

## ***MINUTES***

Advisory Committee on Model Civil Jury Instructions

January 14, 2008

4:10 p.m.

Present: John L. Young (chair), Juli Blanch, Francis J. Carney, Dr. Marianna Di Paolo, Tracy H. Fowler, L. Rich Humpherys, Gary L. Johnson, Timothy M. Shea, Paul M. Simmons, and Peter W. Summerill. Also present: Kamie F. Brown

Excused: Colin P. King

Mr. Young noted that the committee has been at work going on five years and has only completed three sections of instructions out of the proposed twenty-eight sections. It took only four years to produce MUJI 1st. Mr. Carney noted that there has been a growing sense of frustration among members of the bench and bar. Mr. Young presented a proposal for completing the committee's work more expeditiously. Each subcommittee would be given a deadline for completing its instructions. The subcommittee should see that the instructions accurately state the law and are stated in plain English. The draft instructions would then be reviewed by three members of the whole committee, none of whom is a member of the subcommittee. They would review the draft instructions to make sure they are understandable to lay jurors. Mr. Shea suggested that they also look at the organization of the instructions within a section. Mr. Summerill suggested that the group of three use Google Docs to review the instructions and coordinate their changes. If the three members have questions or changes, they would resolve them with the chairperson of the subcommittee. Then the instructions would be presented to the whole committee for review and approval in a single meeting. Mr. Carney suggested that the subcommittees need to be flexible and enlist the help of other attorneys if necessary to get their work done on time. Mr. Carney also noted that, for the committee to get through a complete set of instructions in one meeting, everyone will have to have read the instructions before the meeting and come to the meeting prepared to present any changes or suggestions. As groups of instructions are completed, they can be published. It was suggested that judges be given loose-leaf binders of the instructions, which can be updated yearly.

The committee adopted Mr. Young's proposal and adopted the following schedule:

### **Products Liability:**

The draft instructions will be reviewed by Mr. Summerill (who will act as point person), Mr. Johnson, and Mr. Ferguson.

The subcommittee will have any changes to the group of three by **January 22, 2008**.

The group of three will have their changes to Mr. Shea by **February 4, 2008**, so that he can distribute them to the full committee for consideration at the **February 11, 2008**, meeting.

**Medical Malpractice:**

The draft instructions will be reviewed by Mr. Humpherys (who will act as point person), Mr. Simmons, and Mr. Shea.

The subcommittee will have any changes to the group of three by **February 11, 2008**.

The group of three will have their changes to Mr. Shea by **March 3, 2008**, so that he can distribute them to the full committee for consideration at the **March 10, 2008**, meeting.

**Commercial Contracts:**

The draft instructions will be reviewed by Mr. Johnson (who will act as point person), Dr. Di Paolo, and Mr. Ferguson.

The subcommittee will have any changes to the group of three by **March 10, 2008**.

The group of three will have their changes to Mr. Shea by **April 7, 2008**, so that he can distribute them to the full committee for consideration at the **April 14, 2008**, meeting.

**Motor Vehicle Accidents:**

The committee suggested the following attorneys to serve on the Motor Vehicle Accidents subcommittee: Lynn Davies, Warren Driggs, Victoria Kidman, William Stegall, someone from Petersen & Associates, Bryan Larson, Steve Sullivan, Ray Ivie, and Mark Flickinger.

The draft instructions will be reviewed by Mr. Humpherys (who will act as point person), Mr. King, and Mr. West.

The subcommittee will have any changes to the group of three by **April 14, 2008**.

The group of three will have their changes to Mr. Shea by **May 5, 2008**, so that he can distribute them to the full committee for consideration at the **May 12, 2008**, meeting.

**Premises Liability:**

The draft instructions will be reviewed by Mr. Simmons (who will act as point person), Mr. Ferguson, and Mr. Fowler.

The subcommittee will have any changes to the group of three by **May 12, 2008**.

The group of three will have their changes to Mr. Shea by **June 2, 2008**, so that he can distribute them to the full committee for consideration at the **June 9, 2008**, meeting.

