

## MINUTES

### **Commission on Courts of Limited Jurisdiction (COCOLJ)**

**Helena, MT**

**November 18, 2011**

**Members Present:** Hon. Perry Miller, Hon. Larry Carver, Hon. Don Neese, Hon. Gary Olsen, Hon. Marie Andersen, Hon. Steven Fagenstrom, Jennifer Boschee, Kelly Addy and Bernie Cassidy.

**Members Participating Via Telephone:** Hon. Doug Harkin and Peggy Tonon

**Members Absent:** Randi Hood

**Staff Present:** Kathy Kountz and Shauna Ryan

**Guests:** None

Judge Miller called the meeting to order at 8:30 a.m.

**MINUTES:** The minutes from the September 26, 2011 meeting were reviewed. A motion was made by Kelly Addy and seconded by Jennifer Boschee that the minutes be approved as written. The motion passed unanimously.

**INTRODUCTIONS:** Judge Miller introduced and welcomed the newest member of the Commission, Justice of the Peace Don Neese from Miles City. Judge Neese is also the newly elected president of the Montana Magistrates Association. Shauna Ryan introduced the new Court Services Director, Ms. Kathy Kountz. Ms. Kountz was the Bureau Chief for the Montana Human Rights Bureau for the ten years prior to taking the position with the Court.

**PUBLIC COMMENT:** None

### **OLD BUSINESS:**

**Record Retention Schedule:** Judge Luth sent a copy of the Guidelines on Record Retention Schedule to the Commission. The Courts of Limited Jurisdiction retention committee went through the schedule and corrected what they felt were outdated guidelines for keeping certain records. The committee held off on sending it out until it could answer two particular questions: 1) how long do we need to keep fiscal records for purposes of an audit; and 2) what do we do with the accompanying electronic record? Judge Luth spoke with Claudia Anderson who felt that was an issue the committee needed to address. At this point, the committee is comfortable sending out the schedule to all of the limited court judges and the clerks for their review and comment. Judge Miller thanked the committee for its hard work on the schedule.

**TO DO:** Shauna Ryan will disseminate the record retention schedule to all of the limited courts and clerks for their review. Comments should be referred to Judge Luth or any retention committee member within 60 days.

**Forms for Self-Represented Litigants:** Judge Snowberger provided a memo to the COCOLJ advising that the Commission on Self Represented Litigants is working on developing forms specifically for the Courts of Limited Jurisdiction and is requesting input from the COCOLJ. Judge Carver advised that the forms on the Supreme Court's website come out of the Benchbook which is a product of the COCOLJ. Judge Carver moved that any changes made to the forms posted on the website must be approved by the COCOLJ first. Judge Olsen seconded the motion and it carried unanimously.

**TO DO:** Judge Miller will contact Judge Snowberger to discuss this matter further.

### **NEW BUSINESS:**

**Fall 2011 Conference Evaluations:** Overall, the evaluations were positive. Judge Miller indicated that he had received a number of calls from the new judges expressing how much they enjoyed the Nuts and Bolts session. Some of the senior judges are asking for more break-out sessions during the Nuts and Bolts, offering more in-depth, real evidentiary issues. Peggy Tonon suggested that we offer the break-out sessions every other school or every other year. The sessions could be broken into a couple of different categories. Kelly Addy suggested that several of the more senior judges could serve on the panels. Judge Harkin suggested giving the judges several choices prior to the school on what topics they would like more information on. Judge Neese suggested that the conference agenda be sent out early enough to allow the judges to make a selection ahead of time of what sessions they plan to attend. That would help in coordinating rooms, presenters and the videographer. To keep costs down, it would be helpful to utilize some of the senior judges for the sessions. Judge Carver thought the break-out sessions were a great idea but the presenters need to know the topic and have adequate time to prepare in advance of the conference.

**Contempt Presentation by Judge Muth:** The Commission felt the contempt handout was extremely helpful and would be a good addition to the Benchbook and Deskbook. Judge Carver will contact Judge Muth about a few changes Judge Muth wanted to make to the handout before it's distributed. Judge Harkin and Peggy Tonon will then review the handout and make any changes they feel might be necessary. The handout can then be circulated to the rest of the limited jurisdiction judges and added to both the Deskbook and the Benchbook.

