

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT

March 16, 2012

Members Present: Hon. Perry Miller, Hon. Gary Olsen, Hon. Steven Fagenstrom, and Peggy Tonon.

Members Participating Via Video or Telephone: Hon. Don Neese, Hon. Doug Harkin, Hon. Marie Andersen, and Kelly Addy.

Members Absent: Hon. Larry Carver, Bernie Cassidy, Jennifer Boschee, and Bill Hooks.

Staff Present: Shauna Ryan

Guests: None

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

PUBLIC COMMENT: None

MINUTES: The minutes from the January 20, 2012, meeting were reviewed. A motion was made by Judge Neese and seconded by Judge Fagenstrom that the minutes be approved as written. The motion passed unanimously.

OLD BUSINESS:

Waivers for the COLJ Schools – Policy on repeat requests for waivers: Judge Harkin referred the members to Rule 5. B. of the Rules for Courts of Limited Jurisdiction Training and Certification of Judges. There are two scenarios: 1) a judge wants to leave the training before its completion; and 2) a judge needs to leave because of an emergency. Both types of requests need to be presented to the Commission as a whole. The waiver committee has some authority to approve those requests and then discuss it with the Commission as a whole at a later time. Peggy Tonon wondered if the Commission needed to amend its rules in order to do what Judge Harkin is suggesting or if the Commission can proceed ad hoc. Judge Harkin felt the Commission could proceed ad hoc as long as there is written procedure to implement what the rules already say. Ms. Tonon wanted to clarify the process: a judge has a legitimate emergency and speaks with Shauna Ryan; Ms. Ryan then contacts a member of the waiver committee; the waiver committee will approve or deny the judge's request; and then will relay the information to the Commission, as a whole. Judge Harkin suggested that a sentence at the end of Rule 5B(3) that states "All training conference and emergency waiver requests shall be initially addressed by Waiver Committee who will make a recommendation to the whole Commission." Judge Fagenstrom suggested that Rule 5B(3) read "Any request for permission to leave a biannual training conference prior to its completion shall be presented to the Commission, via the Waiver Committee, and shall constitute an application for waiver." Kelly Addy suggested that every request for a waiver shall be in writing. Mr. Addy questioned whether these rules were ours or if

the Supreme Court had to sign off on them. Judge Harkin suggested that the Waiver Committee could designate someone at the conference that will check on the validity of a request for a waiver and then follow up with the Waiver Committee so they can make an informed decision. Judge Olsen recommended that Judge Harkin and Ms. Tonon come up with some written dialogue that can be presented to the Supreme Court to amend the current rules. Ms. Tonon suggested that Rule 5B(3) read “Any request for permission to leave a biannual training conference prior to its completion shall be presented in writing to the Commission, via the waiver committee, and shall constitute an application for waiver.” Judge Miller is going to go over the expectations for obtaining a waiver at the commencement of the Spring COLJ conference.

TO DO: Judge Harkin and Peggy Tonon agreed to update the current rules as discussed and follow up with the Commission at the next meeting.

Approval of Waivers for Spring Conference: Judge Miller reported that two requests for waivers had been submitted and approved by the waiver committee. Judge Nancy Luth and Judge Michele Snowberger are members of the COLJ Records Retention Committee and will be meeting with the Secretary of State’s Local Government Retention Schedule Committee to present their modifications to the current retention schedule for a couple of hours on April 26, 2012. Peggy Tonon moved that the Commission approve the waiver applications of Judges Luth and Snowberger as approved by the waiver committee. Judge Olsen seconded the motion and it carried unanimously.

Spring 2012 Agenda: Shauna Ryan gave an update on the status of the conference agenda.

NEW BUSINESS:

COLJ Bulletin Board/Listserv: Judge Miller passed along some concerns from the Court and Beth McLaughlin regarding the judges’ listserv and comments that have been posted. A reminder was made that everything on the listserv is public information. If the listserv is requested, it will be provided. Judges need to keep this in mind when holding a dialogue on the site. This reminder is made in light of the debacle surrounding Judge Cebull. If the listserv isn’t used appropriately, it runs the risk of being shut down. A reminder will be posted on the listserv itself for the judges using it to be aware and thoughtful about injecting their personal thoughts and opinions on a public site. Judge Olsen stated that he feels the listserv is a valuable tool and would like it to remain. Judges have the option of opting out, and some have. Judge Fagenstrom indicated that he would be willing to post a reminder to all of the subscribers that the listserv is a public document accessible by whatever means available to the public. The judges will be reminded that they are all controlled by Canons of Judicial Ethics and should comport themselves on the listserve as they would anywhere else.

Next Meeting Date: The next meeting will be April 23, 2012 at Noon in Helena.

Meeting Adjourned: The meeting adjourned at 10:40 a.m.