



MINNESOTA STATE BAR ASSOCIATION

MINNESOTA BAR CENTER • SUITE 403, 430 MARQUETTE AVE. • MINNEAPOLIS, MN 55401

President
Ralph H. Peterson
P.O. Box 169
Albert Lea, MN 56007
(507) 373-3946

President - Elect
Tom Tinkham
2200 First Bank Place East
Minneapolis, MN 55402
(612) 340-2829

Secretary
Roger V. Stageberg
1100 TCF Tower
Minneapolis, MN 55402-2852
(612) 339-8131

Treasurer
Robert J. Monson
555 Degree of Honor Bldg.
St. Paul, MN 55101
(612) 227-6301

Vice President - Outstate
Robert A. Guzy
3989 Central Ave. NE
Columbia Heights, MN 55421
(612) 788-1644

Past President
A. Patrick Leighton
1400 Norwest Center
St. Paul, MN 55101
(612) 227-7683

Executive Director
Tim Groshens

March 5, 1990

Frederick Grittner
Clerk of Appellate Courts
230 State Capitol
St. Paul, MN 55155

Dear Mr. Grittner:

Enclosed is the original and ten copies of a petition to establish a pilot program to improve individual judicial performance.

Sincerely,

Tim Groshens
Executive Director

TG:JG
Enclosures (11)

MAR 6 1990

In Re Petition to establish a
pilot program to improve individual
judicial performance

PETITION OF THE
MINNESOTA STATE
BAR ASSOCIATION

Petitioner, Minnesota State Bar Association (MSBA),
states:

WHEREAS, The Minnesota Supreme Court has the
inherent and exclusive power to administer justice,
protect rights guaranteed by the Constitution, and govern
the legal profession, and

WHEREAS, the MSBA has studied the issue of judicial
evaluation for the past several years through its Judicial
Administration Committee and Civil Litigation Section, and

WHEREAS, the joint proposal of the Judicial
Administration Committee and the Minnesota District Judges
Association was adopted by the Board of Governors of the
MSBA on February 2, 1990, and adopted as amended by the
House of Delegates on February 3, 1990, and

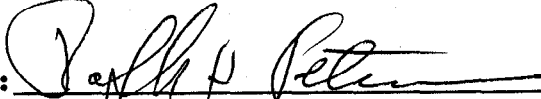
WHEREAS, the MSBA believes the pilot program will
improve the performance of individual trial and appellate
judges, and the judiciary as a whole, and further the
public's confidence in the legal system, and

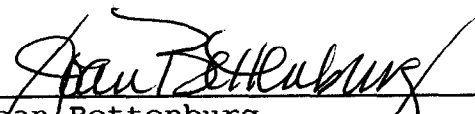
WHEREAS, the MSBA believes the pilot program
preserves judicial independence and integrity and that
court sponsorship of the program is essential to the
program's success.

NOW, THEREFORE, the Minnesota State Bar Association respectfully petitions the Minnesota Supreme Court to establish a pilot program to improve individual judicial performance as attached.

DATE: 3/2/90

MINNESOTA STATE BAR ASSOCIATION

BY: 
Ralph H. Peterson
President

BY: 
Joan Bettenburg
Chair, Judicial Administration
Committee

Attachment:
Proposed Pilot Program to Improve
Individual Judicial Performance

MINNESOTA STATE BAR ASSOCIATION

Proposed Pilot Program to Improve Individual Judicial Performance

PURPOSE: A pilot program to improve individual judicial performance.

GOALS: After the completion of the pilot program, a review of the procedures, methodology and statistical summary of the data shall be conducted by the Supreme Court Committee as defined below. The Supreme Court Committee shall make findings and a recommendation to the Supreme Court regarding:

1. Whether to implement a permanent program to periodically review each of the state's trial and appellate court judges;
2. Whether to structure and support a judicial training program from information received from the above review.

PROGRAM RESPONSIBILITY: The pilot program shall be administered by a committee of thirteen persons appointed by the Supreme Court known as the Supreme Court Committee (SCC). The SCC shall consist of two Appellate Judges (one from each Appellate Court), four District Court Judges, four attorneys recommended by the Minnesota State Bar Association and three members of the public with expertise in personnel management, business administration, communication, or related fields.

The SCC shall develop, organize, and provide the questionnaires, criteria, standards, materials, and personnel necessary to carry out the project.

The pilot program shall consist of two separate methodologies, each involving seven judges ("subject judges") selected at random. (All references to the "subject judge" shall include any justice being evaluated in the pilot program.) The first, Method A, shall involve on-site review. The second, Method B, shall not involve on-site review. Both A and B shall involve a review by a Resource Judge chosen from a list of highly respected, well-qualified judges selected by the SCC.

