

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT

June 17, 2022

Members Participating: Hon. Perry Miller, Hon. Kelly Mantooth, Hon. Jessie Connolly, Hon. Holly Frederickson, Hon. Steve Fagenstrom, Hon. Steve Bolstad, Valerie Armstrong, Peggy Tonon, Brian Smith, and Hon. Jim Rice.

Members Absent: Hon. Heidi Ulbricht, Charlie Harball, and Scott Twito.

Staff Present: Shauna Ryan

Guests: John Mudd, Executive Director of the State Bar of Montana

Judge Bolstad introduced John Mudd. John is from Missoula originally and they went to Law School together. Judge Bolstad saw John the night before and invited him to drop by the meeting this morning. John advised that he was in town for a State Bar board meeting in conjunction with the 50th anniversary of the Montana Constitution. The board trustees of the State Bar wanted to show its support and fulfill their oath to support the constitution. The main focus of their work at the State Bar in the current strategic plan is two elements: 1) support the rule of law and 2) to continue to improve the operation of the State Bar. We are in an unusual time in our state currently in terms of peoples understanding and belief in the courts. He suggested that most people are going to encounter the justice system through the courts of limited jurisdiction. The judges have a pivotal role in that discussion. Unfortunately, people do not find themselves working with lawyers or judges and courts during very happy times. He thought one of the things they need to recognize is that when people have most of their experiences in a tough time and we have a real decline in civics understanding that we all have an obligation to try and help people understand what it is that we do. It is the one-on-one explanation to friends and neighbors that can help. We must believe in the system and restrain ourselves as lawyers. Lawyers cannot be critical of the court – not because you might not be mad but because ultimately you have to respect that the court made a different decision. We have an obligation to help people understand that it is not always going to go our way. The State Bar is available to help the judges any way they can. Judge Fagenstrom said one thing that would be helpful is for more lawyers to step up and help defendants in limited court cases without charging an exorbitant amount of money. There are a lot of folks who are moving through the courts without representation because it is cost prohibitive. John Mudd said that there are about 3200 lawyers in Montana and the growth has just been out-of-state lawyers who are maintaining an active Montana license. There really are not enough lawyers. John said there has been talk about the State Bar partnering with the Broadcasters or Newspaper Association as part of this broader outreach and doing a citizen law school which could provide just some basic education about how the system works – basic rights and some general understanding of what the role of the court is and what they do. Judge Miller commented that one of his first memories when he came on the bench was a reminder from then Chief Justice Turnage who said, “you can never forget that the issue before you is the most important thing in that person’s life at that time.” We need to be more respectful and more cognizant of that as judges as well.

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

OLD BUSINESS:

Minutes

The minutes from the meeting on April 25, 2022, were reviewed. Judge Frederickson moved that the minutes be approved. Judge Mantooth seconded the motion and it carried unanimously.

Annual Training Sessions for Courts of Limited Jurisdiction - Locations

Hon. Jeanne Walker sent a letter to Judge Miller on March 25, 2022, requesting that, as Chairman of the Commission on Courts of Limited Jurisdiction, he identify any and all rules, regulations, protocols, policies and legal authority utilized by the Commission on Courts of Limited Jurisdiction in deciding the locations of the fall and spring conferences each year. Judge Miller responded and indicated that the Commission would entertain any ideas she had, however the MMA is not the appropriate place to discuss this particular issue. The Commission on Courts of Limited Jurisdiction was statutorily required to supply the education to the judges and the judges are mandated to be present at the required training unless they requested and received a waiver. The district MMA meeting was held on April 8, 2022. Judge Walker provided Judge He Does her proposal ahead of the meeting and requested the item be discussed during the meeting. Judge He Does It forward the proposal to Judge Mantooth for his review and comments. Judge Mantooth explained the Commission's process on finding locations and criteria that must be met. Judge Connolly attended that district meeting. She advised that the MMA could make a recommendation to the Commission regarding the issue but that would be the extent. Judge Connolly added the issue to the general membership meeting of the MMA on scheduled for Wednesday, April 27th. Judge Walker is planning to address her concerns and proposal during the MMA meeting on Wednesday. The gist of the proposal is that no judge be required to travel more than 550 miles from their courthouse to the conference location. Should the Commission choose a location outside of the parameters in the proposal, the Montana Supreme Court would incur the additional cost of travel to include mileage, per diem and lodging. If the MMA gets a majority vote to take the proposal to the Commission for consideration, the Commission will address it at the June meeting. Judge Connolly will provide an update – either way – at the next meeting.

UPDATE: On June 17, 2022, Judge Connolly reported that at the last MMA membership meeting there was a motion on the floor to ask the Commission to limit where our schools are held. Some lively discussion followed and at the end of the day the motion failed and did not move forward. No further action is required by the Commission.

