ARIZONA JUDICIAL COUNCIL

Little America Hotel
2515 E. Butler Ave., Flagstaff Room
Flagstaff, AZ 86004

October 22, 2015

Meeting Minutes

Council Members Present:

Chief Justice Scott Bales
Judge Janet Barton
Judge Michael Brown
Judge Kyle Bryson
David Byers
Judge Louis F. Dominguez
Victor Flores
Brian Furuya *for Geoffrey Trachtenberg*
Michael Jeanes
Jack Jewett
Judge David Mackey
Gary Krcmarik
William J. Mangold, M.D., J.D.
Judge John Nelson
R. Tony Penn
Judge Antonio Riojas, Jr.
Judge Monica Stauffer
George Weisz
Judge David Widmaier

Council Members Absent (excused):

Jim Bruner
Judge Rachel Torres Carrillo
Judge Peter Eckerstrom
Athia Hardt
Mike Hellon
Yvonne R. Hunter, J.D.

Administrative Office of the Courts (AOC) Staff Present:

Mike Baumstark
Michelle Dunivan, PhD
Susan Hunt
Paul Julien
Jerry Landau
Amy Love
Alicia Moffatt
David Svoboda
Lorraine Smith
Kathy Waters
David Withey
Amy Wood

Presenters and Guests Present:

Justice Robert Brutinel
Judge Elizabeth Finn
Mr. Paul Thomas

Chief Justice Scott Bales, Chair, called the meeting to order at 9:00 a.m. in the Flagstaff Room at the Little America Hotel, 2515 E. Butler Avenue, Flagstaff, Arizona. The Chair welcomed those in attendance.

Approval of Minutes

The Chair called for any omissions or corrections to the minutes from the June 15, 2015, meeting of the Arizona Judicial Council. There were none.

> **MOTION: To approve the minutes from the June 15, 2015, meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2015-16.

Approval of 2016 Meeting Dates

The Council approved the following meetings dates for 2016: March 24, June 20, October 27, and December 8.

Rule 11

Judge Elizabeth R. Finn, Presiding Judge of the Glendale City Court and Mr. Paul Thomas, Court Administrator at the Mesa Municipal Court presented information on the pilot program for Glendale City Court and Mesa Municipal Court to have their Rule 11 proceedings held at their respective courthouses using city court judges acting as Superior Court *judges pro tempore*.

Judge Finn stated there is no known opposition to this project, and they hope to launch it in January. She noted that they are recommending a regional center in the future for all Maricopa County courts within their jurisdiction.

Judge Janet Barton stated she supports the pilot project, but raised concern with a total shift of resources from her court to their court which could result in slowing down processes at the Superior Court.

Mr. David Byers stated that if the pilot project works well, we will need to find a way to expand it to other courts, and to keep this in mind as the pilot project proceeds.

Judge Mackey stated the need to look at the whole system, i.e., big picture, court resources, and treatment funds.

> **MOTION: To approve the Rule 11 Pilot Program, as presented.** The motion was seconded and passed. AJC 2015-17.

Judicial Branch Legislative Package

Mr. Jerry Landau, Director of Government Affairs and Ms. Amy Love, Legislative Liaison for the AOC, presented 12 proposals that were received for the upcoming legislative session.

Mr. Landau noted that the Council members would be asked to vote on whether to include or exclude the proposals in the Judicial Branch Legislative package.

2016-01: Temporary order; preliminary injunction

> **MOTION: To approve and include 2016-01: Temporary order; preliminary injunction, as presented.** The motion was seconded and passed. AJC 2015-18.

2016-02: Special needs/adult guardianship

> **MOTION: To table and exclude 2016-02: Special needs/adult guardianship and to rewrite the proposal to address issues and bring back at the December meeting.** The motion was seconded and passed. AJC 2015-19.

