

COMPLEX CIVIL LITIGATION COURT EVALUATION COMMITTEE

MINUTES

August 7, 2007

Members Present:

Andrew Federhar, Chair
Hon. Mark Aceto

Marcus Reinkensmeyer
Mark Larson

Guests:

Hon. Pendleton Gaines
Hon. Janet Barton
David Jacobs (Civil Ct Admin)
Mark Jensen (Clerk of Court)
Gloria Braskett (Civil Ct. Admin)
Bill Shore (Burdman & Shore)
Deb Jackson (Sup. Ct. Technology Svcs.)

Hon. John Buttrick
Mitch Michkowski (Civil Ct Admin)
Cynthia Puklin (Jud. Asst.)
George Knecht (Clerk of Court)
Kristi Dallmann (Civ.J.A.Trainer)
Douglas Lussion (Kasdan Simonds)

Jennifer Greene – Committee Staff

1. Call to Order Approval of the Minutes

The meeting was called to order at 12:05 PM.

The Chair welcomed Mark Aceto and John Buttrick to the meeting. Judge Aceto was appointed last month to replace Judge Baca as the new Civil Presiding Judge. Judge Buttrick has replaced Kenneth Fields on the panel. Judge Fields retired in June.

The October 2006 meeting minutes were moved and approved without modification.

2. Program Status Report

Mitch Michkowski, Civil Court Administrator, and David Jacobs, Deputy Civil Court Administrator, reported on the status of the program. To date, 74 motions for admission to the program have been granted and 44 denied. Of the 74 cases in the program, 12 were consolidated; 36 have been dismissed or settled. Of the 34 dismissals, 64% were resolved within 24 months. One case ended in a jury trial; 36% have more than 20 parties; 6% have more than 100 parties. Contract disputes and construction defect cases represent 46% of the program cases. There are 26 active cases in the program currently.

For fiscal year 06-07, the Complex Litigation Fund has collected \$42,257 through May, 2007, and spent \$53,635. The current balance is \$195,000. One year ago, the balance was \$212,889.

The law clerk/staff attorney position became vacant again in April. A law clerk with the federal trial court has accepted the job but will not be available until October 1st. The

position was granted a 5% pay increase to \$70,000 recently, and court administration will pursue more of an increase with the county. The salary level was an issue for two of the three final candidates for the position. A federal law clerk is paid \$84,000. Phoenix-area law firms are paying \$140,000 or more for new associates. The county recently agreed to establish a \$93,000 salary for a similar position for a capital case staff attorney/manager.

The court's technology division is working on moving the program's data collection into the case management system – iCIS, so it can be maintained and tracked more efficiently.

The panel judges reported that no cases have been referred to the program by judges. Judge Aceto estimated he had reviewed and denied four requests for admission in the past four months.

Members reviewed the factors the original committee identified for granting admission into the program, the decision to go with a complex rather than straight business court format, and the guiding principal of the program – to earn the support of the business community for judicial branch initiatives. Another important feature of the program is the new legal information and case management skills the panel judges have shared with the civil bench by virtue of the specialized training they have received and their membership in national organizations such as the American College of Business Court Judges. The fact that they have been teaching and attending seminars and conferences of this nature is also good advertising for both the county and the state.

Discussion ensued regarding exactly what the program has to offer at this point and how to attract more cases. The 5-year rotation of panel judges and the \$500 filing fee are the remaining unique factors of the pilot program. Program cases are moved through quickly, perhaps more quickly than non-program cases. Regular civil courtrooms are now mostly equipped with updated electronics, e-filing is more widely available, and non-program judges are using Rule 16.3 in non-program cases. The civil department includes many highly-skilled judges apart from the panel judges, which may explain why more cases are not in the pilot program. Attorneys may simply be content with their initial judicial assignments and not feel there is enough of an advantage to seeking program designation.

Pre-screening new cases for eligibility could bring more cases into the program. Other similar programs in other states have a presumptive dollar threshold or case category trigger for program admission. By amending the civil cover sheet, presumptively eligible cases can be assigned to a panel judge for an early status conference where the decision can be made on eligibility. Existing complex cases could also be moved into the program at the point when the assigned judge rotates to another department.

Andy Federhar, Judge Barton and Jennifer will inquire about the mechanism used by other complex/business courts to identify eligible cases and the amount of fees charged to litigants.

George Knecht, Senior Business Analyst with the Clerk of Court's Office, reported that the court is beginning the last year of its e-filing contract with LexisNexis. The LexisNexis system is a stand-alone program that differs from the one in use by the rest of the divisions that now have e-filing. The LexisNexis system offers e-service, which the other system does not have. A decision needs to be made on whether/how to integrate the pilot program's e-filing system into the e-filing system before September 2008.

4. Call to the Public

Meeting adjourned at 1:00 PM.