

MINUTES

Commission on Courts of Limited Jurisdiction
Grouse Mountain Lodge, Whitefish, Montana
April 27, 2009

Chairman Johnny Seiffert called the meeting to order at 12:00 noon.

Members Present were: Hon. Johnny Seiffert, Hon. Larry Carver, Hon. Doug Harkin, Hon. Perry Miller, Hon. Gayle Stahl, Hon. Mary Jane Knisley, Hon. David Ortley.

Members Absent: Peggy Tonon, David Nielsen, Shaun Donovan and Supreme Court Liaison Justice Jim Nelson. Both Peggy and David tried to participate via telephone, but the connections would not work.

Staff Present: Karen Sedlock and Beth McLaughlin

Others Present: Hon. Michelle Snowberger, Hon. Marilyn Kober, Hon. Wanda James, Hon. Jessie McKenney, and Hon. Kathleen Brandis.

PUBLIC COMMENT: Judge Snowberger asked about the status of the Bulletin Board. Ms. McLaughlin stated the previous bulletin board is no longer accessible, and OCA staff is looking to find a new vender. Judges will be notified when a new bulletin board is in place.

Judge Snowberger addressed her concern about how the new Orders for Protection will comply with the Privacy Rules. She appreciated the numerous hours of work that it took to get the new Orders into place and thanked all the people that worked on them.

MINUTES: The minutes from the March 20, 2009 meeting were reviewed. A motion was made by Hon. Mary Jane Knisley and seconded by Hon. Gayle Stahl, that the minutes be approved as written. The motion passed unanimously.

Replacement for Judge Wyckman on the Automation Committee: At the March 20th Commission meeting, the Commission discussed a replacement for Judge Scott Wyckman on the Automation Committee. A motion was made and passed that Hon. Heidi Ulbricht, Municipal Judge from Kalispell be appointed.

Judge Ulbricht was in attendance at the meeting and stated that she respectively wished to **decline her appointment to the Automation Committee**. Barbara Pepos from Sidney will also remain on the committee.

OLD BUSINESS:

Judicial Ethics Issue: The Commission reviewed Judge Kober's letter from the Judicial Standards Commission dated February 3, 2009 and the follow up correspondence. A motion was made by Judge Miller and seconded by Judge Stahl that the Chairman of the Commission on Courts of Limited Jurisdiction write a letter to the Chairman of the Judicial Standards Commission informing him that the Commission intends to request an

Attorney General's opinion about (1) the validity of a judge conducting arraignments and initial appearances in other counties and (2) the requirement that Judge Kober voice record all video conference proceedings. The motion passed unanimously.

TO DO: Beth McLaughlin will draft a letter for the Commission's approval.

Judge Harkin expressed concern that there is not a member of the Courts of Limited Jurisdiction on the Judicial Standards Commission. It was suggested that Justice Nelson be asked to attend the next Commission meeting so Commission members could inquire how to proceed getting a COLJ member on the Judicial Standards Commission. After reviewing Section 11 of the Constitution, the Commission found the JSC membership is clearly defined in the Constitution.

Courts Withholding Names of MIP's: Hon. Ed Williamson, JP from Dawson County sent a letter to the Commission asking if limited courts should be withholding names of MIP's from the local high schools and if the entire MIP procedure should be held in closed court? Dave Nielsen and Shaun Donovan agreed to research the issue. Since neither were able to attend the meeting, it was tabled until the June 2009 meeting.

TO DO: Staff will place this issue on the agenda for the June 19, 2009 meeting.

Judge Not Afraid Running for Tribal Office: On March 6, 2009, Judge Leroy Not Afraid filed to run for chairman of the Crow Tribe. Although he was defeated in the election that took place April 18, 2009, the Commission expressed concerned that he may be in violation of Canon 4 of the Judicial Ethics Code and Article VII, Section 10 of the Montana Constitution. A motion was made by Judge Miller and seconded by Judge Carver that the Commission write a letter to the Supreme Court stating that Judge Not Afraid does not meet the requirement of a sitting judge. The motion passed unanimously.

TO DO: Beth McLaughlin will draft a letter for the Commission's review and the Chairman's signature.

Restraining Orders: The final packet of Restraining Orders is now complete and the Attorney General's Office will begin using them the first week in May.

NEW BUSINESS

State v. Cotterelle: Judge Carver brought this Opinion to the attention of the Commission and Judge Ortley said he would cover the issues in his Nuts and Bolts presentation.

HB298: Judge Carver mentioned the changes in HB298, which is an act clarifying that judges have the authority to defer traffic violations except for holders of commercial driver's licenses.

Collection of Debt by Private Parties: On March 27, 2009, the Commission received a letter from Kari Hawkaluk, who represents Ryan Grocery & Processing Plant in Jordan, Montana. Ms. Hawkaluk is in charge of collecting debts for the store. She inquired to Justice of the Peace Art Gallinger about beginning small claims court cases against customers that are over 90 days delinquent. He informed her that she would need to travel to the county in which the customer lived. Since most of their delinquent clients are those that have meat processed in Garfield County, but live in other counties, she is concerned that they would be wasting more money on gas and labor than the cost of the processing bill. She asked the commission to help them find a solution to their problem.

The commission stated that Judge Gallinger provided the correct information to Ms. Hawkaluk. The only other option they would have is to file a civil procedure, however, if they are incorporated, they must hire an attorney.

TO DO: Beth McLaughlin will respond to Ms. Kawkaluk.

Next COCOLJ Meeting: The May Commission meeting will be vacated. The next meeting will be held on June 19, 2009 in Helena beginning at 8:30 am.

Adjournment: The meeting adjourned at approximately 2:00 p.m.