METHOD A: Review Panel

For Method A, a Review Panel shall be selected consisting of 1) a judge or retired judge selected by the SCC and 2) a person skilled in communication appointed by the SCC.

The Review Panel shall be responsible for the dissemination of evaluation forms, collection and summary of data, on-site evaluation, and a summary conference.

Data Gathering

- 1. Questionnaires (for examples, see attachments) shall be completed by:
 - a. The subject judge for self-evaluation;
 - b. Lawyers appearing before the subject judge during the year immediately preceding the review;
 - c. Jurors involved in completed trials before the subject judge in the year immediately preceding the review.

All questionnaires shall be submitted anonymously to the Review Panel.

- 2. On-site evaluation: The individuals of the Review Panel shall observe the subject judge in the courtroom on at least two separate occasions. The appearances shall be unannounced.
- 3. The questionnaires and Review Panel's comment sheets involving the on-site evaluation shall be furnished to the subject judge.

METHOD B:

Data Gathering

- 1. Questionnaires (for examples, see attachments) shall be completed by:
 - a. The subject judge for self-evaluation;
 - b. Lawyers appearing before the subject judge during the year immediately preceding the review.
 - c. Jurors involved in completed trials before the subject judge in the year immediately preceding the review.
- 2. All questionnaires shall be submitted anonymously first to the Resource Judge and then to the subject judge.

**SUMMARY
CONFERENCE:**

- 1. **Method A**
A summary conference shall be held to review the evaluation data and the on-site evaluation . The conference shall be limited to the subject judge and the members of the Review Panel. The conferees shall identify three areas of performance targeted for improvement.
- 2. **Method B**
A summary conference shall be held between the subject judge and the Resource Judge to review the evaluation data. The conferees shall identify three areas of performance targeted for improvement.

**PREPARATION
OF REPORT AFTER
SUMMARY
CONFERENCE:**

- 1. After the summary conference is completed, each Review Panel member, each Resource Judge and each subject judge shall anonymously prepare a report to the SCC.

2. The report to be filed with the SCC shall summarize the lessons learned from participation in the pilot program. In addition, this written report shall contain recommendations to the SCC on:
 - a. Whether a permanent program of judicial performance improvement should be implemented;
 - b. What specific program features should be included or excluded from a permanent program; and
 - c. Whether areas of perceived need for judicial performance improvement can be addressed by continuing judicial education program offerings.

CONFIDENTIALITY: All of the information collected during, and all reports prepared as a part of, the pilot program **shall be confidential** and shall not be publicly disclosed or subject to discovery in any proceeding other than the summary conference as described above.

Confidentiality shall be assured by changing the Rules of the Supreme Court, the Code of Judicial Conduct, the Rules of Professional Conduct, and by using the Rules of Public Access to Records of the Judicial Branch. Changes to the Rules and Codes shall include provisions for appropriate, defined sanctions. In addition, violation of confidentiality by an SCC member shall automatically result in removal from that committee.

Reports by the subject judge, the Resource Judge or the Review Panel to the SCC shall be anonymous and shall not identify any of the involved parties. Upon submission by the SCC of its report to the Supreme Court, each of the reports received by the SCC from the various pilot program participants shall be destroyed.

After the summary conference, the report and a statistical summary of the data collected shall be prepared without identifying any of the participants, whereupon, all of the other materials shall be destroyed. No person involved in the process shall retain any of the questionnaires or other program materials, nor shall these persons discuss or reveal any information relating to individual participants in the program.

FUNDING: Foundation funding should be explored for the pilot project.

SCOPE: The pilot program will include at least six District Court and one appellate court judge or justice for each of the two methodologies proposed above. An effort will be made so that the District Court participants are divided equally - two metropolitan, two suburban, and two out-state - for participation in each pilot program.

JUDGE'S SELF-EVALUATION

Section 1: Legal Ability

This section deals with legal competence, learning and understanding, and the judicial application of such knowledge in the conduct of court proceedings. Check only one response for each question. Please read cover sheet before beginning this self-evaluation. Additional sheets may be attached if necessary.

