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**Minutes of August 14, 2006 ISC Meeting**

Committee members in attendance: Hugh Hayes, Chief Judge  
Robert Jacobs, Public Defender  
Sheldon Finman, Esquire  
Peter Ringsmuth, Esquire

Others in attendance: David Brener  
Richard Callanan  
Allison David  
Suzanne Ederr  
Eric Fishbeck  
Brenda Giessman  
Betty Gourley  
Darrell R. Hill  
Roxanne Hino  
Helen Jones  
John Mills  
Alexis Sitka

Phone attendance: JAC Staff - Buddy Aspy  
Sharon Bruley  
Steven Presnell  
Michelle Fontaine

1. Chairman Hayes, allowed registry-attorney Roxanne Hino to address the JAC regarding nonpayment of her billings. Sharon Burley invited Attorney Hino to contact her directly.
2. Minutes of the meeting held June 19, 2006.  
- **Action:** Motion to approve the minutes passed.
3. Request from ISC attorney, John D. Mills, to increase hourly rates paid to attorneys serving in category six cases (Death Penalty Cases, including post conviction proceedings) from \$100 per hour to \$125 per hour.  
- Attorney Mills identified four reasons that Category Six rates should be increased: [1] highest level of experience and training/seminar attendance required, [2] prohibition against taking new cases during preparation for, and conducting of the death penalty trial, [3] JAC only allows billings every six-months, [4] appeals typically involve claims of ineffective assistance of counsel, which necessitate extra regard for file retention and maintenance, and the on-going granting of testimony (without additional compensation).

- Attorney David Brener stated his support for Mr. Mills' request, and expressed his view that co-counsel attorneys on death penalty cases should be compensated at the same rate, due to the fact that co-counsel typically handle the very important penalty portion of death penalty cases.
- With regard to ISC's ability to increase the fees paid to registry-attorneys, Mr. Steven Presnell of the JAC referenced a constraint in the 2006 Laws of Florida (Ch. 2006-25, Sec. 4, Item 876, pg 145-146, attached), which states: "The [JAC] shall pay all legal fees and due process costs for the 2006-2007 fiscal year at the rate not to exceed the amount set by the circuit Article V indigent services committee for the 2005-2006 fiscal year."
- Chairman Hayes noted that the ISC is not prohibited from raising rates, only that the JAC is required to pay out at the 2005-2006-rate level. The Committee members agreed that the ISC's rate schedule should properly reflect the current economic necessities of registry-attorneys, regardless of the JAC's present ability to payout at any such increased rates.
- **Action:** Motion to approve an increase in Category 6 (Death Penalty Cases) hourly rate to \$125 per hour passed, which is to be noted as being subject to the JAC's current rate-freeze.
- Additionally, Attorney Mills requested that the ISC allow billing for intra-circuit travel time. Mr. Ringsmuth suggested that additional research would be required to craft a policy on this issue. The committee members agreed that the ISC staff would prepare a report to establish to underlying need for attorney travel time. Chairman Hayes stated his support for the idea of accommodating attorneys on the Capital Case category; yet stated some quantitative analysis would be necessary to set such a rate.

#### 4. Public Comment.

- No public comments were delivered pursuant to the open-forum agenda item.

#### 5. Report as to the qualifications of the attorneys on the registry and the level of service currently being undertaken. ISC staff provided a report (attached) that analyzed the average number of years that registry attorneys have been admitted to the Florida Bar against the various criminal case categories.

- After reviewing the report, Mr. Finman stated that he did not perceive any flagrant abuse, and that most attorneys seemed to be serving appropriately at their current level of experience.
- The Committee members agreed that no motion need be made at this time, and that Mr. Ian Mann should receive a copy of this report.

#### 6. Review of additional applications for ISC Registry:

##### New Applicants:

- Davis, Allison B. (*Walk-in applicant*)
- Hill, Darnell B. (*Walk-in applicant*)
- Kuhl, Ryan (*follow-up to application submitted at May 15<sup>th</sup> meeting*).
- Sitka, Alexis A.

