

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT – via ZOOM/Telephone

August 21, 2020

Members Participating Via Telephone or Video: Hon. Perry Miller, Hon. Steve Bolstad, Hon. Steve Fagenstrom, Hon. Holly Frederickson, Peter Ohman, Peggy Tonon, Hon. Kelly Mantooth, Tina Reinicke, Scott Twito, Hon. Jessie Connolly, and Hon. Jim Rice.

Members Absent: Hon. Heidi Ulbricht and Charlie Harball

Staff Present: Shauna Ryan

Guests: Kevin Cook and Nolan Harris

Judge Miller called the meeting to order at 8:35 a.m. He began by welcoming newly appointed member, Scott Twito.

PUBLIC COMMENT: None.

OLD BUSINESS:

Minutes

The minutes from the meeting on June 19, 2020, were reviewed. Judge Fagenstrom moved that the minutes be approved. Peggy Tonon seconded the motion and it carried unanimously.

NEW BUSINESS:

COLJ Evictions Summons

Nolan Harris, Self Help Program Administrator, and co-chair of the Standing Committee on Self-Represented Litigants, was approached by Justice Baker and Allison Paul about an evictions summons form. The Commission members were provided a copy of the form. Nolan indicated that most are expecting a pretty marked increase in evictions in the coming months due to COVID-19 complications. Nolan felt it would be useful to ask the stakeholders using the form for their review and input. They are happy to create and draft a form that would be like the summons referenced if the judges are interested. It is a great summons on its face because it provides a lot more information for the litigants – specifically the contact information, court hearing information and ways to seek help. If the Commission is interested, Nolan's group can do the leg work. The one topic that needs to be flushed out more is how to help the courts input the specific information more easily about the parties, location, etc. Maybe a PDF version could be created that is fillable by the courts. Judge Miller asked if Legal Services is also working with the Montana Landlords Association for its input. Nolan indicated that they had not yet reached out to the MLA as they wanted to run it by the Commission first. If the Commission is supportive, they would then create a working group made up of multiple folks, including input from the MLA. Judge Fagenstrom said the one concern he has is the lack of uniformity between the normal summons for a civil case and a special summons for judge landlord cases. In addition to landlord cases, there are also trailer park cases, storage unit cases, unlawful detainer and at a minimum, all those things should be consistent because it's essentially the same lawsuit with different properties. He is not averse to the form,

however. It's just far afield from every other type of summons they use. Judge Mantooth echoed what Judge Fagenstrom stated as far as it looks like a step in the right direction, but they need to get with both the landlords association and the group that represents tenants. He would like Nolan to come back with a form that looks more like a form they currently use universally with the information pegged into it and that all parties are satisfied with the format. Nolan agreed and will reach out to other groups for input as well and will bring a draft back to the Commission later. Judge Fagenstrom also expressed interest in a uniform complaint form. Tina Reinicke loved the idea of more information and uniformity in these forms – from a clerk's perspective. Clerks always walk such a fine line between what they can provide and what is considered legal advice.

Fall COLJ Conference Agenda – Update

Shauna Ryan went through the agenda. We have flexibility on when we hold our Commission meeting on Monday. She wanted to know who from the Commission planned to be physically present in Helena for the conference. Judge Miller, Judge Mantooth, Judge Frederickson, Judge Bolstad, Judge Fagenstrom, and Judge Connolly plan to be in Helena. Kevin Cook and Shane Haux will also be available and present to help with any Zoom issues that may arise. As far as Shauna is aware, the presenters will all participate remotely. She reminded folks to bring their masks. Judge Fagenstrom asked how this conference would be recorded for judges who may be unable to attend. Kevin Cook responded that Zoom has a couple of different features – one is a recording to the cloud. This would only be available for those registered for the conference and they would receive a link to review it. There will not be a videographer at the conference. A copy of the conference will be stored in the Zoom cloud. Shauna can then download it to a flash drive and mail it out to those who received a waiver and were unable to attend. Judge Miller asked about judges who want to meet in small groups in their districts to watch the conference and if that will be an issue? How does that affect accountability for Shauna and Kevin? Shauna responded that she talked to Judge Connolly and discussed this same thing. Whoever is hosting the “watch party” would need to verify who is in attendance. At the completion of the conference, we will send out an acknowledgement form to each judge and they will need to certify that they were in attendance and participated as required. We will also be sending out random poll questions to the attendees throughout the conference to keep folks on track.

Justice Rice asked for a bit more guidance from the Commission on what they would like him to cover specifically. He was concerned that he may not have enough material to fill the two hours. The members gave him some more ideas.

Request for Temporary Certificate and Waiver of Training

Hon. Ryan Archibald – On behalf of the waiver committee, Peggy Tonon approved the waiver for Judge Archibald. The Commission concurred.

Request for Waiver of Training for Fall COLJ Conference

Hon. Penny Hendrickson – On behalf of the waiver committee, Peggy Tonon recommended the waiver request be approved. The Commission concurred.

Zoom Hearings

Peter Ohman reported that in his meetings with his managers, which he holds every other week, a few have mentioned when they have a hearing set on Zoom that are simply status hearings, omnibus hearings, things of that nature – not evidentiary or contested hearings – they have found that for the clients, being able to appear in that manner is much easier particularly since most of them don't have money. They no longer have to drive long distances often to be in court for a five-minute hearing. They no longer have to worry about childcare or leaving work, instead the attorney can just text them a few minutes before the hearing and they can jump on the

Zoom call. There are some courts that require clients to appear at every single hearing no matter how perfunctory it might be. But this is one of the things the PD's offices has found to be a real time and resource saver for the clients and for the attorneys. As you know, many attorneys sit in court for lengthy periods of time waiting for a quick hearing. As the technology builds and gets better, Peter hopes the courts will consider this as an option. If a court is concerned about whether a person is engaged in the case or not, they can always require video appearance.

Adjourned: The meeting adjourned at 10:30 a.m.

Next Meeting Date: The next meeting will be Monday, September 21, 2020, at 1:00 p.m. in Helena (or Zoom).

May 23, 2022