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MEMORANDUM

TO: Boyd-Graves Steering Committee

FROM: John R. Walk

DATE: August 31, 2011

RE: Editor's Notes to 2010 Boyd-Graves Conference Reports

With input from Chris Meyer, Ann Leigh Kerr and Hamilton Bryson, I have completed the Editor's Notes to be appended to the study committee reports for the 2010 Boyd Graves Conference which you will find below:

4. Evidence Issues

The Committee reported to the Conference on revisions to the Guide to Evidence. No action was taken by the Conference.

5. Spoliation of Evidence

The Committee recommended no action be taken so no vote was taken of the Conference.

6. Punitive Damage Issues

At the recommendation of the Committee, the matter was carried forward for further study.

7. Impact of Spear Decision Re: Effect of Increased Ad Damnum

The Committee recommended no action be taken by the Conference due to the pending appeal of this decision.

8. Voir Dire

The Committee recommendation of adoption of a counterpart to criminal Rule 3A:14 was endorsed by the Conference and transmitted to the Advisory Committee on Rules of Court.

9. Change to Virginia Supreme Court Rule 4:7(d)

After discussion, the Conference amended the Committee recommendation to delete reference to “non-argumentative and non-suggestive.” The Committee proposal, as amended, was endorsed by the Conference and transmitted to the Advisory Committee on Rules of Court.

10. Attorney Liability to Client

The Conference adopted the Committee’s report with modification and the amendment to Virginia Code § 54.1-3906 was enacted by the General Assembly as 2011 Acts of Assembly, Chapter 703.

11. Court Filings of Social Security Numbers

The Conference adopted the Committee’s report. The suggested rule revision has since been approved by the Advisory Committee on Rules of Court and sent to the Judicial Council of Virginia.

12. Need for Changes in Arbitration Laws

The Committee recommended no action in view of a pending appeal before the U.S. Supreme Court.

13. Expansion of Jurisdiction of the General District Court

The Conference adopted the recommendation of the Committee except that the Committee’s suggestion for limited discovery did not achieve a consensus. This proposal has since been enacted by the General Assembly as 2011 Acts of Assembly, Chapter 702, Iaquinto/McEachin.

14. Literature Designations

The Conference adopted the Committee’s recommendations with revisions but the bill failed to pass in the General Assembly.

15. Timely Conclusion of Judicial Proceedings

The Committee recommended no action be taken so no vote was taken of the Conference.

16. Uniform Adult Guardianship and Protective Proceedings

The Conference voted to support Senate Bill 80 as recommended by the Committee. The bill was left in the Senate Courts of Justice Committee, Janet Howell.

17. Counterclaims in Family Law Divorce and Related Matters

The Committee's report was adopted by the Conference without change and the recommended change to § 17.1-275(26) was enacted by the General Assembly as 2011 Acts of Assembly, Chapter 707, Edwards.

18. Motions Craving Oyer

The Committee's recommended change to Rule 3:7 failed to achieve a consensus of the Conference.

19. Uniform Pre-Trial Scheduling Order

The Committee did not reach consensus to recommend any change to Rule 1:18 so no action was taken by the Conference.

20. Charitable Immunity

The Committee failed to achieve a consensus as to a recommendation and the issue was carried forward for further study.

21. Appearance to Challenge Personal Jurisdiction

The Committee's recommendation of adoption of a new statute § 8.01-277.1 was endorsed by the Conference as to parts A and B only. Part C failed to achieve a consensus of the Conference. This recommendation has since been enacted by the General Assembly as 2011 Acts of Assembly, Chapter 710, Obenshain.

22. Recovery of Specific Costs and Attorneys Fees on Appeal

After discussion, the Committee's recommendation to amend Rule 1:1A was carried forward for further study.

23. Attorney Issued Subpoenas

The Committee failed to reach consensus as to any modification of the statutes or rules regarding attorney issued subpoenas. No action was taken by the Conference.

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