



Supreme Court of Appeals State of West Virginia

News

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Business Court Committee meets with stakeholders

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CHARLESTON, W.Va. – The Supreme Court’s Business Court Committee met Friday, September, 30, with an invited group of attorneys and others representing thousands of businesses across West Virginia. Supreme Court Justices Robin Jean Davis and Menis Ketchum also attended the day-long session at the Charleston Marriott Town Center Hotel.

The group went through the second draft of proposed written rules for a Commercial Litigation Court, and the attorneys and business representatives suggested numerous changes. Those suggestions will be incorporated into a third draft, which will be presented to the Supreme Court Clerk’s Office later this fall.

The Clerk will prepare the rules for presentation to the Court in a regularly scheduled conference. At that point the Supreme Court may approve a public comment period. Public comments then will be incorporated into a final draft of the rules, which also must go before the Court for approval before a Business Court can be established in West Virginia.

The purpose of Friday’s meeting was to seek input from the groups that would be most affected by the rules, because they are the parties most likely to suggest problems the committee drafting the rules did not think of, and they are the most likely to suggest solutions to those problems, said Business Court Committee Chairman Darrell Pratt, a Circuit Judge in the Twenty-Fourth Judicial Circuit (Wayne County).

“We think now we can come out with a better version of proper rules,” Judge Pratt said.

Marc Williams, an attorney with Nelson Mullins Riley & Scarborough in Huntington, said he appreciated the opportunity to discuss the rules with the judges as they were being written, rather than simply waiting to comment during the public comment period.

“It’s almost like being in the room when legislation is being drafted. It’s more substantive,” Mr. Williams said. “Judge Pratt and the other judges were very receptive.”

The draft rules accomplish the goal of resolving commercial litigation more quickly than the current civil litigation process, which can save businesses money, Mr. Williams said.

Brenda Harper Nichols, vice president of the West Virginia Chamber of Commerce, said the Business Court Committee “needs to be complimented for the proceedings today. To have more than one set of eyes on a work product before it is finished gives perfection to the work product.

“You had people here who had the same goal – a good draft of the final product,” she said.

The draft rules envision a Commercial Litigation Court with seven judges in seven regions. The judges will be appointed by the Supreme Court Chief Justice to staggered terms of seven years, and the Chief Justice will appoint a Chief Judge to oversee administrative matters. All judges on the Court will have special training in business litigation matters. The Court will abide by West Virginia Trial Court Rules but will make an effort to conclude every case expeditiously.

The rules for West Virginia's proposed Commercial Litigation Court are largely modeled on rules for similar courts operating in Maryland and North Carolina because those states have similar types of businesses as West Virginia, Judge Pratt said.

The Supreme Court established the Business Court Committee in June 2010 in response to House Bill 4352, which the Legislature passed in March 2010.

Other members of the committee are Circuit Judge Donald Cookman of the Twenty-Second Judicial Circuit (Hampshire, Hardy and Pendleton Counties); Circuit Judge Rudolph J. Murensky, II of the Eight Judicial Circuit (McDowell County); Circuit Judge James J. Rowe of the Eleventh Judicial Circuit (Greenbrier and Pocahontas Counties); Circuit Judge Susan B. Tucker of the Seventeenth Judicial Circuit (Monongalia County); and Circuit Judge Christopher Wilkes of the Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties).

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