



# WSBA

## ESCALATING COST OF CIVIL LITIGATION TASK FORCE

### MEETING MINUTES

February 12, 2014

The Escalating Cost of Civil Litigation Task Force met via conference call at 2 p.m. on February 12, 2013.

In attendance were Russ Aoki (Chair), Breean Beggs (phone), Bill Hyslop (phone), Todd Nunn (phone), Gail Nunn (phone), Don Jacobs (phone), and Hon Ron Cox (phone). Absent were Lincoln Beauregard, Eric de los Santos, Jessica Goldman, Jerry McNaul, Amit Ranade, Hon. Richard McDermott, Hon. Debra Stephens, Cynthia Buhr, Hon. Marcine Anderson, Kevin Stock, and Ken Masters (BOG Liaison).

Also in attendance were Jeanne Marie Clavere (Staff Liaison), Isham Reavis, Aoki Law, and Darlene Neumann, paralegal.

#### **I. Minutes**

**The minutes of December 18, 2013 were approved** by consensus.

#### **II. Charter**

The Chair discussed the ECCL Task Force's charter due to sunset in April 2014, and the need for more time to complete its report to the Board of Governors. The Chair will request an extension of the charter through to December 2014 at the Board of Governors meeting on March 7, 2014, where he is scheduled to present an update on the Task Force.

#### **III. Topics Discussion**

The Task Force discussed four topics: two tier litigation track, case schedules, court rule changes, and mandatory mediation.

Members discussed a suggestion to presumptively assign cases in multi-tier litigation to Tier 1 offering a shorter track. Parties wishing to opt out to Tier 2 (allowing more discovery and experts) could do so by stipulation and motion to the court. Discussion followed on expedited multi-tier litigation tracks used in Oregon and King County, the

proposed draft federal rules tightening discovery and proposing case management rules among other changes, and the Duke Conference report regarding the need for case schedules. Case scheduling was viewed as a common denominator affecting the ideas being considered by all the subcommittees. The members also discussed proposing changing court rules to affect discovery. Two important issues with regards to court rules were noted: 1) what rules should be changed, and 2) how the changes would be implemented, whether through forms, model orders or rule changes.

Finally, the Task Force discussed the strong support among survey respondents for mandatory mediation within 60 days of party depositions. One concern was that mandatory mediation may not work in the context of family law litigation and it was suggested a separate provision may be necessary. Gail Nunn will follow-up and provide a deeper analysis.

### **III. Report Timelines**

After brief discussion of the subcommittees' current progress, it was decided that all subcommittee reports will be due by April 4, 2014. The reports will be circulated to Task Force members prior to the April 9, 2014 meeting. WSBA staff was asked to email a report template to the subcommittee chairs.

The Task Force decided to cancel the March 12, 2014 meeting. The next meeting of the Task Force will be April 9, 2014.

The meeting adjourned at 2:45 p.m.