

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT – via ZOOM

January 22, 2021

Members Participating Via Telephone or Video: Hon. Perry Miller, Hon. Steve Bolstad, Hon. Holly Frederickson, Peggy Tonon, Hon. Kelly Mantooth, Tina Reinicke, Hon. Jessie Connolly, Charlie Harball, Hon. Jim Rice, Hon. Steve Fagenstrom, and Brian Smith.

Members Absent: Hon. Heidi Ulbricht and Scott Twito.

Staff Present: Shauna Ryan

Guests: Ed Higgins, Chairman, Access to Justice Commission's Self-Represented Litigants Committee's subcommittee on forms development.

Judge Miller called the meeting to order at 8:35 a.m.

OLD BUSINESS:

Minutes

The minutes from the meeting on November 20, 2020, were reviewed. Charlie Harball moved that the minutes be approved. Judge Frederickson seconded the motion and it carried unanimously.

NEW BUSINESS:

Summons for Possession – Review Form

Ed Higgins said his subcommittee was approached with a Summons for Possession form that had been developed in Indiana originally. The goal with their form was to try and make it more understandable so tenants who are served with an action for possession knew what they needed to do. Mr. Higgins felt since most of these cases are in courts of limited jurisdiction it would make the most sense to run it by this Commission. He asked the Commission if forms such as this would be helpful. His subcommittee has the capacity to develop some forms if the Commission is interested. Mr. Higgins did have a conversation with Mr. Sinrud, lobbyist for the landlord's association, and he indicated that he would be interested in being involved in form development in landlord/tenant matters. Judge Mantooth asked if Ed had gotten together with Mr. Sinrud to discuss the form. Ed said he had talked with Mr. Sinrud and he did not seem opposed to the idea of forms but wanted to make sure they weren't biased in some way. That is a valid concern and one that the forms development subcommittee is cognizant of when developing them. The more input from the folks using the forms, the better. Judge Miller commented that the Commission had an in-depth discussion about the packet of forms from the Self-Represented Litigants Commission and concluded that this was not something their staff could hand out, but they could make them available at the front counter for folks to pick up if interested. The courts need to remain neutral. Many courts do hand out forms and instructions for litigants, however. If litigants ask, they are given the packets. Judge Mantooth tells landlords they really should seek legal advice to move things forward because if they screw it up the tenant can come back. Ed said one of the issues that he and John Sinrud agreed

on is that John wished all the landlords would talk to him before they filed anything with the courts. Judge Bolstad asked if there was a place online with forms for courts of limited jurisdiction. The State Law Library does have a limited number of courts of limited jurisdiction forms. (www.courts.mt.gov/forms) If the Commission would like a packet of landlord tenant forms the subcommittee can develop those for them. That could then be what becomes available uniformly on the Supreme Court's website. Judge Bolstad thought that was a great idea and asked Judge Fagenstrom if that would be something that would work for him. Judge Fagenstrom wasn't sure yet. He preferred simpler over too many details. Peggy Tonon thought the more impartial and helpful information that can be provided to either party is good, and she didn't see a downside. Judge Frederickson added that the conundrum they get into is the part about the frustration of self-represented litigants who just want someone to solve their problems. There's a fine line of how much help a court can provide. Judge Fagenstrom said he wouldn't be averse to an entire landlord tenant package. Judge Connolly said it's not always about pro se litigants. Often attorneys need some guidance and direction as well. She thought it would benefit everyone. The Commission unanimously concluded that Mr. Higgins should go ahead with putting together a landlord tenant packet for the Commission's review. Judge Miller would like Ed to come back with a packet of forms that have already been reviewed by a landlord representative. Peggy Tonon thought instructions to go along with the forms would also be helpful. The Commission agreed.

Legislative Update

Judge Mantooth gave a legislative update. Bills the MMA are watching closely are: SB 69 – introduced by Sen. Fitzpatrick – provides that the offer of settlement procedure is available at any time in the courts of limited jurisdiction; HB 102 – introduced by Rep. Berglee – revises gun laws and locations where concealed weapons may be carried and exceptions; HB 243 (LC0309) – introduced by Rep. Hopkins – allows a reserve officer to serve as a court officer in a municipal court; and SB 127 – introduced by Sen. Friedel – eliminates the ability of a municipal court judge to appoint a part-time assistant judge.

Spring 2021 Conference – Update

Shauna Ryan reported that most of the presenters had been contacted and were on board to teach. Sessions with unconfirmed presenters were the Supreme Court case law update, the session on gender identity/preferred pronouns, and judicial wellness. Brian Smith suggested that Koan Mercer from the Appellate Defender's Office may be able to help with the SC case law updates. Mr. Mercer may be able to recruit a prosecutor to present with him and would cover both criminal and civil law updates. Justice Rice added that they do need to shape the presentation some to focus on the cases that affect the courts of limited jurisdiction. Judge Frederickson suggested Carol Staben-Burroughs in Bozeman to teach on judicial wellness. Judge Frederickson agreed to reach out to her discuss what would be most helpful for the judges. Ms. Ryan indicated that she had not yet contacted SK Rossi about covering the topic of gender identity and preferred pronouns. Apparently, SK Rossi is no longer with the ACLU. Ms. Rossi gave a presentation to folks in Missoula County justice court on the topic last year, so Tina Reinicke agreed to contact the court administrator and find out where she may be working now.

June 2021 Clerks Conference

Shauna Ryan reported that the conference from last fall was canceled due to COVID-19 and has been rescheduled for June 15-17, 2021, in Missoula. The conference agenda was discussed and is fairly well set. Shauna will begin reaching out to the presenters soon.

Request for Temporary Certificate and Waiver of Training

Hon. Mark Piskolich – Shauna Ryan reported that Judge Piskolich took and passed his certification test on December 30, 2020, prior to officially taking office on January 4, 2021. Therefore, on behalf of the waiver committee, Peggy Tonon withdrew any action on the waiver request as the request was now moot.

Adjourned: The meeting adjourned at 10:35 a.m.

Next Meeting Date: The next meeting will be Friday, February 19, 2021, at 8:30 a.m. (Zoom).

May 23, 2022