

MINUTES OF THE MEETING OF THE JUDICIAL COUNCIL
MADISON, WISCONSIN
December 14, 2007

The Judicial Council met at 9:30 a.m., Room 328 NW, State Capitol, Madison, Wisconsin.

MEMBERS PRESENT: Marla J. Stephens, Chair; Michael R. Christopher; Kathleen Grant; Beth E. Hanan, Vice-Chair; Catherine A. LeFleur; Honorable Edward E. Leineweber; Bruce Munson; Kathleen A. Pakes; A. John Voelker; Honorable Mary K. Wagner; Greg M. Weber.

MEMBERS EXCUSED: Honorable Ann Walsh Bradley; Allan M. Foeckler; Honorable Michael Gableman; Professor Jay Grenig; Representative Bill Kramer; Robert L. McCracken; Professor David E. Schultz; Senator Lena Taylor; Honorable Ted E. Wedemeyer, Jr.; Honorable Maxine White.

OTHERS PRESENT: Marilyn Parks; Eric Peterson.

I. Call to Order

Due to no quorum at 9:30 a.m., after introducing guests Eric Peterson—a member of Senator Taylor’s staff, and Marilyn Parks—serving as today’s recorder, Chair Stephens directed the Council’s attention to the following agenda items that did not require a vote, in this order: **VI.** (Committee Reports), **IV.** (National Center for State Courts Study), and **III.** (Hiring and Transition Report). After a quorum was reached, Chair Stephens directed the Council’s attention to Agenda items **II.** (Approval of Minutes) and **V.** (Discussion of Citation to Unpublished Opinions) as well as **VII.** (Other business).

VI. Committee Reports

A. Appellate Procedure

Committee co-chair Stephens reported that she attended the final meeting of the UW Law School Remington Center Advisory Committee on Presentence Investigation Reports on December 5. They will prepare a summary of their comments on the Council committee’s draft of changes to pre-sentence investigation report procedures for the Council committee to review at their meeting on January 18th here in the State Capitol.

Chair Stephens also reported that she received a memo from Eric Peterson indicating that Senator Taylor’s legislation request regarding the three remaining items contained in the Council’s Rule Change Petition 00-02 is moving along. Mr. Peterson will be making contacts and trying to lineup sponsorship and support.

The next meeting of the Committee will be January 18, 2008 after the Council meeting.

B. Criminal Procedure

No report due to illness of Professor Schultz.

C. Evidence and Civil Procedure

Judge Leineweber reported that the Committee is accumulating information on electronic discovery, including names from whom the Committee can get input. He was pleased to report that the Committee itself has a tremendous resource in Professor Grenig who is not here today due to his attendance at a conference on this subject in San Francisco. The Committee will meet briefly today.

D. Strategic Plan

Chair Stephens requested that Judge Leineweber combine his report on the Strategic Plan Committee and **Agenda Item IV**. National Center for State Courts Study. Judge Leineweber reported that he has received the first draft report of the Judicial Council study from the National Center for State Courts. He hopes to get the final report sometime in January. The next meeting of the Strategic Plan Committee is January 18th. The agenda will be the consideration of the NCSC report.

III. Hiring and Transition Report

Chair Stephens reported that the final job announcement and ad for the Council staff attorney position is completed. We are grateful that Margaret Brady, who is the human resources officer for the State Courts Office, is handling the task of that recruitment for the Council. The final ad will be sent out January 1, 2008. It will appear in the *Wisconsin Lawyer* online in January, and both online and in the magazine in February. The ad will appear in the Wisconsin State Journal and the Wisconsin Law Journal; we will send it electronically to all local and specialty bar associations and to the recruiting offices in the state law schools; and, finally, it will be posted on Wisc.jobs.

She also looked at some space on the eighth floor of the Tenney Building with Dave Korenic, who is also from the State Courts office. The space is very close to the staff of A. John Voelker, very close to the Judicial Commission office, and very close to the Clerk's office, which would make it an ideal location for the Council staff attorney. Chair Stephens has signed a space request that Korenic prepared and it has been sent to the Department of Administration. Korenic also prepared several designs for the build-out of the space. She is working with Pam Radloff, also in the State Courts office, to cost and purchase other items that the staff attorney will need. Progress is being made and Chair Stephens thanked A. John Voelker and his staff for taking the lead.

Regarding the hiring work group, Chair Stephens reported that she has had great contributions from Professor Grenig, Kathleen Pakes, and Michael Christopher on draft interview questions, and a group of people have indicated their willingness to screen the applicants, so we are in good shape to interview. There is no hire deadline. The position will be open until it is filled. The hiring work group will not meet today.

[A quorum now present.]

II. Approval of Minutes

MOTION: Beth Hanan moved, seconded by Kathleen Grant to approve the minutes of the November 16, 2007 meeting.

Motion passed unanimously.

V. Discussion of Citation to Unpublished Opinions

At the November meeting, the Council agreed to petition the Supreme Court to make a change to Section 809.23 (3) to allow citation of unpublished opinions. Vice-chair Beth Hanan distributed a draft "Petition of Judicial Council for an Order Amending Rule 809.23" at today's meeting (copy attached) and led the discussion. She gave a line-by line overview of the draft. Discussion and questions followed, resulting in changes to and approval of the draft. It will be revised and signed by Chair Stephens.

MOTION: Kathleen Grant moved, seconded by Greg Weber, to approve the filing of the Council's revised Petition for an order amending Rule 809.23.

Motion passed unanimously.

VII. Other Business

Chair Stephens recognized Bruce Munson, the Revisor of Statutes, who was present today for his last Council meeting. She said that the Council was not only going to miss him around this table, but in the work we do every day as lawyers and judges. Mr. Munson distributed to the Council a revised Chapter 758 (showing the changes to s. 758.13 governing the Judicial Council) and said that it had been a great honor and a real privilege to work with such professionals on so many worthy projects. He sees a new dawn for the Council with the Council's restoration and he thinks it is a good thing to have his successor, the director of the Legislative Reference Bureau, as part of the membership. He will miss everyone a lot and wishes the Council the best.

Judge Leineweber suggested an article on the restoration of the Judicial Council for the *Wisconsin Lawyer*. Chair Stephens thanked Judge Leineweber for preparing an article that appeared in 'The Third Branch.'

VIII. Adjournment

The Council adjourned by consensus at 11:10 a.m.