**Employment:**

Mr. Young will speak to Erik Strindberg about chairing the Employment subcommittee. Other attorneys suggested as subcommittee members were Maralyn

Reger at Snow, Christensen & Martineau, Karra Porter at Christensen & Jensen, and David P. Williams at Snell & Wilmer.

The draft instructions will be reviewed by Ms. Blanch (who will act as point person), Dr. Di Paolo, and Mr. Ferguson.

The subcommittee will have any changes to the group of three by **June 9, 2008**.

The group of three will have their changes to Mr. Shea by **August 4, 2008**, so that he can distribute them to the full committee for consideration at the **August 11, 2008**, meeting. (There will be no committee meeting in July 2008.)

### **Insurance Litigation:**

Mr. Humpherys chairs the Insurance Litigation subcommittee. The following attorneys were suggested as members of the subcommittee: Gary Johnson, Peter Summerill, Alan Bradshaw, Alma Nelson, and Stuart Schultz.

The draft instructions will be reviewed by Mr. Carney (who will act as point person), Mr. Simmons, and Mr. Fowler.

The subcommittee will have any changes to the group of three by **August 11, 2008**.

The group of three will have their changes to Mr. Shea by **September 2, 2008**, so that he can distribute them to the full committee for consideration at the **September 8, 2008**, meeting.

### **Construction Contracts:**

The draft instructions will be reviewed by Mr. Young (who will act as point person), Mr. Carney, and Mr. Shea, with Dr. Di Paolo acting as a consultant.

The subcommittee will have any changes to the group of three by **September 8, 2008**.

The group of three will have their changes to Mr. Shea by **October 6, 2008**, so that he can distribute them to the full committee for consideration at the **October 14, 2008**, meeting.

### **Fraud, Deceit, and Other Intentional Torts:**

The committee suggested George Haley and Bob Anderson to serve on the subcommittee.

The draft instructions will be reviewed by Mr. Johnson (who will act as point person), Dr. Di Paolo, and Mr. Humpherys.

The subcommittee will have any changes to the group of three by **October 14, 2008**.

The group of three will have their changes to Mr. Shea by **November 3, 2008**, so that he can distribute them to the full committee for consideration at the **November 10, 2008**, meeting.

**Eminent Domain:**

The draft instructions will be reviewed by Ms. Blanch (who will act as point person), Mr. Young, and Mr. Simmons.

The subcommittee will have any changes to the group of three by **November 10, 2008**.

The group of three will have their changes to Mr. Shea by **December 1, 2008**, so that he can distribute them to the full committee for consideration at the **December 8, 2008**, meeting.

**Probate:**

The draft instructions will be reviewed by Mr. Carney (who will act as point person), Mr. King, and Mr. West.

The subcommittee will have any changes to the group of three by **December 8, 2008**.

The group of three will have their changes to Mr. Shea by **January 5, 2009**, so that he can distribute them to the full committee for consideration at the **January 12, 2009**, meeting.

**Professional Liability of Attorneys, Accountants, and Design Professionals:**

The draft instructions will be reviewed by Mr. Johnson, Mr. Summerill, and Ms. Blanch.

The subcommittee will have any changes to the group of three by **January 12, 2009**.

The group of three will have their changes to Mr. Shea by **February 2, 2009**, so that he can distribute them to the full committee for consideration at the **February 9, 2009**, meeting.

The committee discussed whether to include a section on civil rights instructions. Some committee members thought that such a section would not be necessary because civil rights claims are governed by federal law, and federal pattern instructions sufficiently cover them. Mr. Summerill thought it would be helpful to include a section of civil rights instructions because some civil rights claims may be based on state constitutional law.

Mr. Young will check with Judge Barrett and Mr. Nebeker to see if they would like to be on any of the reviewing committees of three committee members.

Mr. Young will also send an annual report to the Chief Justice with a spreadsheet showing the schedule the committee has adopted. Mr. Carney suggested that a copy of the report and spreadsheet also be sent to the presiding district court judges.

Minutes  
January 14, 2008  
Page 5

*Next Meeting.* The next meeting will be Monday, February 11, 2008, at 4:00 p.m.

The meeting concluded at 5:40 p.m.