

## MINUTES

Commission on Courts of Limited Jurisdiction  
Helena, Montana  
March 7, 2008

Chairman Johnny Seiffert brought the meeting to order at 8:35 a.m.

**Members Present were:** Hon. Johnny Seiffert, Hon. Gayle Stahl, Prof. Margaret Tonon, Barbara Pepos, Hon. Scott Wyckman and Hon. David Ortley. Hon. Doug Harkin and Hon. Perry Miller appeared via telephone.

**Members Absent:** Hon. Mary Jane Knisley, Shaun Donovan, Paul Luwe and Supreme Court Liaison Justice Jim Nelson.

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

**Invited Guest:** Hon. Greg Mohr appearing via telephone.

**PUBLIC COMMENT:** No public comment

**MINUTES:** The minutes from the November 16, 2007 meeting were reviewed. A motion was made by Prof. Tonon and seconded by Judge Stahl that the minutes be approved as written. The motion passed unanimously.

### **OLD BUSINESS:**

**MIP Issue:** The Commission discussed the concerns whether MIPs were cumulative when a person received one when under the age of 18; and whether it is appropriate to suspend a youth's driver's license and give them a temporary license. Judge Knisley drafted a proposed letter for Mr. Donovan to submit to the Attorney General for an opinion.

Shaun Donovan spoke with Chris Tweeten at the Attorney General's Office concerning the MIP Stacking issue and the possibility of the AG issuing an official opinion. The AG's office declined to issue a formal opinion. Therefore, this item will be put on hold and no further action taken at this time.

**Speedy Trial Opinion:** At the October meeting Judge Knisely reported on a decision by the Supreme Court dated August 16, 2007, State of Montana v. Kingsley Ariegwe. The Opinion revamps the speedy trial analysis. Judge Knisely is concerned that the misdemeanor issue was overlooked. Mr. Donovan spoke with Mark Mattioli from the Attorney General's Office, but did not address the misdemeanor issue. Mr. Donovan will look at the email notes from Mr. Mattioli and send them to the commission for their review. Since the January 2008 meeting was continued and Judge Knisely and Mr.

Donovan were unable to attend the March 2008 meeting, this matter will be continued until the April, 2008 meeting.

**TO DO: Judge Knisely will send a note to Mr. Donovan stating her concerns about the misdemeanor issue. Shaun Donovan will follow up and report his findings at the next meeting. Staff will place this issued on the agenda for the April, 2008 meeting.**

**Future Conference Locations:** Staff has booked Commission conference dates through Spring 2010. Karen Sedlock reported that the Hilton Garden Inn in Missoula is tentatively booked by another group for November 7-13, 2010. The sales person will be checking with the group to confirm their conference and will notify Karen by March 12<sup>th</sup>. As a second option, the Hilton Garden Inn in Kalispell is available November 7-13, 2010.

A motion was made by Prof. Tonon to book the Missoula Hilton Garden Inn for the fall 2010 certification conference. If their space is not available, then book the Kalispell Hilton Garden Inn. The motion was seconded by Judge Stahl and passed unanimously.

The Commission directed Ms. Sedlock research location and dates for the spring and fall conferences in 2011 and 2012.

**TO DO: Karen Sedlock will contact the sales person at the Hilton Garden Inn and book conference space according to the motion. She will also research locations and dates for 2011 and 2012 and report her findings at the April, 2008 meeting.**

## **NEW BUSINESS**

**Transfer of Civil Cases into City Courts:** It was brought to the Commission's attention that Judge Strine, Sander's County Justice of the Peace, expressed his intention of unilaterally transferring all civil cases into city courts. The Hon. Greg Mohr, the Commission's training judge, visited with Judge Strine and the other two judges in Sanders County on three separate occasions. Judge Mohr reviewed the statutes and informed Judge Strine that pursuant to statute, he cannot deny a civil filing in his court. The matter should now be resolved.

**TO DO: Beth McLaughlin will contact Mr. Russell and inform him that a training judge visited with Judge Strine and the matter should now be resolved. She should also suggest that if further problems surface, he should notify the Commission immediately.**

**Jurisdiction Issues:** Judge Marilyn Kober, Justice of the Peace in Stillwater County forwarded a memo to the Commission that she wrote January 23, 2008 to John Petak, Stillwater County Attorney. It was brought to her attention that an issue has been raised regarding a JP's jurisdiction to hold court in another county. She asked the Commission to review this issue. Judge Ortleby cited Section 3-1-113, MCA, stating there is nothing in statute addressing a physical location. This is an issue that my have to be addressed by the legislature. There is nothing further for the commission to do at this time.

**TO DO: Beth McLaughlin will contact Shaun Donovan to see if this is an issue the County Attorney's Association may want to address at the next legislative session.**

**Lawyers Assistance Program:** Prof. Tonon asked the Commission if they were aware of the Lawyers Assistance Program. She explained the program and stated it is doing great work for attorneys that are troubled with depression, drugs and/or alcohol . The program is also available for troubled judges.

Currently the program is having funding issues and Prof. Tonon asked the Commission if they had any thoughts or ideas for continued funding. Judge Wyckman suggested they contact the research corporations, such as WESTLAW or LEXIS and see if they have funding available, since their major revenue comes from attorneys. Prof. Tonon will pass the suggestion along. For the commission's information, the program is run by Mike Larson and he can be reached at 1-888-385-9119.

