

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT

April 23, 2012

Members Present: Hon. Perry Miller, Hon. Gary Olsen, Hon. Steven Fagenstrom, Hon. Larry Carver, Hon. Don Neese, Hon. Doug Harkin, Hon. Marie Andersen, Bernie Cassidy, and Peggy Tonon.

Members Participating Via Video or Telephone: None

Members Absent: Kelly Addy, Bill Hooks and Barb Pecos.

Staff Present: Beth McLaughlin, Katherine Kountz, and Shauna Ryan

Guests: Hon. Michele Snowberger

Judge Miller called the meeting to order at 12:15 p.m.

PUBLIC COMMENT: None

MINUTES: The minutes from the meeting on March 16, 2012, were reviewed. A motion was made by Peggy Tonon and seconded by Judge Neese that the minutes be approved as written. The motion passed unanimously.

OLD BUSINESS:

Amendment to Rule 5, Rules for the Courts of Limited Jurisdiction Training and Certification of Judges: Judge Harkin gave an update on the proposed amendments to Rule 5 of the Rules for the COLJ Training and Certification of Judges. Peggy Tonon provided the Commission with copies of the proposed changes to the rule. Judge Harkin wondered how difficult it would be to get the Supreme Court to agree to the changes. Shauna Ryan reported that she spoke with Chris Wethern, the Court's staff attorney, and she thought the Court would have to allow for a public comment period on any rule changes. Ms. Tonon suggested that when the proposed changes are sent to the Court the Commission could make clear that these are procedural changes only, and nothing of substance. Judge Harkin reiterated that there are no substantive changes, only changes that make the rule clearer. Judge Carver made a motion that the proposed changes be sent to the Supreme Court for approval. Judge Fagenstrom seconded the motion and it carried unanimously. Beth McLaughlin indicated that she would help draft a cover letter for Judge Miller's signature to go along with the amended rule changes.

TO DO: Shauna Ryan will work with Beth McLaughlin to draft a cover letter to the Court that will be included with the proposed rule changes.

Appointment of the Waiver Committee:

Judge Fagenstrom moved to appoint Judge Dough Harkin, Prof. Peggy Tonon, and Bernie Cassidy, Esq. to the waiver committee. Judge Carver seconded the motion and it carried unanimously.

Approval of Waivers for Spring Conference: Judge Harkin reported that Judge Wanda James had requested a waiver for the spring COLJ conference. The waiver committee already approved the request and recommended that it be approved by the full Commission. Judge Carver moved that the waiver from Judge James be approved. Judge Olsen seconded the motion and it carried unanimously. The waiver committee received and recommended to the full Commission that waivers from the following judges also be approved: Judge Lauri Cary, Judge Kara Bailey, and Judge Kathleen Jensen. Peggy Tonon moved that the waiver requests be approved. Judge Harkin seconded the motion and it carried unanimously. The waiver committee also received a request for a waiver from Judge Bob Lee. Judge Harkin moved that Judge Lee's request for a waiver be approved with conditions as noted on the waiver form by the Commission. Judge Fagenstrom seconded the motion and it carried unanimously.

NEW BUSINESS:

State Law Library – List Serve Request: Judge Miller received information from Susan Lupton, from the State Law Library, indicating that May is National Law Library Month. The Law Library integrates with the public libraries around the state. Ms. Lupton indicated that she would like to invite the city judges, justices of the peace and municipal court judges to participate locally with their library to tell their public what they do, where forms are located for self represented litigants and different ways that they can address the court. Judge Carver indicated to Ms. Lupton that the Commission could not mandate that every judge participate in National Law Library Week. Ms. Lupton would just like Commission's blessing to advertise the event on the judge's list serve. Judge Miller asked Beth McLaughlin if the Commission had the authority to allow someone else to be on the list serve. Judge Carver clarified that it was a two-part request. The library requested a mass email be sent to the judges, not necessarily by way of the list serve. There are currently twelve judges that have opted out of the list serve available to the limited court judges. Ms. Lupton's request was to notify all of the judges in the state. Beth McLaughlin suggested that the Commission avoid the list serve issue and have the Court Administrator's office forward the information from Ms. Lupton to the judges via email. Judge Carver agreed to contact Ms. Lupton and request that she forward her information to Shauna Ryan for distribution to the judges. Judge Miller also agreed to mention this to the judges during the Spring COLJ conference.

