

MINUTES OF THE WDMO FEDERAL PRACTICE COMMITTEE

September 8, 2011—2:30 p.m.

Jefferson City, Missouri

Present in Jefferson City: Willie Epps, Brian Gaddy, Lisa Nouri, Travis Poindexter, Marsha Fischer, Ann Thompson and Chief Judge Fernando J. Gaitan, Jr. Briefly joining the meeting were Judge Laughrey, Judge Maughmer and Judge Fenner.

Present via teleconference: Lynnette Siegel, Matt Dameron, Michael Oliver, Jeff Ray and Julia Kitsmiller.

The meeting began at 2:35 p.m. Mr. Epps expressed the committee's appreciation to Judge Gaitan for attending the meeting, and Judge Gaitan expressed his appreciation for the committee's work on the projects of the FPC.

Approval of Minutes

Mr. Epps asked for additions or corrections to the minutes from the July 21, 2011 meeting. Hearing none, Mr. Gaddy moved for their approval, and Ms. Nouri seconded the motion. The Committee approved the minutes unanimously.

Rule 16 Conferences

Committee members reported to Judge Gaitan the feedback they gathered in surveying attorneys of their opinions on in-person Rule 16 conferences. Mr. Epps reported the findings of the attorneys seeking input from the civil bar, which were the following:

Mr. Harpool reported that he prepared an email which was sent to Federal Practitioners in the area as well as the Springfield, Missouri, Bench/Bar. There were no responses to the email. Mr. Harpool reported that he also personally asked some members of the bar for input on whether they believed that additional contact with the Court was warranted. For the most part there was no strong opposition to the idea. Most of the plaintiff's attorneys, however, did not believe it would be necessary.

Ms. Kitsmiller also indicated that she discussed the issue with some civil practitioners. Those she spoke to indicated that it might be helpful if there were significant disagreements between the parties, but that in most cases, additional in-court hearings would be unnecessary.

Mr. Epps further reported that there was no strong opposition from the civil attorney's he spoke with and that it could be good exposure for younger associates to get more familiar with being in court. Most of the senior lawyers did not wish to spend additional time in court on routine matters.

Mr. Gaddy reported that from the criminal side most believed it would be unnecessary in the "run-of-the-mill" case but that it could be a useful in a complex case or with a complex client. Mr. Gaddy added that there was interest from the criminal bar in having a pre-trial conference with the District Judge prior to the day of trial.

Judge Gaitan reported that he had one of the meetings about a month ago. He asked the attorneys for feedback and both the plaintiff and defense attorneys thought it was a good idea and indicated otherwise they would not have an opportunity to meet each other. Judge Gaitan indicated it might have more value in civil cases due to the larger civil bar. There would be value in allowing civil attorneys to meet each other. The criminal bar is smaller and might not have the same need. Judge Gaitan indicated he would continue to conduct the meetings on an experimental basis and especially if the lawyers were not cooperating or in complex cases.

Mr. Epps concluded the discussion by asking Judge Gaitan for additional information about the recent meeting. Judge Gaitan indicated the meeting was off the record and all in attendance sat around a table together. There was an Order issued with deadlines as a result of the meeting.

EAP Evaluation Status

Ms. Thompson reported that she and Ms. Kitsmiller, Mr. Nichols and Mr. Epps had a telephone conference with Donna Stienstra of the Federal Judicial Center regarding the survey for the EAP. Ms. Stienstra will prepare a draft survey. The concentration will be to the practitioners who have participated in an EAP mediation in the last 2-3 years.

Local Rule 37.1

The proposed language to amend Local Rule 37.1 and the issues raised by the attorney who contacted Ms. Siegel will be presented to the Court today. Ms. Thompson also reported that Bill Terry has added some educational materials and instructions on the website. There will also be a new civil cover sheet that will be coming out for this situation.

Potential Program for Criminal Practitioners

A proposal for a CLE for criminal practitioners was presented. Ms. Nouri and Mr. Poindexter both expressed support for such a program. Ms. Nouri added that practitioners want to hear from the judges. Mr. Poindexter reminded the group of the October 14, 2011 CLE by the Federal Public Defender's office. Mr. Epps and Ms. Thompson will meet to plan the CLE.

There was also a discussion regarding pre-sentence reports and whether the Probation office is given or considers input from defense counsel. After a lengthy discussion, it was agreed a meeting among the parties would be a helpful forum in initiating a dialogue of the issues. Mr. Epps will coordinate with the Court and Ms. Thompson.

New Business and Announcements

Judge Gaitan requested that the Committee members spread the word and seek applications for the Coburn Award. Applications must be received by Friday, October 14, 2011. The criteria, nomination form and list of past Coburn recipients were distributed to the group.

Ms. Thompson reminded the group about the Ross T. Roberts Inn of Court applications, as well as the available scholarships. Mr. Dameron reminded the group of the Elwood Thomas Inn of Court available for attorneys in Mid-Missouri.

Mr. Epps reminded members of the following upcoming meetings: Telephone conference meeting on October 20, 2011 at Noon; Lunch with the Judges in Kansas City on November 16, 2011 and the final meeting of the year on December 15, 2011.

Mr. Epps also acknowledged the contributions of Brian Gaddy during his service on the Committee.

The meeting was then adjourned and the members were given a tour of the new courthouse prior to the bar reception at 5:00 p.m.