the rule given that the Task Force will be proposing a general cooperation rule in CR 1. The Task Force felt strongly that the cooperation requirement should remain.

There was also discussion as to whether the proposed CR 26(1)(b) requiring early disclosure of documents and other relevant evidence will result in an increase in motion to exclude evidence in situations where the evidence was not initially disclosed, but the late disclosure is not the party's fault. Judge McCandlis stated the subcommittee's research into similar rules in other states was mixed – some states reported increased cooperation while others did report an increase in motion practice.

Early Discovery Conferences

Judge John Ruhl stated that this subcommittee had not been able to meet but will be doing so shortly.

Mediation

Chair Averil Rothrock reported that the subcommittee has already done some vetting of the proposed mediation rule. The proposal was sent to stakeholders in late 2017 and set January 31, 2018 as a deadline for comments. The subcommittee is still reviewing the comments.

General Matters

The Task Force and staff liaison reviewed the timeline for submitting the Task Force's report to the BOG. Chair Masters indicated that the Task Force should still aim for the May 18, 2018 BOG meeting deadline for a first reading, and that stakeholder vetting should begin as soon as possible.