

MINUTES

Commission on Courts of Limited Jurisdiction
Room 328, Helena, Montana
November 21, 2008

Chairman Johnny Seiffert called the meeting to order at 8:40 a.m.

Members Present were: Hon. Johnny Seiffert, Hon. Gayle Stahl, Paul Luwe, Hon. Perry Miller (via telephone), Hon. Larry Carver, Hon. Mary Jane Knisley, Peggy Tonon, Hon. David Ortley, and Chris Kiser.

Members Absent: Supreme Court Liaison Justice Jim Nelson, Shaun Donovan and Hon. Doug Harkin.

Guests: Hon. Greg Mohr

Staff Present: Beth McLaughlin and Karen Sedlock

PUBLIC COMMENT: None

MINUTES: The minutes from the September 29, 2008 meeting were reviewed. One amendment was made. Hon. Larry Carver was listed as a guest, when in fact he is a member of the Commission. A motion was made by Hon. Mary Jane Knisley and seconded by Hon. Gayle Stahl, that the minutes be approved as amended. The motion passed unanimously.

WELCOME: Chairman Seiffert welcomed the new member of the Courts of Limited Jurisdiction Commission. He is Chris Kiser, the President of the **MJC&MCCA**. Mr. Kiser replaces Barbara Pepos.

OLD BUSINESS:

Pre-Retirement Training Seminar: Judge Welch expressed interest for a Pre-Retirement Planning seminar for limited court judges. The Commission discussed her request and decided to consider this subject as a break-out session for the fall 2009 conference.

TO DO: Staff will put the on the agenda for consideration for the Fall 2009 proposed conference agenda.

Retention and Disposition of Bench Warrants: Judge Miller visited with Kay Johnson, the Chairman of the Local Government Records Committee, and reviewed the Montana Local Government Records Schedule for Municipalities, which states that Bench Warrants for "non appearance in court by the defendant" are to be destroyed 2 years after issuance.

They both agreed that the language should be changed, and she suggested that the COLJ Commission change the wording and submit their recommended change to her Committee for consideration.

TO DO: Judge Miller will make the changes, then send them to Judge Seiffert for his approval and signature. Judge Seiffert will return the information to Judge Perry, who will in turn give it to Kay Johnson for the Committee's consideration.

Orders of Protection issues in Dawson County: Lora Knowles from the Dawson County Domestic Violence & Sexual Assault Program in Glendive wrote an email to Beth McLaughlin expressing concerns with Orders of Protection in their city court. At the direction of the COLJ Commission, Judge Mohr visited with Judge Burman, reviewed her procedure and found nothing wrong. He advised her to continue to follow the law.

Court Monitoring Program: It has come to the attention of the Commission that representatives from the Court Monitoring Program have been visiting some of the courts and grading the judges. A VISTA volunteer spoke to the COLJ Commission in January of 2007 about the Court Watch Program that she was developing in Montana; and a Court Watch Training Manual is now available on the internet. The Manual has been prepared by the Montana Coalition Against Domestic and Sexual Violence.

TO DO: Beth McLaughlin will draft a paragraph explaining the basic functions of the Program and send this information to the Commission for approval. After the statement has been approved, Karen Sedlock will send it to all Limited Court Judges along with the site referral.

<http://www.mcadsv.com/documents/CourtwatchTrainingManual10.15.07.pdf>

Training Report: Judge Greg Mohr reported his visit to the new justice of the peace in Fallon County, Nicole Brown, was successful. He volunteered to mentor her for her certification test. The Commission agreed to appoint him as mentor. Judge Brown replaces Hon. Anna Straub.

Judge Larry Carver reported his visit to the new city judge in Conrad, Al Farnstrom, was also successful. Judge Carver reported that Judge Pete Howard has been sitting in for Judge Farnstrom. Judge Howard has agreed to mentor Judge Farnstrom for the certification test. Judge Farnstrom replaced Judge Audrey Brown.

Judge Scott Wyckman and Judge Janice Heath have both resigned their positions. New judges will be appointed and the Commission will appoint mentors.

