

## MINUTES

Commission on Courts of Limited Jurisdiction  
Helena, Montana  
August 15, 2008

Chairman Johnny Seiffert brought the meeting to order at 8:30 a.m.

**Members Present were:** Hon. Johnny Seiffert, Hon. Gayle Stahl, Hon. Scott Wyckman, Paul Luwe, Hon. Perry Miller, Hon. Mary Jane Knisley, Shaun Donovan, Peggy Tonon and Barbara Pepos.

**Members Absent:** Hon. Doug Harkin, Hon. David Ortley and Supreme Court Liaison Justice Jim Nelson were excused.

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

**PUBLIC COMMENT:** None

**MINUTES:** The minutes from the June 20, 2008 meeting were reviewed. A motion was made by Peggy Tonon and seconded by Judge Stahl that the minutes be approved as written. The motion passed unanimously.

### **OLD BUSINESS:**

**Terms and Appointments for Members:** Several terms for members are currently up. The Hon. Scott Wyckman is not requesting reappointment. Commission members reviewed the order establishing the Commission and noted several concerns. At the June meeting, the Commission recommended the following members be reappointed.

Hon. Perry Miller - City Judge – Small Community

Hon. Gayle Stahl – Justice of the Peace – Small Community

Prof. Margaret Tonon – State Bar Representative

Hon. David Ortley – Justice of the Peace – Large Community

A motion was made by Shaun Donovan to recommend to the Supreme Court that reappointments as stated above be submitted to the Supreme Court. The motion was seconded by Judge Wyckman and passed.

**TO DO: Beth McLaughlin was directed to send the recommended list to the Supreme Court for their consideration.**

The Commission discussed a recommendation for the member at large seat. After a lengthy discussion and agreement by the Commission that Judge Larry Carver has been very active in the Automation Subcommittee, a motion was made by Judge Miller and seconded by Shaun Donovan that Judge Carver be recommended to the Supreme Court for the member at large seat. The motion passed.

**TO DO: Staff will prepare a proposed order that will include**

**Hon. Perry Miller - City Judge – Small Community**  
**Hon. Gayle Stahl – Justice of the Peace – Small Community**  
**Prof. Margaret Tonon – State Bar Representative**  
**Hon. David Ortley – Justice of the Peace – Large Community**  
**Hon. Larry Carver, Member at Large**

**That members of the Commission shall elect their own Chairperson and Vice-Chairperson annually; that the COCOLJ shall be staffed by the Supreme Court Administrator's Office. The proposed order would be presented to Justice Jim Nelson for consideration by the Supreme Court.**

Paul Luwe announced that he will be retiring as City Attorney of Bozeman and will be giving up his seat on the Commission. He holds the City Representative seat on the Commission.

Mr. Luwe recommended City Attorney, Rich Hickel from Kalispell. Others to consider are: Tim Cooper from Bozeman, Dave Nielsen from Helena, Kelly Addy from Billings and Eric Bryson from Bozeman. Mr. Bryson was contacted during the meeting, but he was unavailable. Since Judge Ortley was unable to attend the meeting, the decision will be put on hold until the September meeting.

Judge Seiffert thanked Judge Wyckman and Paul Luwe for their services to the Commission on Courts of Limited Jurisdiction. They will be sorely missed.

**Bulletin Board:** Judge Seiffert reported activity on the bulletin board is still low. The cost is \$3,000 per year and renewal is up in October. Judge Knisley state she would like to see another demonstration on how to get on to the bulletin board. A motion was made by Judge Knisley and seconded by Shaun Donovan that an e-mail be sent to the commission members on how to log on. The motion passed. Judge Carver stated he was willing to give a demo to the clerks at their upcoming conference.

**TO DO: Staff will ask the IT department to send an email to Commission Members with directions on how to log on to the bulletin board.**

**Order of Protection Automated Process:** Judge Seiffert received a response to the letter he sent to the Attorney General on behalf of the Commission requesting assistance with modifying the Idaho automated forms. The AG's office was supportive of the idea. Judge Larry Carver, chairman of the Automation Committee, meet with Montana Legal Services, who is doing the legal review, and finalized the forms. A motion was made by Judge Knisley and seconded by Judge Stahl that the Automation Subcommittee be given blanket approval for the forms when completed. The motion passed unanimously.

Judge Carver will give a demonstration to the Judges at their upcoming conference and he requested that the forms be placed in the workbooks.

**TO DO: Judge Carver will get the form to the Commission members through staff**

**and staff will place the forms in the conference workbooks .**

### **NEW BUSINESS**

**Caseload Statistics for 2007:** Beth McLaughlin provided a copy of the case filing statistical summary for calendar year 2007 for the Commission's review. Judge Knisley stated that revocation case hearings should be reported and recorded. She suggested a new category be provided. Judge Carver stated he will put this on the Agenda for the next IT meeting. Mr. Donovan suggested that it be broken down further suggesting that it be coded by statute. Mr. Luwe stated some of the big cities are looking a municipal infractions such as placing cameras on intersections with stop lights. These will require no jail time and will eliminate red light tickets that are listed as civil cases. Judge Carver invited Mr. Luwe to attend the next Court Technology meeting to discuss this issue.

**Law Enforcement Academy Trainer:** Beth McLaughlin received a request from Jerry Williams, of the Montana Law Enforcement Academy, Risk Management Program Manager, requesting that the issue of Mental Illness and the law enforcement response be placed on the fall training agenda. A further request was that Erin Inman, Assistant Attorney General on staff at the MLEA, who conducts courtroom practical training in which they use JP or City Court Judges. They would like 10minutes when Erin could introduce herself and speak to the training as they would like to develop a list of Judge's that would be willing to come to the Academy and assist with the training.

**TO DO: The Commission will defer this request to the Spring School and provide one hour on Mental Health Issues. Paul suggested that staff send out an e-mail to the limited court judges asking who might be interested to assist with training at the Law Enforcement Academy.**

**Court Costs – e-mail from Judge Tina Gordon:** Judge Gordon asked that court costs and how they are determined be addressed at one of the limited court schools. Judge Wyckman stated he and Judge Ortleby will cover this topic during their Nuts and Bolts session at the next conference.

**Evidence - Civil Trial Management:** Judge Harkin will be presenting this topic at the next school and asked the Commission members to give him further direction on what they want him to present on.

The commission made the following suggestion:

- What is the protocol/procedure in a civil trial  
How do you allow evidence?
- In many cases one party has an attorney, the other does not  
How does the judge lay the ground rules?  
Can the plaintiff call the defendant as a witness?

- Marking Evidence  
Demonstrative Evidence
- How to mark exhibits collectively?
- Difference in standards
- Jury Instructions
- Clear and Convincing - preponderance of evidence  
Burden of Proof
- Good cause for Order of Protections  
What do you have to get?
- Motions to exclude witnesses
- Pro Se litigants on both sides  
Offer of compromise before trial
- Basic ins and outs on how to hold a trial with pro se litigants  
Example: one side has an attorney, the other does not  
when both sides are pro se
- There are three different sets of rules  
How do uniform rules for district court differ from rules of limited court  
Cover rules for small claims court

Judge Wyckman has a booklet on the limited court judicial process. The information is on the Gallatin County Justice Court web site under forms and facts. It is an 18 page booklet. He will send Judge Harkin the website.

**TO DO: Staff will forward the suggestions to Judge Harkin.**

**Next Meeting Date:** The next meeting will be held Monday, Sept 29, 2008 from 12:00 noon to 3:00 p.m. in the Governor's Room at the Red Lion Colonial Inn in Helena.

**Adjournment:** The meeting adjourned at approximately 11:30 a.m.