

MINUTES

Commission on Courts of Limited Jurisdiction
301 S Park Ave, Room 328, Helena
January 26, 2007

Chairman, the Hon. Johnny Seiffert, called the meeting to order at 8:35 a.m.

Members Present: Hon. Johnny Seiffert, Hon. Mary Jane Knisely, Prof. Margaret Tonon, M. Shaun Donovan, Paul Luwe, Hon. Gayle Stahl, and Hon. Scott Wyckman. Justice Jim Nelson was able to attend the first portion of the meeting.

Present Via telephone was Hon. Perry Miller

Present via vision net was Hon. David Ortley and Barbara Pepos.

Hon. Douglas Harkin called to join the meeting via telephone, but we were unable to make the connection and he could not join the meeting.

Staff Present: Beth McLaughlin and Karen Sedlock

PUBLIC COMMENT: None.

MINUTES: The minutes from the November 12, 2006 meeting were reviewed. Prof. Peggy Tonon suggested some grammatical changes. A motion was made by Shaun Donovan and seconded by Prof. Tonon that the minutes be approved with the amended changes. The motion passed unanimously.

OLD BUSINESS:

On-line Training: Judge Harkin was unable to attend the meeting, but Beth McLaughlin reported that he has been working very hard on the on-line course and has submitted his program to Kevin Cook for posting on the web site.

Filing Fees for Municipal Courts:

Mr. Luwe reviewed the statutes and reported the issue needed further clarification. He offered to draft a letter to the Attorney General's Office asking for an AG Opinion on behalf of the City of Bozeman. The reason he will request it on behalf of the City of Bozeman is that it directly affects their office. The Commission members agreed it would be a good idea.

TO DO: Paul Luwe will request an Attorney General's Opinion on behalf of the City of Bozeman asking for clarification of filing fees for Municipal Courts. Staff will place this item on the agenda for further discussion after an Opinion is received from the Attorney General's Office.

Allowing a Child to Drive After License is Seized

Judge Ortley reported that he reviewed the statutes and it was his opinion that the court had to take the license – they couldn't rely on the parent to hold the license. Judge Knisely noted that she used a similar practice and believed it was appropriate. Judge Ortley noted that the statute probably needed to be changed. Commission members decided the issue should be addressed during the Nuts and Bolts Session at the January 2007 School.

Contempt Issue: At the November COCOLJ meeting, Judge Kathleen Jensen reported to the Commission that she had followed the contempt procedure outlined for the judges at the Spring 2006 school; however, the attorney involved in the matter filed an appeal to the District Court and the judge ruled in his favor stating that her application of the contempt law was incorrect.

Since that time, further hearings have been held and Judge Johnny Seiffert reports that a District Court Judge has dismissed the matter in its entirety. The matter is now on appeal to the Montana Supreme Court.

NEW BUSINESS:

Court Monitoring Program: Jennifer Hill-Hart, who is a Court watch VISTA volunteer and works with the Montana Coalition Against Domestic and Sexual Violence spoke to the Commission about the Court Watch Program that she is developing. At this time she is seeking input from the Commission on how to approach judges about the program in order to address concerns and answer questions they may have before their communities start to develop the program. Miss Hill-Hart is finalizing a manual that has been drafted with the input of several individuals, include Hon. Wally Jewell.

A motion was made by Hon. Gayle Stahl and seconded by Prof. Peggy Tonon that Ms. Hill-Hart provide to the Commission a copy of the proposed manual as well as any guidelines or other forms that she may have. The motion passed unanimously.

TO DO: Ms. Hill-Hart will send the information electronically to Beth McLaughlin and Beth will forward it to all Commission members prior to the next meeting. The issue will be placed on the February agenda for further discussion.

Protection Orders: Beth McLaughlin received a letter from David Blade, the Compliance Auditor from CJIN Services of the Criminal Justice Information Services Bureau regarding an audit on protections orders that are entered into NCIC.

The Commission felt this might be an isolated incident and a simple informational call might be in order. There should be no further action necessary on this issue.

TO DO: Staff will send the judge a copy of Mr. Blade's letter.

Supreme Court Order: State vs. Hon. Charles Wall

Deputy Attorney General Barbara Harris forwarded a recent Opinion and Order of the Court to the attention of the Commission and suggested it be used as a training issue for a future conference. The Commission agreed and the Opinion and Order will be placed in the Nuts and Bolts Section of the April 2007 School.

Request for Audit of Records: Hon. Audrey Brown wrote a letter to the Commission requesting that a member of the Commission or a training judge be sent to the City of Conrad Judge's office to help with an audit of the former Judges' records. After a discussion on the matter, it was decided that Hon. Perry Miller will contact Judge Brown and explain to her what needs to be done concerning the audit of the books and the pending warrants and TRO's.

TO DO: Hon. Perry Miller will contact Hon. Audrey Brown regarding her concerns with prior records.

Proposed Agenda for Spring 2007 School: Beth McLaughlin drafted a proposed training agenda for consideration by the Commission. Most of the agenda was approved by the Commission with few changes. It was decided that the Reception would be reduced to one hour, from 6:30 to 7:30 p.m.

The issues surrounding fees will only need one-hour time and Paul Luwe agreed to teach this section. Beth was given the okay to obtain national speakers for the topics of Judicial Ethics and Self-Represented Litigants Managing Stress.

Orders of Protection would be a good subject, but Commission members want Ms. Bovingdon to focus on Brady Indicators. It was recommended that John Connor be asked to provide information on Criminal Law and Judge Seiffert and the MMA Legislative Committee will address the Civil changes in the law. Each section should be given one hour.

