

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

– via ZOOM/Telephone

Special Meeting re Fall COLJ Conference

July 13, 2020

Members Present: None

Members Participating Via Telephone or Video: Hon. Perry Miller, Peter Ohman, Peggy Tonon, Hon. Kelly Mantooth, Tina Reinicke, Charlie Harball, Hon. Jessie Connolly, and Hon. Jim Rice.

Members Absent: Judge Ulbricht, Judge Bolstad, Judge Fagenstrom, Judge Frederickson and Mary Ann Ries.

Staff Present: Kevin Cook and Shauna Ryan

Guests: None

Judge Miller called the meeting to order at 11:00 a.m.

This is a special meeting of the Commission – not regularly scheduled – to discuss the fall conference and the possibility of needing to hold it via video conference rather than in-person due to the COVID pandemic.

Shauna Ryan advised that she was visiting with Beth McLaughlin last week and all the unknowns at this point make it hard to move forward with planning. The state is still in Phase 2 of the reopening which requires restrictions and mandates that make holding a conference of our size challenging. Based on the unknowns and the amount of preparation that goes into these ahead of time, we may be better off to just begin planning for a webinar for the fall rather than require in-person attendance. Everyone would still be required to attend but it would be held via Zoom. Shauna visited with Kevin Cook and Judge Frederickson and, based on what they said, thinks it is doable. We would need an order from the Court outlining what is expected and that it is still mandatory for the judges. There will likely be a lot of work on the front end in getting it all coordinated. She thought maybe two thirds of the judges were familiar with Zoom and have used it in some capacity. The clerks ended up cancelling their fall conference based on the same unknowns in addition to the fact that their training is not required. They thought rather than hold a conference and have minimal participation that it would be better to postpone it until the spring or early summer.

Judge Miller asked if many of the state employees were still working from home. Shauna advised that if it's working out well for folks to work at home, then they are being encouraged to continue to work from home - especially if they work in a cubicle environment. There are only a few coming into the office on any given day. Judge Miller added that Beth McLaughlin is also encouraging that the limited court judges conference be held via webinar so that we are not putting folks in harms way. Beth's concerns were as follows: Montana will likely still be in Phase 2, which requires special consideration for all events exceeding 50 people; the special considerations will be a challenge and could change multiple times before September; at a minimum, people need to be seated 6 feet apart in all instances, including conference and meal time. This will be difficult to accommodate and manage especially at meals or during breaks. Missoula County is likely to implement a mask requirement for indoor spaces which would have to be enforced. While this is entirely appropriate from a public health perspective, it may not be terribly comfortable for folks during the training sessions. Speakers may be reluctant to appear at a fall conference depending on the COVID numbers and the judges at high risk may opt not to attend. We prefer to provide education to the largest group possible.

Shauna talked to the sales manager at the hotel hosting our conference and she was very understanding. She indicated that even though it was not a force majeure type situation yet, she understood the logistics of planning and would not charge us a cancellation fee. We would agree to re-book with them in 2022, as we already have dates and locations picked for 2021.

Peter Ohman said that in May they were thinking that things were improving, and they would send everyone back to the office and work back to normal. We realized that if we do that and there is an exposure or someone tests positive, then we must send our entire office home and they would have to quarantine. So, they stepped back a bit and said if you can work from home, continue to work from home. Similarly, that could be a risk, if you hold the conference and there is an exposure, even without anyone testing positive, you will still have quarantine issues. Another issue they are dealing with is folks who have high risk conditions that are protected under the ADA and you have a whole issue there for making appropriate accommodations.

Judge Mantooth suggested offering in-person and the video conferencing option to the judges. Judge Miller said we are approaching a crunch time as the conference registration information typically is sent out in early August. Judge Miller's biggest concern going forward is the mandate – the statutory requirement to hold the school. Justice Rice said the Court is sensitive to the concerns. He had not read the statute for a while but suspected it did not say anything about the way the conference has to go forward. He wasn't sure if an order from the Court was necessary although he thought it made sense to get some guidance from the Court even if as a legal matter we may not need any sort of exemption like we did in the spring. If we have the capability, from a technological point of view, to conduct the conference by Zoom, he thought the court would be very open to that idea.