TO DO: Judge Carver will contact Ms. Lupton and request that she forward any information she wants distributed to the judges directly to Shauna Ryan who will in turn forward the information to the judges.

State Law Library – Forms: Judge Carver reported that Ms. Lupton had also contacted him about the forms in the judges' bench book that are also made available on the state's website. She was concerned that the forms are very outdated; some do not even meet the uniform rules for the justice and city courts. Judge Carver wondered if the Commission should look at updating the bench book. Beth McLaughlin reported that the last time it was updated the Court had a contract with Judge Duehr in the amount of \$5,000. It ended up being a huge undertaking for Judge Duehr. Judge Miller thought the update was funded through a Department of Justice

grant. Beth McLaughlin requested that she be allowed to look back and see exactly how the update was funded last time and report back to the Commission at its next meeting.

TO DO: Beth McLaughlin will research how the bench book update was funded in 2004 and Shauna Ryan will report back to the Commission at its June meeting.

Troy City Court – No City Attorney: Bernie Cassidy reported that presently there is no city attorney in Troy and the city mayor and council have requested the county attorney’s office to handle the prosecution at times. Judge Miller felt that the Troy City Judge is in the best position to force the city to appoint a special prosecutor if they are not going to hire one, or force them into a situation to hire one. Mr. Cassidy feels the situation is not a legal problem but a political problem. Judge Miller felt it was a training issue for Judge Dye. Judge Miller suggested that the Commission appoint a mentor for Judge Dye. Judge Carver agreed to contact Judge James to serve as a training judge/mentor for Judge Dye.

TO DO: Judge Carver will contact Judge James and request that she assist Judge Dye with his present situation.

DUI Manual Update: Judge Miller reported that Judge Mohr discussed updating the judges’ DUI manual during the curriculum committee meeting. Lorelle Dumont (MDT) and the National Highway Traffic Safety Administration (NHTSA) have contracted with Judge Mohr to update the manual. They will not be working on complete revisions to the manual until after the 2013 legislative session. However, they are presently reviewing the aggravated DUI laws and hope to provide some clarity in that area in the meantime.

Regional Judicial Outreach Liaison (NHTSA) – Judge Mary Jane Knisely: Judge Knisely serves as a regional judicial liaison between NHTSA and the ABA. There are free training resources available through the National Judicial College. This information was reviewed by the curriculum committee and the topic of “Drugged Driving” will be added to the fall 2012 COLJ conference agenda.

COCOLJ Terms to Expire in 2012: The following member terms are set to expire in 2012: Judge Miller, Judge Carver, Judge Fagenstrom, Judge Olsen and Peggy Tonon. All five members expressed their willingness to serve another term on the COCOLJ. Jennifer Boschee resigned and moved out of state at the end of March. Barb Pepos has agreed to serve as the interim president of the Clerk’s Association and will serve on the COCOLJ until a new president is elected at the fall clerk’s conference.

TO DO: Shauna Ryan will send notice to Chris Wethern at the Supreme Court.

Bond Book Committee – Appointment of New Member: Judge Carver reported that the committee was originally made up of three limited court judges, those being: Judge Herman, Judge Carver, and Judge Gayle Stahl. Judge Stahl retired from the bench a couple of years ago and the committee has been meeting with only two members since her retirement. Judge Carver indicated that Judge Mohr had expressed his willingness to serve on the committee. Judge Harkin moved that Judge Mohr be appointed to serve on the bond book committee, upon Judge Herman’s approval. Judge Carver seconded the motion and it carried unanimously. Judge Carver will follow up with Judge Herman.

Judicial Education - Catalogue of Training: Judge Fagenstrom suggested that there be a catalogue of some sort to keep track of training that has been provided during the COLJ conferences. There was general discussion among the members about the type of information that may be useful. Judge Miller recommended that this topic be addressed again at the June COCOLJ meeting.

Next Meeting Date: The next meeting will be June 15, 2012, at 8:30 a.m. in Helena.

Meeting Adjourned: The meeting adjourned at 2:10 p.m.

July 5, 2012