

# MONTANA SUPREME COURT PUBLIC MEETING MINUTES

**Tuesday, March 20, 2018, 1:00 p.m.**

**Joseph P. Mazurek Justice Building**

**215 North Sanders, Helena**

**Attorney's Lounge, 4th floor**

Chief Justice McGrath called the meeting to order at 1:01 p.m. The Chief Justice and Justices Baker, Sandefur, McKinnon, Shea, and Rice attended

Also attending were: Gene Huntington, nonlawyer member, Dan McLean, lawyer member, Mick Taleff, lawyer member, and Shelly Smith, office administrator, from the Commission on Practice; Chris Wethern, staff attorney; and Jeanine Blaner, law clerk.

## **Item 1: Approval of the Minutes from the Last Public Meeting**

- The attending Justices unanimously approved the minutes from the February 13, 2018, public meeting.

## **Item 2: AF 06-0626, Changes to the Montana Rules of Disciplinary Enforcement Regarding Area Boundaries for Members of the Commission on Practice**

- Chief Justice McGrath noted that the Court has not received any public comments on this proposal. He explained that the proposal was made to encourage the lawyers of eastern Montana to serve on the commission. The new boundaries were drawn to conform with the State Bar's districts for trustees. The old Areas were based on geography, while the proposed Areas conform with population and the distribution of lawyers across the state. To transition from the current to the new boundaries, the commission will temporarily have two additional members for one or two years because every current commission member will finish their elected term.
- Justice Baker suggested that changing the phrase "reflect that" to "will conform to" in the first paragraph makes the intent clearer. The Chief Justice agreed.
- Mr. McLean commented that the proposed boundary changes make sense, but he is unsure as to how the boundary changes affect his position. The Chief Justice and Justice Baker clarified which current and proposed areas Mr. McLean would represent.
- Mr. Taleff stated that the proposed changes were logical and should lead to a broader scope of representation, but he feared the commission could lose some experienced members.
- Justice Baker moved to adopt the Order subject to her recommended revision. Justice Shea seconded.
- Motion carried.
- After the vote, the Chief Justice shared a concern Mr. McLean had raised with him concerning the way the commission's election process is held. Currently, a judge in each Area sends out a "blank ballot" to lawyers and requests that they vote for three

commissioners. Voters do not know who is interested in serving on the commission. Perhaps the Court should appoint members instead.

- Justice Baker disagreed, arguing that the profession is self-governing, and Bar members should have a voice in deciding who sits in judgment of them.
- Mr. Taleff suggested that the process could be changed so that lawyers are asked to submit their names to the district court judge, and the judge will then compile a list of interested lawyers and send that list to the Court for appointment.
- The Chief Justice suggested that the process could be revised within the framework of the current Rule so that judges could send out a notice to lawyers instructing them to contact the judge if they are interested in having their name on the ballot. The district court could then compile those names and send out a ballot with the names of interested lawyers.
- Justice McKinnon asked Mr. Taleff if he saw advantages in having commissioners appointed instead of elected.
- Mr. Taleff responded that the lawyers who serve on the commission work hard and take the position seriously, and it is important to have a commission composed of lawyers who want to serve. Ensuring that only lawyers who express an interest in serving are placed on the committee would promote that.
- The Chief Justice stated that he believed that as long as there is still an election process for lawyer members, it is not necessary to amend the Rule. This discussion led him to conclude that election is important because the Bar should have some control in this matter.
- The Justices clarified that this process would preserve the election process but add an additional step, and this will take some time to implement. Thus, the new process will not be used for the upcoming elections in April.
- The Chief Justice declared the issue resolved by consensus of the Justices in attendance.

### **Item 3: AF 06-0112, Appointment to the Criminal Jury Instructions Commission**

- The Chief Justice recommended re-appointing Judge Langton. The Justices agreed.

The Chief Justice adjourned the meeting at 1:25 p.m.

Duly submitted,  
Jeanine Blaner  
Law Clerk