

**ARIZONA JUDICIAL COUNCIL**

Arizona State Courts Building  
1501 W. Washington, Suite 119  
Phoenix, AZ 85007

October 25, 2012

Meeting Minutes

**Council Members Present:**

Chief Justice Rebecca White Berch	Emily Johnston
Jim Bruner	Gary Krcmarik
David Byers	Judge David Mackey
Judge Peter Cahill	William J. Mangold, M.D., J.D.
Amelia Craig Cramer	Judge Robert Carter Olson
Judge Norman Davis	Janet K. Regner
Judge Pete Eckerstrom ( <i>proxy for Judge Howard</i> )	Judge Antonio Riojas, Jr.
Athia Hardt	Judge Sally Simmons
Mike Hellon	Judge Roxanne Song Ong
Michael Jeanes	George Weisz
Judge Diane Johnsen ( <i>proxy for Judge Winthrop</i> )	Judge David Widmaier

**Council Members Absent:**

Jose A. Cardenas, Esq.	Yvonne R. Hunter
Judge Rachel Torres Carrillo	

**Administrative Office of the Courts (AOC) Staff Present:**

Alden Anderson	Alicia Moffatt
Mike Baumstark	Nina Preston
Chad Campbell	Jeff Schrade
Karl Heckart	Lorraine Smith
Paul Julien	Nancy Swetnam
Jerry Landau	Cindy Trimble
Jennifer Liewer	Kathy Waters
Amy Love	David Withey

**Presenters and Guests Present:**

Justice Scott Bales	John Phelps
Elaine Carro	Darren Richardson
Pete Dunn	Jodi Rogers
Elizabeth Evans	Richard Woods
Star Felty	

Chief Justice Rebecca White Berch, Chair, called the meeting to order at 9:30 a.m. at the State Courts Building, 1501 W. Washington, Suite 119, Phoenix, Arizona. The Chair welcomed those in attendance. She announced that the Governor selected Judge Ann A. Scott Timmer from the Court of Appeals as the new justice for the Arizona Supreme Court. The Chair noted that Judge Timmer was nominated and won the National Treat award which is awarded to people who participate in programs to improve probate processes. The Chair reported on the judicial attack on the ballot and encouraged members to ask people they know to view the Judicial Performance Review (JPR) website ([www.azjudges.info](http://www.azjudges.info)), read the results, and make up their own minds when voting for judges standing for retention.

### **Approval of Minutes**

The Chair called for any omissions or corrections to the minutes from the June 18, 2012, meeting of the Arizona Judicial Council. There were none.

**MOTION: To approve the minutes from the June 18, 2012, meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2012-14.

The Chair called for any omissions or corrections to the minutes from the August 6, 2012, special meeting of the Arizona Judicial Council. There were none.

**MOTION: To approve the minutes from the August 6, 2012, special meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2012-15.

### **Approval of 2012 Meeting Dates**

The Chair called for any changes to the proposed meeting dates for 2013: Thursday, March 28; Monday, June 24; Thursday, October 24; and Thursday, December 5. There were no changes.

**MOTION: To approve the proposed meeting dates for the year 2013, as presented.** Motion was seconded and passed. AJC 2012-16.

### **Strategic Agenda and Other Initiatives Update**

The Chair updated Council members on the following initiatives:

Uniform Bar Exam (UBE) – The first UBE was administered in July to 692 applicants and the pass rates were consistent with performance for non-UBE exams. Since then, four jurisdictions announced they will begin UBE in 2013. Currently, UBE is administered in Alabama, Arizona, Colorado, Idaho, Missouri, and North Dakota.

Evidence Based Practices (EBP) in Probation - EBP continues to make progress in the re-engineering of the adult and juvenile probation systems using evidenced-based

supervision techniques. Arizona has seen a 39 percent reduction in return offenders and a 42 percent reduction in new felonies committed by probationers.

Other long-term projects completed: Safe Communities Act Report was made and the Limited Jurisdiction Rules of Procedure were passed by the Supreme Court. Judges are currently being trained.

Juvenile Justice System Improvement Project (JJSIP) – The project is designed to reduce crime and delinquency and improve positive outcomes for juvenile offenders by using “what works” into everyday practices. Georgetown University announced the launch of the project and selected Arizona as one of the four states to participate in this new initiative.

Technology - E-filing was implemented in the appellate courts earlier this year, and as the AOC continues to digitize court documents and move forward, more tools will be developed for judges.

National Time Standards - The Council will launch a new committee to look at the National Center for State Courts National Time Standards. The committee, chaired by Justice Robert Brutinel, will look at how Arizona measures up.

Pre-Trial Release – Vice Chief Justice Bales will be working on a project regarding the use of non-monetary release options instead of a cash bond for people held in pre-trial release who cannot pay the bond. In addition, Justice Bales will serve as the Access to Justice liaison for the Court.

### **Probate Initiatives Update**

Ms. Nancy Swetnam, Senior Special Projects Consultant for the Court Services Division of the AOC, provided an update on probate initiatives and an overview of the probate website to include forms, training materials, and fee guidelines. She reported that work is underway for a probate bench book, and training for judges is ongoing.

