



**DMCJA Board of Governors Meeting**  
**Friday, August 11, 2017, 12:30 p.m. – 3:30 p.m.**  
**AOC SeaTac Office**  
**SeaTac, WA**

## MEETING MINUTES

### **Members Present:**

Chair, Judge Scott Ahlf  
Judge Melanie Dane  
Judge Karen Donohue  
Judge Michael Finkle  
Judge Michelle Gehlsen  
Commissioner Leo  
Judge G. Scott Marinella  
Judge Kevin Ringus (non-voting)  
Judge Rebecca Robertson  
Judge Douglas Robinson  
Judge Damon Shadid  
Judge Charles Short

### **Members Absent:**

Judge Linda Coburn  
Judge Douglas Fair  
Judge Judy Jasprica (non-voting)  
Judge Dan B. Johnson (non-voting)  
Judge Michael Lambo  
Judge Mary Logan (non-voting)  
Judge Samuel Meyer

### **Guests:**

Judge Blaine Gibson, SCJA (phone)  
Ms. Cynthia Marr, DMCMA  
Mr. Loyd Willaford, WSAJ  
Ms. Melanie Stewart, DMCJA Lobbyist (phone)

### **AOC Staff:**

Ms. J Benway (phone)  
Ms. Vicky Cullinane  
Ms. Callie Dietz (phone)  
Ms. Sharon R. Harvey  
Mr. Brady Horenstein  
Ms. Susan Peterson  
Mr. Ramsey Radwan

## **CALL TO ORDER**

Judge Ahlf, District and Municipal Court Judges' Association (DMCJA) President, noted a quorum was present and called the DMCJA Board of Governors (Board) meeting to order at 12:30 p.m. Judge Ahlf asked attendees to introduce themselves.

## **GENERAL BUSINESS**

### **A. Minutes**

The Board moved, seconded, and passed a vote (M/S/P) to approve the June 4, 2017 Board Meeting Minutes.

### **B. Treasurer's Report**

M/S/P to approve the June 2017 Treasurer's Report. M/S/P to approve the July 2017 Treasurer's Report. Judge Gehlsen reported that Judge Meyer is still taking care of the Treasurer's duties. There has been no bank transfer yet; however, the bank transfer documents are prepared. Ms. Harvey will provide Judge Meyer with the transfer documents to sign on August 18, 2017. He will work with Judge Gehlsen to transfer the accounts. The current account balance is \$188,700.

### **C. Special Fund Report**

M/S/P to approve the Special Fund Report. Judge Meyer will work with Judge Gehlsen regarding the bank account transfer. Judge Robertson reported there is approximately \$50,000 in the account, and she just

received \$50 more in special fund dues. There will be more information forthcoming regarding the Special Fund Report after the bank transfer occurs.

D. Standing Committee Reports

1. Education Committee – *Judge Charles Short*

Judge Short, DMCJA Education Committee Chair, reported on the 2017 DMCJA Spring Conference Evaluations, and overall summary for the 2017 DMCJA Spring Conference. He reported that the number of attendees was higher than last year. He also recognized Judge Donohue and the Board for their contributions. Judge Donohue reported that the Immigration Session did not provide the “nuts and bolts” of what a judge needs to know regarding the subject, as expected. The Board discussed the pros and cons of the Session, and discussed how best to address this topic going forward. The majority agreed that the Immigration topic is one that judicial officers need to discuss. Judge Short asked for additional feedback from the Board. Judge Short further reported on the subject of law enforcement security at the DMCJA Spring Conference. The Board discussed how security has been handled in the past and whether the DMCJA should fund their own security during the Spring Conference. It was noted that during 2015-2017, there was \$2,000 for security, but at the May 2017 DMCJA Board Retreat, the Board decided to delete the budget line item because the money had not been used. The Board then discussed what it would cost to fund their own security. Judge Short informed he had contacted the Chelan County Sheriff’s Office and learned that the cost is \$95 per hour per officer, plus mileage, and usually there are two officers, making the approximate cost \$200 per hour plus mileage, which would bring the total cost to almost \$20,000 for the whole conference. The Board discussed other possible avenues for funding security during the Spring Conference. It was suggested that local entities could be used.