TO DO: The Commission will place this item on the agenda for the January, 2009 meeting to appoint mentors for the newly appointed judges.

Orders of Protection: Judge Carver reported that the Attorney General's Office reviewed the Order of Protection form and made significant changes. Judge Carver has a meeting scheduled later today to go back and review Title 40 and the recommended changes.

TO DO: Staff will put this item on the agenda for the January, 2009 meeting and Judge Carver will give a report.

City Representative: Paul Luwe reported that Kelly Addy, Deputy City Attorney from Billings and he was very interested in the position, however, his City Attorney did not grant him permission to serve. Mr. Luwe then contacted Dave Nielson, Attorney from Helena and he is interested and agreed to serve. A motion was made by Judge Miller and seconded by Judge Carver that the Commission recommend Mr. Nielson's name to the Montana Supreme Court as the City Representative to the COLJ. The motion passed.

TO DO: Beth McLaughlin will draft a letter to Justice Nelson recommending that the Supreme Court appoint Mr. Nielson to the COLJ as City Representative.

Review Evaluation from Fall 2008 Conference: The Commission reviewed the evaluations from the Fall 2008 conference. Judge Knisley reported she was unable to access the survey on-line. She was concerned there might be others that could not access it as well. Some filtering systems block this type of survey and this could be the reason several people did not respond. It was suggested that staff bring several "hard copies" to fill out at the next school.

The questions: *Would you prefer a central location for conferences or would you like to continue to travel around the state? Would you be willing to stay in separate hotels in smaller communities?* were reviewed. 57 judges responded to the question. 30 stated they would like a central location and 27 would like to continue to travel around the state. 48 clerks responded to the question. 18 stated they would like a central location and 26 would like to continue to travel around the state, 4 did not have a preference.

Based upon the response from the survey, a motion was made by Judge Stahl and seconded by Judge Knisley, that the Commission shall continue to locate facilities around the state that can adequately accommodate both judges and clerks. The motion passed unanimously.

Approval of Spring 2009 Conference Agenda: The proposed Spring 2009 conference agenda was reviewed and approved.

NEW BUSINESS

Substitute Judge Advertising to Perform Weddings: Peggy Tonon has been asked by one of the substitute judges if it is okay to advertise that she is available to perform weddings. Paul Luwe raised two concerns: (1) A substitute judge is only authorized to act when the sitting judge is unable to act and (2) It may be a violation of the Canons of Judicial Ethics for a judge to advertise. It was recommended that Prof. Tonon inform the inquiring judge that they should not be advertising as a sub-judge to perform weddings.

Self-Help Law Program: Beth McLaughlin provided a hand-out to the Commission members from the self-help program. The handout called "Going It Alone" can be copied for litigants planning to represent themselves.

Bond Schedule: A new bond schedule will be created after the 2009 legislative session. Since Judge Wyckman will be leaving the Bond Schedule Committee, it was recommended that Judge Larry Herman be the Chairman, Judge Gayle Stahl and Judge Larry Carver serve as members.

State v. Cox: This was a case that began in Missoula Municipal Court and was set for jury trial. Because Cox did not appear with his defense counsel at a pretrial hearing, the court concluded that he waived his right to a jury trial. A judge trial was twice continued on Cox's motion and finally re-set for January 12, 2007. Two days before trial, Cox filed an objection to the Municipal court holding a non-jury trial. Cox did not appear for his trial. After hearing argument on Cox's objection from defense counsel, the court overruled the objection, and proceeded with the judge trial in Cox's absence, finding him guilty of both charges. Cox appeal to district court and the district court affirmed the Municipal court conviction. An appeal to the Supreme Court followed. The Supreme Court affirmed the judges of the District Court.

TO DO: Staff will email this case to all COLJ.

Next Meeting Date: The next meeting will be held Friday, January 16, 2009, beginning at 8:30 am in Helena at the Court Administrator's Office. There will be no December 2008 meeting.

Adjournment: The meeting adjourned at approximately 11:10 a.m.