	<u>Excellent</u>	<u>More Than Adequate</u>	<u>Adequate</u>	<u>Less Than Adequate</u>	<u>Poor</u>	<u>No Opinion</u>
1. Knowledge of relevant substantive law.	_____	_____	_____	_____	_____	_____
2. Knowledge of rules of procedure.	_____	_____	_____	_____	_____	_____
3. Knowledge of rules of evidence.	_____	_____	_____	_____	_____	_____
4. Followed relevant substantive laws and rules.	_____	_____	_____	_____	_____	_____
5. Ability to identify and analyze relevant issues.	_____	_____	_____	_____	_____	_____
6. Giving reasons for evidentiary rulings when needed.	_____	_____	_____	_____	_____	_____
7. Clarity of explanation of evidentiary rulings.	_____	_____	_____	_____	_____	_____
8. Adequacy of findings of facts.	_____	_____	_____	_____	_____	_____
9. Clarity of judge's decision (either oral or written).	_____	_____	_____	_____	_____	_____
10. Completeness of judge's decision (either oral or written).	_____	_____	_____	_____	_____	_____
11. The procedure for developing jury instructions.	_____	_____	_____	_____	_____	_____

Please explain extenuating circumstances: _____

Section 2: Judicial Management Skills

This section deals with judicial ability and skill in the organization and handling of court proceedings. Check only one response for each question.

	<u>Excellent</u>	<u>More Than Adequate</u>	<u>Adequate</u>	<u>Less Than Adequate</u>	<u>Poor</u>	<u>No Opinion</u>
12. Effectiveness in narrowing the issues in dispute.	_____	_____	_____	_____	_____	_____
13. Moving the proceeding in an appropriately expeditious manner.	_____	_____	_____	_____	_____	_____
14. Maintaining appropriate control over the proceeding.	_____	_____	_____	_____	_____	_____
15. Punctuality.	_____	_____	_____	_____	_____	_____
16. Doing the necessary "homework" on the case.	_____	_____	_____	_____	_____	_____
17. Rendering evidentiary rulings without unnecessary delay.	_____	_____	_____	_____	_____	_____
18. Issuing timely decisions.	_____	_____	_____	_____	_____	_____
19. Complying with 90-day rule.	_____	_____	_____	_____	_____	_____
20. Creativity in resolving problems arising during the proceeding.	_____	_____	_____	_____	_____	_____

Please assess your settlement activities in this case (whether or not the case was settled) with respect to:

21. Appropriateness of your settlement initiatives (if less than adequate or poor, please explain below).	_____	_____	_____	_____	_____	_____
22. Thoughtfully exploring the strengths and weaknesses of each party's case in settlement discussions with the attorneys.	_____	_____	_____	_____	_____	_____

Please explain extenuating circumstances: _____

Section 3: Judicial Demeanor

This section deals with various aspects of judicial personality and behavior in the conduct of court proceedings, such as temperament, attitude and manner. Check only one response for each question.

	<u>Excellent</u>	<u>More Than Adequate</u>	<u>Adequate</u>	<u>Less Than Adequate</u>	<u>Poor</u>	<u>No Opinion</u>
23. Attentiveness.	_____	_____	_____	_____	_____	_____
24. Courtesy.	_____	_____	_____	_____	_____	_____
25. Patience.	_____	_____	_____	_____	_____	_____
26. Ability to listen.	_____	_____	_____	_____	_____	_____
27. Even-handed treatment of the litigants (if less than adequate or poor, please explain below).	_____	_____	_____	_____	_____	_____
29. Decisiveness.	_____	_____	_____	_____	_____	_____
30. Fairness.	_____	_____	_____	_____	_____	_____
31. Hard working.	_____	_____	_____	_____	_____	_____

Please explain extenuating circumstances: _____

32. Showed prejudice? Please explain:

LAWYERS' QUESTIONNAIRE

Please read cover sheet before beginning this questionnaire, then begin here. Additional sheets may be attached if necessary.

Section 1: Legal Ability

This section deals with legal competence, learning and understanding, and the judicial application of such knowledge in the conduct of court proceedings. Check only one response for each question.

Please assess the judge's performance in:

	<u>Excellent</u>	<u>More Than Adequate</u>	<u>Adequate</u>	<u>Less Than Adequate</u>	<u>Poor</u>	<u>No Opinion</u>
1. Knowledge of relevant substantive law.	_____	_____	_____	_____	_____	_____
2. Knowledge of rules of procedure.	_____	_____	_____	_____	_____	_____
3. Knowledge of rules of evidence.	_____	_____	_____	_____	_____	_____
4. Followed relevant substantive laws and rules.	_____	_____	_____	_____	_____	_____
5. Ability to identify and analyze relevant issues.	_____	_____	_____	_____	_____	_____
6. Giving reasons for evidentiary rulings when needed.	_____	_____	_____	_____	_____	_____
7. Clarity of explanation of evidentiary rulings.	_____	_____	_____	_____	_____	_____
8. Adequacy of findings of facts.	_____	_____	_____	_____	_____	_____
9. Clarity of judge's decision (either oral or written).	_____	_____	_____	_____	_____	_____
10. Completeness of judge's decision (either oral or written).	_____	_____	_____	_____	_____	_____
11. The procedure for developing jury instructions.	_____	_____	_____	_____	_____	_____

Comments _____

Section 2: Judicial Management Skills

■ This section deals with judicial ability and skill in the organization, management and handling of court proceedings. Check only one response for each question..