Judge Mantooth reviewed and read the training statutes for the members.

Tina Reinicke added that the Supreme Court must have taken the social distancing piece very seriously given the guidance they've given the courts regarding how they handle jury trials. She thought that if a few judges do want to gather somewhere and their belief sets are a bit different than those who may wish to attend, they can all meet together in a Zoom environment. They can meet in a room and have the conference via Zoom and still enjoy that social engagement piece.

Judge Miller has mixed emotions on how to hold the conference. He was concerned that whatever we do is within the realm of the guidelines of the Supreme Court's order and statutory mandate. Justice Rice told us last fall that the United State Supreme Court upheld our lay judges because of the training and education that the Supreme Court provides to the judges. Judge Miller asked what the feeling was of the presenters who were contacted so far. Shauna Ryan indicated that she felt the presenters would be amenable to a Zoom conference.

Judge Connolly indicated that she had received some questions from judges wanting to know what was going to happen and the big concern she heard was the hope that we do not try rescheduling this conference.

Shauna Ryan said there was currently no intention to postpone or pick a later conference date.

Shauna added that attendance is required. It is a live webinar, and she's hopeful all the judges will be mandated to attend and be present. It will be three days of their time, same as if they traveled to a conference destination. As far as the hotel goes, the original arrangements were conditioned on a certain number of sleeping rooms being booked and conference space reserved. She was not a big fan of giving the judges the option to attend either in-person or webinar only. It would make it difficult for the hotel to plan for our event and we could be penalized for not maintaining the minimum numbers originally in the contract.

Judge Miller was concerned that if we Zoom this conference one time the local governments will want that option in the future to save money.

Tina Reinicke said she is a motorcycle safety coach for the state of Montana, and they have been having hundreds of coaches across the nation attend Zoom training sessions. The moderator can collect questions and forward them to the presenter. She understands what the judges are concerned about regaining the funding over time.

Judge Connolly shared concerns about the funding in the future as she experiences that issue in her county. Using Zoom could be a way for local governments not to pay but we still have the power of the Supreme Court behind us. Another concern brought up to her was if we do something remotely, how do we verify who was there and who paid attention? We have those same issues when we hold our conferences in person. Maybe if we do it remotely, we need to have a signed affidavit of training – like the documents judges sign now when they watch the videos after the fact.

Kevin Cook said there were a few things we could do to verify that folks are in attendance and paying attention. In the webinar, you can send polls out. We would have everyone register for the conference so when they go into a poll we know if they answered the question or not.

Peggy Tonon felt there were too many variables to hold an in-person conference. Missoula County has some fairly strict rules now. She would feel more comfortable if it were not in-person.

Justice Rice felt like if we have the capability to pull off a Zoom webinar that we should do it based on what is currently going on around the state.

Judge Miller asked that each member present indicate whether they want to conduct the conference via Zoom video conference or in-person.

Peggy Tonon – video
Tina Reinicke – video
Judge Mantooth – in-person
Peter Ohman – video
Judge Connolly – video
Charlie Harball – video
Judge Miller – in-person

Shauna Ryan asked both Justice Rice and Peggy Tonon – as presenters for the conference – if holding the conference via Zoom caused any reservations for them. Peggy felt if they can receive questions from the judges, Zoom should work. Kevin Cook confirmed that option is available during a webinar.

Judge Miller asked Justice Rice if the Commission needs to request that we be allowed to hold the conference via video? If we have an order from the court allowing us to do this one time those governments then cannot come back and strangle the funds to our judges. Justice Rice thought the Commission could certainly stress in the motion that it is a one-time request given the circumstances surrounding COVID.

Peggy Tonon suggested to alleviate Judge Miller's concern about governments in the future not wanting to pay because we conducted this one-time video conference, maybe in the tutelage of the order we could stress that the Court strongly prefers or encourages in-person training and that this is a one-time event because of extreme extenuating circumstances.

Judge Miller will be in contact with Peggy Tonon, Shauna, and Justice Rice to craft a request to the Supreme Court to allow us to conduct the fall conference via video conferencing.

The meeting adjourned at 12:20 p.m.