2016-03: Guardianship of foreign citizens – Withdrawn

2016-04: FCRB sunset

> **MOTION: To approve and include 2016-04: FCRB sunset, as presented.** The motion was seconded and passed. AJC 2015-20.

2016-05: Adult probation; GPS; term

> **MOTION: To approve and include 2016-05: Adult probation; GPS; term, as presented.** The motion was seconded and passed. AJC 2015-21.

2016-06: Adult intensive probation supervision (Parts A, B, and C)

> **MOTION: To approve and include Parts A and B of 2016-06: Adult intensive probation supervision, as presented.** The motion was seconded and passed. AJC 2015-22.

Discussion: Judge David Mackey noted that the Presiding Judges voted to not move forward with this proposal as there were more important issues to pursue, and it was not a good use of our political capital. He stated that he believes any felony that is committed is a danger to the community.

> **MOTION: To exclude Part C of 2016-06: Adult intensive probation supervision, as presented.** The motion was seconded and passed. AJC 2015-23.

2016-07: Child support; probation and court orders

Discussion: Judge Barton explained her proposal and stated the intent was to ensure that child support goes to the appropriate parties. It was noted that there is some discretion within the existing statutory framework to do this. Judge Barton stated she will do some work to flesh this out in Maricopa County. Mr. Byers added that we may find other statutory things to change once it is fleshed out.

> **MOTION: To exclude 2016-07: Child support; probation and court orders, as presented.** The motion was seconded and passed. AJC 2015-24 (2 opposed).

2016-08: Juvenile court; disposition; commitment (Parts A, B, C, D, E)

Discussion: Mr. Landau noted that Parts B and C were withdrawn. Mr. Byers inquired if this could be handled locally by the juvenile court judges.

> **MOTION: To approve and include Part A of 2016-08: Juvenile court; disposition; commitment, as presented.** The motion was seconded and passed. AJC 2015-25.

> **MOTION: To exclude Part D of 2016-08: Juvenile court; disposition; commitment, as presented.** The motion was seconded and passed. AJC 2015-26.

> **MOTION: To approve and include Part E of 2016-08: Juvenile court; disposition; commitment, as presented.** The motion was seconded and passed. AJC 2015-27.

2016-09: CORP; service credit – Withdrawn

2016-10: Entry on records; stipulation; court order – Withdrawn

2016-11: Title 12 statutes; Rules of Civil Procedure (Parts A and B)

> **MOTION: To approve and include Part A of 2016-11: Title 12 statutes; Rules of Civil Procedure, as presented and authorize Legislative staff to accomplish this as an add-on without introducing a separate bill.** The motion was seconded and passed. AJC 2015-28.

> **MOTION: To exclude Part B of 2016-11: Title 12 statutes; Rules of Civil Procedure, as presented.** The motion was seconded and passed. AJC 2015-29.

2016-12: Juvenile court jurisdiction

> **MOTION: To table 2016-12: Juvenile court jurisdiction and refer back for additional discussion.** The motion was seconded and passed. AJC 2015-30.

Interpreter Credentialing Program

Ms. Amy Wood, Caseflow Management Unit Manager, Court Services Division of the AOC, presented an overview of the proposed program, suggested tier levels, fees, and issues and concerns that have been raised.

Ms. Wood asked for the Council's action on the following:

1. Recommend adoption of the model code of ethics for Arizona's court interpreters.

Judge Mackey asked that a disclaimer be added regarding court employees having a conversation in a different language, so that they won't be bound by this code of ethics and refuse to assist in these discussions which sometimes come up on an emergency basis when an interpreter is not available to assist.

Mr. Brian Furuya inquired about the Navajo language. He noted this is a huge issue for the northern counties and asked if that is a program Arizona is developing. Mr. Furuya asked if a scholarship program is contemplated for Navajo interpreters who may have widespread financial difficulties.

> **MOTION: To approve adoption of the model code of ethics for Arizona's court interpreters with the addition of the language suggested by Judge Mackey as a disclaimer.** The motion was seconded and passed. AJC 2015-31.

