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REPORT OF THE WYOMING SUPREME COURT TO THE WYOMING STATE BAR

*Barton R. Voigt, Chief Justice**

September 18, 2009

Given my brief remaining tenure as Chief Justice, this will be by last annual report to the Wyoming State Bar. Our state courts have made considerable progress this past year in dealing with all sorts of issues, and I am proud to tell you about them. First and foremost, of course, is our return to the Supreme Court building after two years in temporary quarters. We believe the remodeling project was a huge success, and that the building is now ready for another hundred years of use. As always, I have to credit the foresight of the legislature in doing the right thing at the right time.

Next, I should mention that the Supreme Court's electronic case management and electronic filing system is running full tilt. We are still operating under a court order, rather than formerly adopted rules, because we want to make sure we have all the bugs worked out before things are finalized. The good news is that the system is not cast in concrete and we are always looking for ways to improve it; we can make it better as we learn from experience. For instance, we are still considering the request we have had from several attorneys to expand our filing deadline from 5:00 p.m. to 12:00 a.m. We have not made that change, for two reasons: first, we figure the attorneys will just have to stay up late to panic at 11:59, instead of panicking at 4:59; and second, if you have a problem before 5:00, someone is in the clerk's office to help you. They won't be there at midnight.

This will not come as news to the officers, commissioners, employees, or director of the Bar, but the Court and the Bar are cooperating with the Court's I.T. vendor to improve the passage of information between the Court and the Bar. Once again, the legislature recognized this as a legitimate need, and funded the program. It is my understanding, although I have stayed out of the nitty gritty aspects of this project, that, after some initial discussions, the project has been toned down a bit and that there will not be as much change as was originally expected. The goal, simply put, is to make sure that both systems have the same information about attorneys at the same time.

* Barton R. Voigt was raised in Thermopolis, Wyoming. He obtained a B.A. and M.A. in American History, as well as a J.D., at the University of Wyoming. He practiced law in his home town for ten years, serving as Hot Springs County and Prosecuting Attorney for two terms. After two years as a county judge in Gillette, he was a district judge in Douglas for eight years. He was appointed to the Supreme Court on March 29, 2001, and became Chief Justice on July 1, 2006.

Our other major technology project, and it is a massive project, is the installation of a common electronic case management system, which will eventually incorporate electronic filing, in all of the State's district courts. There are now four separate systems in operation, with little ability to communicate with one another or the Supreme Court. We took this on as a state-funded project because it was clear that individual counties could not do it. Dockets and case files, and I assume the court calendar, will become available to counsel and litigants, just as briefs now are available at the Supreme Court. This is going to be a multi-year project, so do not expect grand changes in your county too quickly.

Our project to implement an electronic citation program for the circuit courts and law enforcement fell by the wayside after the economic slowdown. It had been approved, and we expect that we will get it back in some fashion, at some time. The idea is that the officer can create an electronic citation that is sent to the court, and to his or her agency, and that the information contained therein will then populate all the various required reports, thereby eliminating duplication of effort. The officer will not actually be able to open a court file, but the citation will end up in a queue for review by the prosecutor and the court before it is actually filed. Although the project was derailed at the end of the last legislative session, it is our understanding that the Wyoming Highway Patrol is getting it back on track.

Another project in which we are in mid-stream is an attempt to draft polices both for public access to court records, and the denial thereof, plus polices to govern redaction of confidential information from all court filings. You can imagine that it is much easier to *keep* confidential information out of documents before they are filed, than it is to *take* confidential information out of documents after they are filed. This is especially true when we get into the arena of electronic filing. There are just lots of things that you do not want out there on the internet. The Board of Judicial Policy and Administration (BJPA) is considering these rules this very week.

Because of a bit of a crisis in our State's ability to provide access to justice, the BJPA also created a Commission on Access to Justice. It will be an on-going commission whose purpose will be to study what we have had, to determine what our needs are, and to see how close we can get to fulfilling those needs. Justice Burke and Justice Kite, at my request, have taken the lead in this endeavor, and as they usually do, they have taken it far beyond where I would have been able to get in this much time. The Commission is holding public hearings, and I am sure the members would be happy to speak to your local bar associations.

One of the biggest areas of controversy within the judiciary this past year has been the transition from so-called "drug courts" to "court-supervised treatment programs." We are trying to separate out the judicial functions from the prosecutorial and counseling functions, and we are now drafting rules that

guide what judges may, and may not, do in this non-traditional arena. Our central problem, and I will admit it up front, is that we are far from uniform amongst ourselves in what we believe to be the correct answer. But we are getting close.

I do not really have much to report about caseloads and statistics. They tend to be fairly static at this point, by which I mean that where we are okay, we are okay, but where we have needed additional judges, we still need additional judges. Sweetwater County and the Third Judicial District are primary problem areas right now, but until some facilities decisions are made, we are unable to do much. We are also looking at the Fourth Judicial District, where District Judge Fenn is overloaded in Sheridan, even before he attempts also to cover Buffalo.

Lastly, I will tell you about the budget cutting in the judiciary that resulted from the Governor's call that we cooperate as the economy fell apart. Each of the courts has tried to aim at a 10% cut—5% for each year of the biennium—with the scary thought in mind that those cuts will be reflected in the next biennium budget. That, of course, means that we go through at least three years underfunded. You are all probably aware that almost all of the judiciary's budget goes to personnel. For the most part, we own no buildings, we have no special programs—so it has been tough to find places to cut. Travel, supplies, equipment, and a few positions have been our focus. Actually, this mention of travel costs reminds me of something I wanted to bring to your attention. The Bar's beloved peremptory challenge rule actually costs the judiciary a lot of money in travel costs, because a judge has to be brought in from somewhere else. Our fiscal staff is looking into this matter to see how much money is actually involved, and if the amount is sufficient, to determine whether we should do something about it, such as charging those travel fees to litigants who utilize peremptory challenges, rather than challenges for cause.

Well, that about covers it. The judicial branch of government in Wyoming continues to function pretty much as it always has. Change is slow, but progress is made. That is as it should be.