The Commission would like to develop some break-out sessions and will review the 2007 NJC Courses to get ideas of what subject would make good sessions.

TO DO: The matter will be placed on the agenda for the February meeting month. Staff will contact National Speakers and John Connor.

MEETING REMINDER

**The Automation Committee will meet February 15, 2007 from 1 to 3 pm in Helena.
The COJL Curriculum Committee will meet Feb 15, 2007 from 3 to 5 pm in Helena.**

Questions from Judge Snowberger: Judge Snowberger emailed some questions for the Commissions review. (1) Is BCC required to compile data for ROI? If yes, what is the authority requiring courts to compile data? And is there any guidance for fixing a fee

for compiling this data? (2) If a Bankruptcy does not discharge criminal/traffic fines, fees and restitutions, is a court able to continue with collection action, either on its own behalf or through a collection agency?

After discussing the two questions, it was decided that Paul Luwe and Judge Mary Jane Knisely will request a meeting with Judge Snowberger February 8, 2007 to discuss these matters. Hon. Scott Wyckman will be notified of the time and date and will join them if possible.

TO DO: Paul Luwe and Judge Mary Jane Knisely will request a meeting with Judge Snowberger February 8, 2007 to discuss these matters. Hon. Scott Wyckman will be notified of the time and date and will join them if possible.

New Judges Appointed: Three new judges have been appointed since the first of the year. They are: **Hon. William Etter**, City/JP in Hysham who took Charles Skillen's place. Judge Skillen resigned shortly after the election due to a conflict of interest. **Hon. Gail Beckham** has been appointed City Judge of Colstrip due to the resignation of Hon. Joyce Obland. The City of Brockton opened a City Court and appointed **Hon. Leland E. Spotted Bird** as City Judge. Notification has been send to Hon. Greg Mohr for the appointment of Training Judges.

At the November meeting, Judge Knisely volunteered to draft a letter describing the duties of a mentor judge. It was suggested that newly appointed judges be appointed a mentor by the Commission. Since Judge Etter has been on the bench for several years, the Commission didn't feel it was necessary to appoint a mentor. Hon. Mary Jane Knisely agreed to mentor Hon. Gail Beckham. Because Brockton is close to Sidney, the Commission recommended that Hon. Greg Mohr be the mentor for Hon. Leland Spotted Bird.

TO DO: Judge Knisely will draft a letter describing the duties of a mentor judge and Karen Sedlock will include that letter in the request when the mentor judges are contacted. Karen Sedlock will contact Judge Greg Mohr and ask if he would mentor Hon. Spotted Bird.

After further discussion on newly elected judges, the Commission decided to appoint mentor judges for all the new judges. Mentors were assigned as follows:

Judge Budeski - Mentor Judge Snowberger
Judge Fagenstrom - Mentor Judge Carver
Judge Landa - Mentor Judge Neese
Judge Mann - Mentor Judge Miller
Judge Not Afraid - Mentor Judge Seiffert
Judge Sullivan - Mentor Judge Ortley

TO DO: Staff will wait for a letter from Judge Knisely regarding the duties of mentor judges, then will contact all recommended judges and ask if they will serve as mentors.

At the last meeting Judge Seiffert notified the Commission that Leroy Not Afraid serves on the school board, which is a conflict of interest. Several judges advised Judge Not Afraid that it was a conflict and it is unknown if he has resigned from the board.

TO DO: Judge Seiffert agreed to contact Judge Not Afraid to find out the status of his position on the school board. If he remains active on the board, Judge Seiffert will contact Shaun Donovan who will in turn notify the County Attorney's Office of the conflict and let MACO handle it.

Limited Court Records: Judge Ortley raised a concern that US Reports staff will be coming to his court to obtain records from past civil cases and it will take a tremendous amount of time for his staff to provide those records. Beth McLaughlin reports that the Supreme Court has a draft form of Public Access Rules and will be addressing the issue next week.

TO DO: Beth McLaughlin will email the web site to Judge Ortley and other Commission members for their review.

Proposed Legislation: Senator Jerry O'Neil proposed a bill requiring mandatory annual training sessions for justices of the peace be open to attendance by any person who wishes to attend the sessions; allowing a reasonable charge for attendance; and amending section 3-10-203, MCA. A motion was made by Hon. Mary Jane Knisely that the Commission oppose the bill based upon reasons listed below. The motion was seconded by Prof. Peggy Tonon and all ten members in attendance voted "yes" to oppose the bill. The motion passed unanimously.

Reasons and talking points are:

- ◆ Logistics
- ◆ Security
 - no safe training including MJA, Law Enforcement, etc.
- ◆ Defendants May want to attend
- ◆ Distraction of Education
- ◆ Conflict of Interest
- ◆ Violation of Rules
- ◆ Constitutional Issue - open meeting laws
 - affects freedom of speech among the members
 - affects dialog between judges on pending issues
 - affects frankness in discussion and seeking answers to pending cases
 - affect Court process
- ◆ Right to privacy of intellectual thought
- ◆ Judicial work product hampered
- ◆ Prohibition of Venders - would go away as well as advocacy groups
- ◆ Funding - costs

TO DO: Karen will prepare bulleted reasons and will email them to Commission members by the afternoon of January 26, 2007. Commission members will review the speaking points and report back by Monday, January 29th. After the Commission's final review and recommendations, Beth McLaughlin will give the information to the Chief Justice.

Next Meeting Date: The next Commission meeting will be Friday, February 16, 2007 in Room 328 of the Court Administrator's Office, at 301 S Park Ave, in Helena, Montana. The meeting will begin at 8:30 a.m.

Adjournment: The meeting adjourned at approximately 12:00 noon.