Please assess the judge's performance:

	<u>Excellent</u>	<u>More Than Adequate</u>	<u>Adequate</u>	<u>Less Than Adequate</u>	<u>Poor</u>	<u>No Opinion</u>
12. Effectiveness in narrowing the issues in dispute.	_____	_____	_____	_____	_____	_____
13. Moving the proceeding in an appropriately expeditious manner.	_____	_____	_____	_____	_____	_____
14. Maintaining appropriate control over the proceeding.	_____	_____	_____	_____	_____	_____
15. Punctuality.	_____	_____	_____	_____	_____	_____
16. Doing the necessary "homework" on the case.	_____	_____	_____	_____	_____	_____
17. Rendering evidentiary rulings without unnecessary delay.	_____	_____	_____	_____	_____	_____
18. Issuing timely decisions.	_____	_____	_____	_____	_____	_____
19. Complying with 90-day rule.	_____	_____	_____	_____	_____	_____
20. Creativity in resolving problems arising during the proceeding.	_____	_____	_____	_____	_____	_____

■ Please assess the judge's settlement activities in this case (whether or not the case was settled) with respect to:

21. Appropriateness of the judge's settlement initiatives (if less than adequate or poor, please explain in the Comments section).	_____	_____	_____	_____	_____	_____
22. Thoughtfully exploring the strengths and weaknesses of each party's case in settlement discussions with the attorneys.	_____	_____	_____	_____	_____	_____

Comments

Section 3: Judicial Demeanor

■ This section deals with various aspects of judicial personality and behavior in the conduct of court proceedings, such as temperament, attitude and manner. Check only one response for each question.

Please assess the judge's performance:

		<u>Excellent</u>	<u>More Than Adequate</u>	<u>Adequate</u>	<u>Less Than Adequate</u>	<u>Poor</u>	<u>No Opinion</u>
23.	Attentiveness.	_____	_____	_____	_____	_____	_____
24.	Courtesy.	_____	_____	_____	_____	_____	_____
25.	Patience.	_____	_____	_____	_____	_____	_____
26.	Ability to listen.	_____	_____	_____	_____	_____	_____
27.	Even-handed treatment of the litigants (if less than adequate or poor, please explain in the Comments section).	_____	_____	_____	_____	_____	_____
28.	Even-handed treatment of attorneys (if less than adequate or poor, please explain in the Comments section).	_____	_____	_____	_____	_____	_____
29.	Decisiveness.	_____	_____	_____	_____	_____	_____
30.	Fairness.	_____	_____	_____	_____	_____	_____
31.	Hard working.	_____	_____	_____	_____	_____	_____
32.	Showed prejudice? Please explain:						

Comments:

Section 4: Background

- 33. How many times have you appeared before this judge? _____
- 34. How long have you practiced law? _____ years
- 35. What percentage of your practice is litigation? _____ %
- 36. What percentage of your practice is devoted to cases
in the same area as in this case? _____ %
- 37. Which of the following describes your primary law practice?
(please check one)
 - Criminal
 - Civil
 - Family
 - Mixture
 - Other

COMMENTS: _____

JUDICIAL EVALUATION

Jurors' Questionnaire

Please read cover sheet before beginning this questionnaire. Additional sheets may be attached if necessary.

Please evaluate the judge's performance.

	<u>Agree</u>	<u>Undecided</u>	<u>Disagree</u>	<u>Does Not Apply</u>
1. Followed a time schedule	_____	_____	_____	_____
2. Gave reasons for delays	_____	_____	_____	_____
3. Was fair	_____	_____	_____	_____
4. Paid attention	_____	_____	_____	_____
5. Was patient	_____	_____	_____	_____
6. Was courteous	_____	_____	_____	_____
7. Showed respect	_____	_____	_____	_____
8. Was prejudiced against anyone because of:				
a. Race	_____	_____	_____	_____
b. Sex	_____	_____	_____	_____
c. Nationality	_____	_____	_____	_____
d. Religion	_____	_____	_____	_____
e. Economic or social standing	_____	_____	_____	_____
9. The jury instructions were clear	_____	_____	_____	_____

Comments: _____