NEW BUSINESS:

Survey Monkey Results from Spring Conference

There were suggestions again for break-out sessions for the more experienced judges and one for the newer judges. The commission discussed how that might work. Some have suggested that all of the judges stay together for the first hour and then break the second hour to the individual court breakouts - municipal, city, and county. Judge Miller commented that many of the suggested training topics for future conferences are topics already routinely discussed and covered at our conferences. That is a vote of confidence for the Commission.

Request for Waiver of Training for Spring 2022 COLJ Conference

Hon. Jean Kerr: On behalf of the waiver committee, Peggy Tonon recommended the waiver request be approved. The Commission concurred.

Hon. Cody Shaw: Based on Judge Shaw's explanation after-the-fact, Peggy Tonon recommended the waiver request be approved, on behalf of the waiver committee. The Commission concurred with the recommendation

on the condition that Peggy prepare and send a letter of caution to Judge Shaw explaining the appropriate process should something similar occur in the future.

Hon. Lauri Cary: On behalf of the waiver committee, Peggy Tonon recommended the waiver request be approved. The Commission concurred.

Request for Waiver of Training for Substitute Judge

Hon. Luke Savage: Judge Savage submitted a Request for Waiver of Training for Substitute Judge for Mike Weber, a retired county attorney on inactive status with the Montana Bar. Because the request was for both a justice court of record and city court, Peggy Tonon approved the waiver for the city court. The area of concern is whether an *inactive* attorney would still be qualified to serve as a sub judge under the justice court of record statute, 3-10-116, MCA. It is a gray area and one the Commission feels could be challenged by a litigant. The statute needs to be clarified during the next legislative session. There was a suggestion that Mike Weber be asked if he would be willing to go back to “active” status with the State Bar in order to serve as a substitute judge for a justice court of record. At this point, Peggy is going to deny the request for Mr. Weber to serve as sub judge for the justice court of record. The Commission concurred with the waiver committee’s recommendations. Peggy will follow up with both Judge Savage and Mike Weber and explain the Commission’s position.

Travel Reimbursement for MMA Training Judges – Who Pays?

Shauna Ryan asked for some guidance on who pays for what when a training judge travels to train a new judge. Judge He Does It submitted a travel claim to the state for reimbursement for two nights lodging, meals, and mileage. Shauna approved the claim, and it was paid out of the Commission on Courts of Limited Jurisdiction (COCOLJ) budget. The training judges fall under the purview of the Montana Magistrates Association, however. The statute does not require that the supreme court provide the initial training for new judges. That is handled by the Montana Magistrates Association. Historically, the training judge would send his bill to the MMA treasurer. Judge Connolly, president of the MMA, would approve the bills and they would then be paid. If a Commission member were to provide the training, then the costs could be justified and paid out of the COCOLJ budget. After some discussion, it was clarified that all training expenses should be submitted to the MMA and paid out of that budget, unless the training judge is also a COCOLJ member. In which case, the COCOLJ would pay the expenses.

Recommendation for appointment of COCOLJ member (City Rep)

Charlie Harball is retiring at the end of the month and recommended that Jeff Hindoien be appointed to replace him on the Commission. Jeff Hindoien is interested in serving on the Commission. Judge Mantooth moved to recommend to the Supreme Court that Mr. Hindoien to be appointed to the Commission. Judge Frederickson seconded the motion and it carried unanimously. Shauna Ryan will notify the Supreme Court.

Fall Certification Conference and Entertainment – Update

There will be training for new judges on Saturday and Sunday prior to the start of the Certification Conference in November. Judges who have served less than 3 years are encouraged to attend, but it will be open to anyone interested in attending. The new judge training will run from 10 a.m. – 5 p.m. on Saturday and 9 a.m. – 12:00 p.m. on Sunday. The trainers for new judge training will be Judge Frederickson, Judge Bolstad, Judge Mantooth, Judge Miller, Judge West, Judge Burman, Judge Hummel and possibly Judge Fagenstrom. The trainers need to discuss and decide what they will cover. As chairperson of the training committee, Judge Frederickson will serve as the point of contact for the new judge training. As test questions are received Shauna

will forward them on to the testing committee for review. Peggy will arrange for the testing committee to meet. The testing committee is made up of all the non-judge members of the Commission. The High Ore Road band has agreed to play on Wednesday night, November 16th, for the judges' banquet. They will play from 6-9 p.m. for a fee of \$600. Entertainment will be paid for by the MMA.

Adjourned: The meeting adjourned at 12:05 p.m.

Next Meeting Date: The next meeting will be Friday, August 19, 2022, at 8:30 a.m. in Helena.

February 7, 2024