

Members

Rep. Jesse Villalpando, Chairperson
Rep. Ed Mahern
Rep. Ralph Ayres
Rep. Kathy Richardson
Sen. Richard Bray, Vice-Chairperson
Sen. David Ford
Sen. William Alexa
Sen. Timothy Lanane
Chief Justice Randall T. Shepard
Judge Ernest Yelton
C. Joseph Anderson, Jr.
William Overdeer
Sarah M. Taylor



COMMISSION ON COURTS

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Authority: IC 33-1-15

MEETING MINUTES¹

Meeting Date: September 17, 1999
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. Jesse Villalpando, Chairperson; Rep. Ed Mahern; Rep. Kathy Richardson; Sen. David Ford; Chief Justice Randall T. Shepard.

Members Absent: Rep. Ralph Ayres; Sen. Richard Bray, Vice-Chairperson; Sen. William Alexa; Sen. Timothy Lanane; Judge Ernest Yelton; C. Joseph Anderson, Jr.; William Overdeer; Sarah M. Taylor.

The Chairman, Representative Villalpando, called the meeting to order. He introduced David Ladendorf who was attending the meeting on behalf of Sarah M. Taylor. Representative Villalpando noted that the Commission would take no action other than to receive testimony during the meeting.

The Staff Attorney distributed the following documents to Commission members:

- (1) Revised notice for the meeting.
- (2) Minutes of the August 10, 1999, meeting.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

- (3) PD 3188 (procedures for property tax appeals).
- (4) PD 3181 (addition of two magistrates to the Tax Court).
- (5) PD 3183 (addition of two judges to the Tax Court).
- (6) Letter from Stephen Paul commenting on PD 3188.
- (7) PD 3016 (increased civil jurisdictional amount for the Gary City Court, Hammond City Court, East Chicago City Court, Hobart City Court, and Merrillville Town Court).
- (8) PD 3197 (increased civil jurisdictional amount for all nine city and town courts in Lake County and the small claims docket of the Lake Superior Court, County Division).
- (9) Letter from Susan Preble, Fiscal Analyst, describing the fiscal impact of PD 3188, PD 3181, PD 3183, PD 3016, and PD 3197.

Copies of the above documents, labeled as 'Exhibit 1' through 'Exhibit 9', are available from the Legislative Information Center.

The Staff Attorney for the Commission stated that, as requested by the Commission, he met several times with Bill Waltz and Karla Mantia of the State Board of Tax Commissioners and Judge Thomas Fischer, Judge of the Tax Court. Preliminary drafts PD 3188, PD 3181, and PD 3183 reflect the ideas discussed in the meetings. PD 3188 contains the procedural changes recommended by the State Board of Tax Commissioners. PD 3181 and PD 3183 reflect different structural responses to the concerns raised by Rep. Tincher in the August 10 meeting of the Commission.

Judge Thomas Fischer indicated that he did not have any basic problems with the procedural proposals contained in PD 3188. However, he suggested that the Commission give consideration to the issues to be raised by Mr. Paul and Mr. Stroble later in the meeting.

Judge Fischer noted that selection of the proposal in PD 3181 versus the proposal in PD 3183 depends on what issue is most important to the Commission. The addition of magistrates, as outlined PD 3181, will solve the case backlog before the Tax Court at a much lower cost than the addition of two judges. Alternatively, the addition of judges to the Tax Court, as outlined in PD 3183, will more directly address the suggestion that cases ought to be decided collectively by more than one judge. His review of the practices in other states reveals that some states rely on judges while other states use magistrates more extensively.

Judge Fischer also suggested that allowing the Tax Court to use mediation to resolve cases could also help reduce the backload of cases. However, a change in the Supreme Court rule that prohibits a judge from presiding at a mediation would be needed.

Bill Waltz, State Board of Tax Commissioners, summarized the provisions of PD 3188. Commissioner Timothy Brooks, State Board of Tax Commissioners, recommended the adoption of PD 3188. He indicated that he did not fully agree with the proposed revisions being suggested by Stephen Paul but would be happy to work with the Indiana State Bar Association to resolve any concerns.

Larry Stroble, partner in the firm of Barnes & Thornburg, and Stephen H. Paul, partner in the firm of Baker & Daniels, made presentations on behalf of the Taxation Section of the Indiana State Bar Association. (A summary of the comments made by Mr. Stroble, labeled as 'Exhibit 10', is available from the Legislative Information Center.) Both suggested revisions to PD 3188.

Representative Villalpando requested that the members of the Indiana State Bar Association work with Judge Thomas Fischer, the State Board of Tax Commissioners, and the Commission's Staff Attorney to bring a final set of proposals to the Commission on Courts. He indicated that the Commission would take final action on the issues related to the Tax Court at its final meeting for the year.

David Gilyan, practicing attorney in Lake County, presented a proposal from the Lake County Bar Association to increase the jurisdictional amount for cases in all city and town courts in Lake County and the small claims docket of the Lake County Superior Court, County Division to \$10,000 (PD 3197). He indicated that the current jurisdictional limits compromise the ability of plaintiffs with claims between \$3,000 and \$10,000 to be fully compensated for their claims. Litigation on the civil plenary docket is too expensive. These litigants tend to settle for an amount below \$3,000, which is the current jurisdictional limit for five of the nine city and town courts in Lake County and the small claims docket of the Lake County Superior Court, County Division. Rep. Villalpando asked him to comment on PD 3016, which would raise the civil jurisdictional amount for the Gary City Court, Hammond City Court, East Chicago City Court, Hobart City Court, and Merrillville Town Court. Mr. Gilyan indicated that he would prefer the enactment of PD 3197 but would find PD 3016 acceptable.

Magistrate Deborah A. Kapitan and Magistrate Diane Kavadias Schneider spoke on behalf of the Lake Superior Court, County Division. Magistrate Kapitan noted that the General Assembly recently added several new judges and magistrates to the Court and the Supreme Court is ordering a caseload redistribution plan for all counties. The Court is still considering these issues. She urged the Commission to delay its consideration of the civil jurisdictional amount issue until the Lake Superior Court resolved how it was going to redistribute its caseloads. Magistrate Schneider indicated that the Court does not, however, object to the jurisdictional changes suggested in either PD 3016 or PD 3197. She suggested that a change in the Supreme Court rule that prohibits a judge from presiding at a mediation would help the resolution of small claims cases.

The Staff Attorney distributed the following memoranda to Commission members:

- (1) List of requests for court officers submitted to staff.
- (2) List of other court related proposals submitted to staff.

Copies of the above documents, labeled as 'Exhibit 11' through 'Exhibit 12', are available from the Legislative Information Center.

After consultation with the other Committee members, Representative Villalpando indicated that at its next meeting the Commission will hear not more than ten of the requests for court described in Exhibit 11. In addition, the Commission will receive reports on the latest weighted caseload study and the Supreme Court's initiative to develop local caseload plans. The Chairman set the next meeting for October 1, 1999. It will convene at 10:00 am. in Room 404 of the State House.

He adjourned the meeting.