

## MINUTES

Commission on Courts of Limited Jurisdiction  
Court Administrator's Office, Helena, Montana  
June 24, 2006

Chairman, the Hon. Johnny Seiffert, called the meeting to order at 8:30 a.m.

**Members Present:** Hon. Johnny Seiffert, Prof. Margaret Tonon, Hon. Scott Wyckman, M. Shaun Donovan, Paul Luwe, Hon. Gayle Stahl, and Hon. Perry Miller.

**Members Present by Videoconference:** Hon. David Ortley and Sharon Skaggs.  
**Member Present by Tele-Conference:** Hon. Doug Harkin.

**Member Absent was:** Justice Jim Nelson and Hon. Mary Jane Knisely.

**Staff Present:** Beth McLaughlin and Karen Sedlock.

**Guest:** Karen Nelson

**PUBLIC COMMENT:** None.

**MINUTES:** A motion was made by Paul Luwe and seconded by Judge Miller that the minutes of the April 24, 2006 meeting be adopted as written. The motion passed unanimously.

### **OLD BUSINESS:**

**On-line Training:** Judge Harkin reported he participated in his first nationwide on-line conference. He is working with the Judicial College and has learned a lot over the past several weeks. Judge Harkin plans to start his web-course in the fall, possibly after the certification school. The topic of his class will be Evidence.

Judge Harkin would like to give the Commission a brief demonstration on his web-course at the August 18th or September 15th meeting.

**TO DO:** Karen Sedlock will check with Judge Harkin to see what month would work best for him and place the on the agenda for the appropriate month. Judge Harkin will demonstrate his web-based course to the Commission.

**Combining Two Courts:** On February 9, 2006, Judge Gail Beckham wrote a memo to the Courts of Limited Jurisdiction Committee informing them that the Rosebud County Commissioners have made a resolution, effective January 1, 2007, to retain only one Justice of the Peace and eliminate the current position as Justice of the Peace, Dept. 2. Consequently, their office will have to consolidate the two court dockets, which raised concerns about the transfer of cases currently pending.

Karen Nelson explained there are two options (1) move the Colstrip cases to the Forsyth Court or (2) Colstrip can convert their cases to create a common index with view only screens. Sharon Skaggs suggested that by using FullCourt, the courts can run the cases in both cities parallel and continue to run it that way until all cases are closed out in Colstrip.

Karen Nelson stated her office is aware of the situation and she will have one of her trainers on-site to help with the financial transition of the cases.

**Leadership Institute:** Karen reported that Montana withdrew their application to attend the Leadership Institute for 2006. The Commission can reconsider this at a later date and apply again next year.

**Bail Upon Appeal:** John Worsfold, Deputy County Attorney from Gallatin County wrote a letter to Judge Wyckman and Judge Smith regarding the issue of the limited court posting conditions of bail when a person intends to appeal a judgment to the district court. The Commission reviewed the letter and agreed that this needs to be a training issue. Peggy Tonon agreed to include this issue in her outline for the fall school.

There was also mention of a Uniform Decision on Deferments that should be included at the fall school.

**TO DO: Peggy Tonon will rework her conference material to include the decision on Deferments and the statutory requirement of Section 46-9-107, MCA.**

**Uniform Reporting of Case Statistics:** Beth reported frustration with the statistical reports that are coming in from the various courts. Several of the cases seem to be lumped together and are difficult to read. The commission reviewed the form that is currently being used and agreed it is inadequate. Beth suggested that a sub-committee be appointed to work with court staff to revamp the form.

The chairman asked for volunteers to serve on the sub-committee. The following people volunteered: Sharon Skaggs, Hon. Perry Miller and Paul Luwe. These three people will work with court staff to revamp the form.