Applicants amending categories of service:

- Calvo, Jose L. (*removal from Hendry County*).
- Creel, Richard M. (*addition to categories 3,4, and 5 in Charlotte County*).
- Hines, Robert G. (*consideration of temporary suspension from category 6 by Chairman Hayes in July 21<sup>st</sup> letter*).
- Jones, Helen (*Walk-in, removal from category 1 in Charlotte, Glades, and Lee; addition of category 13 in Hendry County*).
- O'Brien, Aaron J. (*removal from registry*).
- Wetter, Steven H. (*removal from Hendry County*).

- **Action:** After the ISC staff provided a report as to applications received, the Committee members engaged in a discussion, and made a motion that approved all applications, with the following exceptions:

**[a]** Ms. Alexis Sitka submitted his application with the declaration that she does not presently meet the CLE requirement.

- **Action:** The committee agreed to conditionally approve Ms. Sitka's application subject to meeting the precondition.

**[b]** Ms. Allison David submitted her application with the caveat that she does not presently meet the malpractice insurance condition.

- **Action:** The committee agreed to conditionally approve Ms. David's application subject to meeting the malpractice precondition by August 31, 2006.

**[c]** Mr. Darnell Hill submitted his application with the acknowledgment that he is not presently able to complete the application.

- **Action:** The committee agreed to hold Mr. Hill's application until the next meeting.

**Staff Follow-up:**

a. Update the ISC documents, and deliver the updated documents to the JAC, Chief Justice, Clerks, Court Administration points-of-contact; post updated documents on the ISC web page.

b. Prepare a report examining the need to provide travel-time compensation for attorneys serving in category six for the costs associated with representing clients within the circuit.

c. Prepare follow-up review of incomplete applications reviewed on August 14, 2006 (Ms. Sitka, Ms. David, Mr. Hines and Ms. Jones)

d. Prepare for a meeting to be held on November 13, 2006.

**Ch. 2006-25 LAWS OF FLORIDA Ch. 2006-25**  
**SECTION 4 - CRIMINAL JUSTICE AND CORRECTIONS**

**876 SPECIAL CATEGORIES CHILD DEPENDENCY AND CIVIL CONFLICT  
CASE FROM GENERAL REVENUE FUND 23,271,856**

Funds in Specific Appropriation 876 are provided for case fees and expenses of court-appointed counsel in civil conflict cases and child dependency cases. The Justice Administrative Commission shall apportion these funds for use in each circuit according to the number of projected dependency case filings in each judicial circuit, and is authorized to pay such fees and expenses, subject to all specifications and limitations as provided by law. The Justice Administrative Commission shall submit quarterly reports of these case payments to the chair of the Senate Ways and Means Committee and the chair of the House Fiscal Council, by judicial circuit, which shall include, but not be limited to, information on requests for payments received; court orders received directing payment; and actual encumbrances and disbursements from this special appropriations category.

Funds in Specific Appropriations 876 and 878 shall be subject to the following cost-containment measures to be implemented by the Justice Administrative Commission:

- o A court-appointed attorney that has been appointed to more than one case for the same defendant within a 30-day period shall bill simultaneously for all cases appointed within that period for that defendant.
- o For capital cases where there are both a court-appointed lead and a co-counsel, the commission shall simultaneously review their invoices for attorney compensation.
- o Overpayment by the commission of due process costs, including attorney's fees, shall be recovered in full. The method of recovery, at the discretion of the commission, may be through an offset against future payments, direct reimbursement of the overpayment to the commission, or other remedies available to a creditor.
- o The commission shall directly compensate only those due process vendors who have executed a contract with the commission.
- o All court-appointed attorneys shall attach a progress docket sheet or a copy of the clerk's record of the case to any invoices submitted in an hourly format.
- o A court-appointed attorney shall secure a court order prior to requesting any transcript.
- o The commission shall pay all legal fees and due process costs for the 2006-2007 fiscal year at the rate not to exceed the amount set by the circuit Article V indigent services committee for the 2005-2006 fiscal year.