**Permission for Sgt. Baiamonte and Sara Hansen to stay for entire conference day Tuesday, April 29, 2008:** Sgt Baiamonte and Sara Hansen will be presenting on DUI Field Sobriety Testing the morning of Tuesday, April 29<sup>th</sup>. They are asking permission to remain at the conference from 10:00 am to 3:00 pm and listen to the other discussions involving DUI subjects. They will then be part of a Question and Answer DUI Panel from 3:00 to 5:00 p.m.

A motion was made by Judge Wyckman and seconded by Prof. Tonon that both parties are allowed to stay for the entire day, as their presence during the conference will help provide needed information for their panel discussions later in the day. The motion passed unanimously.

**Can Courts charge interest on past due fines?** A clerk from a county justice court called the Court Administrator's IT office stating her judge wants to start charging interest on past due fines. She wanted to know how to set it up in FullCourt. IT staff asked if this was legal to do. Beth brought this to the Commission for their response. Commission members reviewed the statutes and found no specific language to address this, therefore, if there no authority, it should not be done.

**TO DO: Beth will inform the IT office and the County Justice court that interest should not be charged if there is no specific language allowing it.**

**Mentor Judge:** Newly elected Judge Bob Woods, City Judge in Helena asked that a mentor judge be appointed to assist him with questions that might arise in his courtroom. The Commission appointed Hon. Gary Olson of Townsend as mentor.

**TO DO: Karen Sedlock will contact Judge Olson to see if he will mentor Judge Woods.**

**Is the 2006 Certification Book public information?** Karen Sedlock received a phone call from a lady in Sanders County that requested a copy of the 2006 COLJ Certification Training Manual. Concerns from the commission included not having permission from the presenters to distribute their material and because Commission Rules, adopted by the Supreme Court, restrict access to the conferences by the general public, the training material could be an extension of the exclusion. A motion was made by Prof. Tonon to table the discussion until the April meeting, and ask the Commission's liaison member, Justice Nelson for his opinion. The motion was seconded by Hon. Perry Miller and passed unanimously.

**TO DO: Beth McLaughlin will ask Justice Nelson for his opinion and report back at the April, 2008 meeting.**

**TO DO: Karen Sedlock will call the lady in Sanders County and let her know the matter is under consideration.**

**Liberty County Justice of the Peace Clerk Training:** Liberty County Commissioners wrote a memo to Beth McLaughlin requesting assistance for training of the clerk for the Justice of the Peace's office in setting up the Full-Court program as well as assistance in setting up a workstation. Judge Miller reported that his clerk is actively doing the training; therefore, the request is moot. There is nothing further for the Commission to do at this time and no need for a response.

**Survey Monkey:** Beth McLaughlin suggested using an internet tool called "Survey Monkey" to evaluate the Spring School. Questions would be developed for the judges to respond to by internet after the conference. Judge Seiffert expressed concern that few judges would actually fill it out, but he was willing to give it a try. A motion was made by Prof. Tonon and seconded by Judge Wyckman that Survey Monkey be used to evaluate the 2008 spring school. The motion passed.

**TO DO: Staff will ask the IT people to demonstrate survey monkey at the school to show them how easy it will be to do. The website will be provided for easy access.**

**Letter of Concern from Polson Resident:** On March 4, 2008, Ms. Sedlock received an email from Mr. Robert Nice in Polson regarding his concern for the lack of follow through on convictions and simple office procedures in the Lake County Justice Court.

**TO DO: Judge Ortley agreed to visit with Judge Wall concerning these issues. He will report his findings at the April meeting.**

**TO DO: Ms. Sedlock will contact Mr. Nice and let him know the Commission has discussed the matter and a member of the Commission will be contacting the judge.**

**Supreme Court Decision:** One Supreme Court Order and two decisions were brought to the attention of Commission members.

(1) Pedro Hernandez v. Board of County Commissioners, Feb 20, 2008

- (2) State v. Barron, Feb 26, 2008
- (3) Office of Public Defender and Jeffrey Bryan Compton v. Whitefish City Court, Bradley F. Johnson, City Judge, March 5, 2008.

**Automation Report:** Judge Seiffert reported that Automation Committee has been very active and he would like Judge Carver to give a full report to the Commission at their April meeting.

**TO DO: Karen Sedlock will notify Judge Carver and ask him to give an updated report on the activities of the Automation Committee at the April meeting.**

**Canon 25 - Canons of Judicial Ethics:** Judge Harkin addressed a letter that was sent to all judges in the State of Montana by the Judicial Standards Commission regarding Canon 25 of the Canons of Judicial Ethics. The letter gives a stern warning that Montana courts are not to order contributions to charities or payment to charities in lieu of fines being paid to the State of Montana, counties or municipalities. If complaints are received by the commission regarding this issue, the Commission will be recommending public censure or other appropriate action by the Montana Supreme Court.

**TO DO: This subject shall be discussed at the April COLJ conference by Judge Harkin and Judge Wyckman will cover it in the Nuts and Bolts section.**

**Next Meeting Date:** The next meeting will be Monday, April 28, 2008 at the KwaTaqNuk Resort in Polson starting at 12:00 noon.

**Adjournment:** The meeting adjourned at approximately 11:05 a.m.