**Conflicting Statutes Governing Credit for Time Served:** On February 24, 2006, Judge Knisely wrote a memo to Paul Luwe outlining the research previously conducted by her office regarding the application of credit against fines for incarceration and for fines and restitution imposed for all offenses. During a previous meeting, the Commission discussed the need to obtain an opinion from the Attorney General on this issue. Paul reports he contacted Chris Tweeten from the Attorney General's Office and was informed that this is not an issue that the Attorney General's Office would write an opinion on because it deals with constitutional law.

Because Judge Knisely was unable to attend the meeting, the matter was tabled until a later date.

**TO DO: Staff shall place this matter on the next agenda.**

**Evaluations from the Spring School:** Evaluation results were distributed to Commission members from the Spring COCOLJ School. The evaluations did not seem to be extremely critical and there were a few suggestions for consideration at future schools.

### **NEW BUSINESS**

**Change in Topics for the Certification School:** Sharon Skaggs requested that her group be allowed to change the topic of their presentation for the Certification School to "Court General Studies - 101". The Commission authorized the request.

**Request for Judge Dukart to Retake the Certification Test:** On June 13, 2006, the Commission received a request from Judge Dukart to retake the Certification that he failed and also requested additional study time prior to retaking the test.

The Commission considered Judge Dukart's request and granted him an extension of 60 days in which to retake the test. Judge Seiffert also suggested that the Commission notify Judge Mohr of the situation and ask that he continue to mentor Judge Dukart. It was also suggested that Judge Dukart's test be forwarded to Judge Mohr so he can concentrate in the areas Judge Dukart seemed to be weak in.

**TO DO: Staff will write a letter to Judge Dukart notifying him of the 60 days extension. They will also contact Judge Mohr to see if he will continue to mentor Judge Dukart. If he agrees, staff will forward the failed test to Judge Mohr for his review.**

**Testing Committee to Meet:** Karen reported that she has received about half of the questions from presenters for the fall school. She will contact the other presenters and encourage getting their material to her as soon as possible.

It was suggested that the testing committee meet in August, possibly August 3 or 4th. Karen will notify them as soon as the questions are all in and set a date.

**TO DO: Karen will contact presenters and work on getting all the questions in for the fall certification test and notify the testing committee and set a date for them to meet.**

**Bond Schedule:** Judge Wyckman stated that the Bond Schedule Committee has been received several questions on what is or what should be included in the Bond Schedule.

Since most members of the Committee are lay-people, they are uncomfortable or unable to answer legal questions. It was suggested that Lisa Mader add the request to the bond schedule, then bring it to the Commission at the next meeting for resolution.

Paul Luwe stated he would be happy to answer any questions that arise in this area if the Committee is unable to wait until the Commission meets. He suggested calling him or Shaun Donovan.

Judge Seiffert stated that abbreviations in the bond schedule could be confusing and cause problems for those in the field trying to interpret them.

**Possession of Fire Arms (PFM) Case:** Judge Seiffert stated he had an individual appear on a PFM case and plead guilty. Judge Seiffert set a Show Cause hearing and the person did not show up. He asked the Commission what their suggestion would be on the best way to handle the situation. Judge Ortley suggested that the hearing be held to establish if good cause exists and continue from there. Judge Ortley has a two-page brief with step-by-step procedures on how to handle cases of this nature. He will email the brief to Judge Seiffert. Judge Wyckman also requested a copy of the brief.

**TO DO: Judge Ortley will email the two-page brief to Judge Seiffert and Judge Wyckman on how to handle cases when the defendant failed to appear.**

**Masking Convictions:** It was recommended that Shaun Donovan's paper on Masking a Conviction shall be placed in the certification book.

**TO DO: Staff shall place Mr. Donovan's paper on Masking a Conviction in the fall certification book.**

**Next Meeting Date:** The next COCOLJ meeting will be August 18, 2006 at the Court Administrator's Office in Helena. The meeting will begin at 8:30 a.m.

The September 15, 2006 COCOLJ meeting will be in Bozeman.

**Adjournment:** The meeting was adjourned.