### **Guardian Review Program**

Ms. Star Felty, Guardian Review Program Volunteer Coordinator for the Superior Court in Maricopa County, provided general information on the Guardian Review Program. She reported on the new website, developing community relationships, and success in recruiting for the program. Ms. Felty noted they currently have 20 active, diverse volunteers, and the program is growing, with 26 cases distributed this month. She stated that they hope to build a successful and useful program.

### **Automation Update**

Mr. Karl Heckart, Chief Information Officer for the AOC, provided an automation update on strategic projects to include timelines, critical areas, impacts, and next steps regarding

eCourt, eFiling, eAccess, and eBench (AiSmartBench), a highly configurable judge information portal.

Discussion took place regarding eAccess and charges for data. Judge Riojas asked if neighborhood associations, quasi public agencies, and non-profits were considered in terms of what they would be charged. A question was asked if the media will pay. It was noted that they pay now; although documents at the courthouse are free to look at, there is a .50 cents per page fee to print them. Mr. Michael Jeanes asked about customers needing e-certification, and if there are changes needed to statutes. AOC Legal staff will check statutes regarding the certified document issue to determine if any legislation is needed. Ms. Janet Regner asked about citizens who live far from the courthouse (extreme rural areas) and their access and costs for additional data requests. Dave Byers noted that rates and other details will need to be developed and approved. Michael Jeanes noted there is no charge for access if you are party to a case.

### **Judicial Branch Legislative Package**

Mr. Jerry Landau, Director of Governmental Affairs, and Ms. Amy Love, Legislative Liaison, for the AOC, presented the legislative proposals for the Council's consideration. Mr. Landau reported on what is currently going on at the Legislature and the major issues coming up to include retirement, health care, and the budget. Council members were asked to vote to determine whether to include each proposal in its legislative package.

#### *2013-01: Post Conviction Relief (Maricopa County Superior Court)*

Discussion: Mr. Landau noted the proposal was supported by both the Committee on Superior Court and the Superior Court Presiding Judges. Discussion took place regarding the word designee and who is qualified to be a designee and what would be the qualifications. The Chair asked that Judge Davis work with legislative staff to provide some guidance in this area.

**MOTION: To support 2013-01: Post Conviction Relief, as presented.**

Motion was seconded and passed. AJC 2012-17.

#### *2013-04: Probate Omnibus (Administrative Office of the Courts)*

Discussion: Mr. Landau noted the proposal was supported by the Superior Court Presiding Judges, but legislative staff was encouraged not to spend a lot of political capital on it.

**MOTION: To support 2013-04: Probate Omnibus, as presented.**

Motion was seconded and passed. AJC 2012-18.

Mr. Landau noted there will be legislation from the Criminal Justice System regarding conforming changes to the criminal code. He reported that other issues on the horizon include possible legislation regarding the Sheriff determining who may carry a weapon in

a county courthouse and a rewrite of justice of the peace provisions of Title 22 (clean-up, not substantive).

### **Elected Officials Retirement Plan (EORP)**

Mr. Pete Dunn, Legal Counsel for the Arizona Judges Association (AJA) reported that leadership and staff in both the Senate and the House want to close EORP for new elected officials, including judges, and he is asking for authority for AOC Legislative staff to work with the AJA to get the best possible results.

Mr. Dunn noted that EORP is only 55% funded at this time and getting worse. He stated there will be significant changes, but believes we can preserve the benefits for existing members and try to make the ongoing system as good as possible so quality applicants continue to apply to be judges and other elected officials.

Mr. Dunn reported on the court commissioner issue. He noted that there is a conflict between existing commissioners, who do not pay into Social Security, and new commissioners, who do. Mr. Dunn noted that AJA is working with the Governor's Office and staff to reverse the decision to keep all court commissioners in EORP or a new system. He stated that existing commissioners are currently in EORP, and new commissioners are in ASRS, and the problem is that those in ASRS pay into Social Security, but those in EORP do not. He explained that Social Security does not allow some commissioners to be in their system; it must be all or none. Mr. Dunn stated AJA's goal is to continue to provide the best possible benefits for our court commissioners.

Mr. Dunn asked for the Council's support to work with AJA on these 2 issues.

**MOTION: To work with the Arizona Judges Association on EORP and commissioner issues, as presented.** Motion was seconded and passed.  
AJC 2012-19.

Mr. Dunn spoke on a critical issue regarding the independence of the judiciary. He explained that a group of Maricopa County Republican precinct legislative districts are attacking judges who are standing for retention in this election. He noted they are urging a "no" vote on retaining Justice Pelander and all Appellate judges standing for retention, as all court of appeals judges were appointed by then-Governor Janet Napolitano, as well as some superior court judges. Mr. Dunn stated all these judges deserve retention, and they were recommended by JPR and received good ratings. He urged Council members to talk ethically with friends and neighbors and provide information on JPR.

Mr. Mike Hellon, Chair of JPR urged members to tell everyone they know who has any interest in preserving the judiciary to go to the JPR website [www.azjudges.info](http://www.azjudges.info), review the information, and do their own due diligence when voting.

### **Call to the Public/Adjourn**

The Chair made a call to the public; there was none.

A motion was made to adjourn the meeting at 11:23 a.m.