**Spring 2012 Conference Agenda:** The Commission reviewed the Spring 2012 agenda proposed by the Curriculum Committee. The Commission made several changes to make more time for the Nuts and Bolts session. After making several changes, the Commission approved the agenda and authorized staff to schedule the speakers.

**Letter from Patricia Osterhout re: ACT referrals:** The Commission received a letter from Ms. Osterhout, an administration officer with DPHHS' Chemical Dependency Bureau. Ms. Osterhout was concerned about referrals being made by the courts for chemical dependency assessments and education to individuals who do not work for a state approved chemical

dependency program. The commission did not feel the issue was within its purview, as it's not an educational matter. Judge Carver suggested the commission respond to Ms. Osterhout and advise her that the ACT program is on the spring 2012 agenda and will be addressed from the educational standpoint only. Judge Neese suggested that the presenters (ACT/Prime for Life session) contact Ms. Osterhout for clarification on the educational portion so it may be addressed as part of the presentation.

**TO DO: Judge Miller will prepare a letter to Ms. Osterhout.**

**Email from Judge Snowberger regarding the Equal Justice Commission:** Judge Snowberger sent an email to Judge Miller advising him of the creation of the Equal Justice Commission by the Supreme Court. Judge Snowberger advised that there will be a representative from the courts of limited jurisdiction on this new commission and wondered if the COCOLJ would be willing to handle the process of recommending a limited court judge for appointment. Judge Miller would like to review the Equal Justice Commission's mission statement. Judge Carver would like to have answers to the following: 1) is the Supreme Court going to create the Equal Justice Commission? 2) when will the commission be created? and 3) what is the primary function of the commission?

**TO DO: Judge Miller will research this matter further with Shauna Ryan and Beth McLaughlin and report back to the Commission in January.**

**Email from Tina Schmaus, Court Administrator, Missoula Municipal Court regarding Substitute Judge Waiver of Training Certificates:** Judge Miller advised that there is no statutory authority to exonerate a municipal court substitute judge from obtaining a waiver of training. Judge Fagenstrom moved that all courts of limited jurisdiction judges be required to request waivers of training for substitute judges. Judge Carver seconded the motion and it carried unanimously. Judge Fagenstrom moved that the commission provide a letter to Tina Schmaus advising her of the commission's position. Judge Neese seconded the motion and it carried unanimously.

**TO DO: Judge Miller will prepare the letter to Ms. Schmaus advising her of the commission's decision.**

**Repeated Requests for Waivers from the COLJ Conferences:** Peggy Tonon suggested that this matter be tabled until the January meeting. In the interim, Ms. Tonon will discuss the issue with Judge Harkin to possibly come up with some standard procedures when dealing with repeat absences from the schools.

**TO DO: Peggy Tonon will discuss this issue further with Judge Harkin.**

**Plaques for Past COCOLJ Members:** Judge Carver moved that the Commission request that the Supreme Court present Judge Mohr with a plaque during the Spring 2012 Conference, thanking him for his years of service and dedication to the Judiciary and for his service on the COCOLJ. Judge Fagenstrom seconded the motion and it carried unanimously.

**TO DO: Shauna Ryan will obtain the Court's approval for the plaque and will ask the Chief Justice if he will present it to Judge Mohr during the spring conference.**

**Automation Committee Update:** Judge Carver gave a brief update on committee activity. They will begin requests for proposals for a statewide e-filing project. Grant money has been obtained for \$1.8 million, maybe up to \$2.3 million, to get e-filing in all of the courts. They will start mid-summer with a pilot project for e-filing to be in the Supreme Court, with their program called C-Track, the district court and one justice court. The committee plans to follow the federal standard for electronic filing.

**Next Meeting Date:** The next meeting will be January 20, 2012, at 8:30 a.m. in Helena.

**Meeting Adjourned:** The meeting adjourned at 12:20 p.m.

July 5, 2012