2. Recommend moving forward with a credentialing program for Arizona's court interpreters.

Mr. Gary Krcmarik stated that court administrators are supportive of the program, but some rural court administrators are concerned for their on-staff court interpreters who have worked for the past 10-15 years and may not be able to pass the test. Mr. Krcmarik stated that the courts could be impacted by not having interpreters or paying higher costs. He asked that the AOC provide additional training and resources to these individuals to avoid the same issues courts experienced with court reporters in the past.

Mr. George Weisz asked if there is a shortage of interpreters now, and if based on concerns by the Court Administrators, will this increase the shortage. He asked if interpreters can be requested based on tiers they have passed, and if it would cost less for someone with less tiers completed. Mr. Weisz asked if it is worth doing a pilot first.

Mr. R. Tony Penn expressed concern with the transition period. He suggested providing incentive opportunities for current on-staff interpreters and assisting them towards completion.

Judge Louis F. Dominguez asked about the impact on courts and use of the language line. Ms. Wood stated she plans to reach out to these types of companies and talk with them, educate them about the program, and encourage their Arizona staff to go through this credentialing program.

Mr. Byers noted the National Center for State Courts is working towards national credentialing.

Judge Barton stated interpreters are a huge issue in the courts, and there is a shortage. She stated she is in favor of program, but doesn't want it to result in gamesmanship or attempt by counsel to delay proceedings (preference to those who are more qualified). Judge Barton asked that the program be written in such a way that it eliminates these types of games. She raised concern with the 10% pass rate on one of the tests. Judge Barton asked that we make sure we stretch out the one-year probation/interim period if needed so that interpreters have more than one additional opportunity to retake the test.

Judge Monica Stauffer asked about training and practice opportunities for court employees before testing. Ms. Wood stated there will be reference materials, audio tapes for practices, etc.

> **MOTION: To approve moving forward with a credentialing program for Arizona's court interpreters, as presented.** The motion was seconded and passed. AJC 2015-32.

Judge Mackey asked for more discussion on the proposed fee structure in terms of in-state and out-of-state. Mr. Byers noted that an individual hired as a court employee from out of state is considered an in-state person for fee purposes.

3. Recommended fee structure

> **MOTION: To approve the recommended fee structure, as presented.** The motion was seconded and passed. AJC 2015-33.

Time Standards – Phase IV

Justice Robert Brutinel showed a PowerPoint presentation explaining Phase IV, to include the following areas: misdemeanor, criminal post-conviction relief, family law temporary

orders, eviction actions, and civil local ordinance. Justice Brutinel talked about the 3 previous phases.

Ms. Wood noted that there are problems with collecting juvenile delinquency data in terms of reports and having two different computer systems that are structurally different. She added that counties also have different ways of how they do data entry. Justice Brutinel recommended that the Council approve withdrawing this standard and send it back to the workgroup and see what can be agreed on in terms of data we can actually collect.

Justice Brutinel talked about the civil traffic standard and asked that the Council approve withdrawing the 30-day standard.

Judge Barton asked how the Committee came up with the family law temporary order standard because it is more stringent than what the family court rules require.

> **MOTION: To approve Phase IV and remove the civil traffic standard, as presented.** The motion was seconded and passed. AJC 2015-34.

The Chair stated that he will be setting up a committee that will look at the recommendations coming out in January from a multi-year study supported by the Conference of Chief Justices on civil justice. He noted that there are on-going efforts around the country to identify civil justice reforms.

The Chair explained that the new committee will review these efforts with the thought of identifying possible pilot projects and rules changes for Arizona's courts. He stated the cost of litigation is a very important challenge for our courts. The Chair asked the Council members to contact him if they are willing to serve on this committee or have member recommendations.

Call to the Public

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

The meeting adjourned at 11:47 a.m.