Judge Short further informed that the Education Committee’s deadline for 2018 Spring Conference education topic proposals is September 29, 2017, and their next in person meeting is in October 2017. Judge Marinella stated that it is important that the Education Committee have Board support, and encouraged the Education Committee to come back to the Board for additional requests if needed. It was also suggested that working with a presenter to create “a bench card” may be one way to stick to the “nuts and bolts” of a topic. Judges Donohue and Short informed they are already doing that as a standard practice.

2. Legislative Committee

a. End of Session Wrap Up – *Brady Horenstein, AOC Associate Director Legislative Relations*

Ms. Melanie Stewart, DMCJA Lobbyist, and Mr. Brady Horenstein, AOC Associate Director of Legislative Relations, gave an end of legislative session wrap up. Ms. Stewart reported that the session ran long and had many challenges. She said Mr. Ramsey Radwan, AOC Management Services Division Director, and Mr. Horenstein were great to work with. She informed that the August 1, 2017 election may result in the Democrats gaining control of the state Senate. She informed the Senate Ways & Means Committee has a new chair. Ms. Stewart apologized for being out during part of the legislative session due to medical reasons and assured the Board she is going to be fine.

Mr. Horenstein reported that the 2017-2019 Washington State biennium budget was released on Friday, June 30, 2017, and was also passed late the same day. He informed that the formal position of the Legislature is that, with the latest budget, the state is now in compliance with the *McCleary* decision, which was a large focus of this legislative session, and the budget puts approximately \$2 billion of new money into K-12 schools over the next two years. In addition, there was money allocated for the Office of Civil Legal Aid; a state employee pay increase; paid Family Medical Leave Act (funded a combination of employee and employer contributions); broad modest increases for education; and the judicial stabilization surcharge extension bill passed at the very end of session. Mr. Horenstein further reported that the Capital Budget has not passed the Legislature. He informed that the Legislature’s efforts to address water rights as a result of the *Hirst* case regarding water rights remains unresolved and has an impact on the passing of the capital budget. Although

the legislators on this met recently, there is no resolution. The failure to pass the capital budget impacts the Court of Appeals, Division III, which does not have money for a roof replacement. The Governor vetoed portions of the budget compromise that would have lowered the business and occupation (B&O) tax rate for manufacturing firms across the state, which has frustrated some legislators and also has made it more difficult to reach a compromise on the capital budget. In addition, control of the Senate may change depending on the outcome of the District 45 election in November. The impact of a change in leadership will not necessarily resolve the capital budget or *Hirst* issues, however, because a supermajority is still needed to pass the capital budget bond funding bill. Mr. Horenstein said this was his first full legislative session as AOC Associate Director of Legislative Relations and he felt that everyone worked very well together.

b. Final 2017-2018 Budget Summary – *Ramsey Radwan, AOC Director, Management Services*

Mr. Ramsey Radwan, AOC Management Services Division Director, presented to the Board on the Judicial budget process. He discussed the Board for Judicial Administration (BJA) Budget and Funding Committee Criteria and the Washington State Judicial Branch Biennial Budget Process, and answered the Board's questions. In addition, Mr. Radwan provided handouts regarding (1) the *Washington State Judicial Branch 2017-19 Biennial Budget Request Comparison Budget Compromise Proposal, June 2017* and (2) the *Washington State Judicial Branch Biennial Budget Process*. Mr. Radwan will also provide the Board with a copy of the *Board for Judicial Administration Budget and Funding Committee Criteria*. He informed that there is a new budget process, and explained the process to the Board and why the Chief Justice believes this process will work better. Mr. Radwan further informed that the Legislature allocated \$10 million dollars for the following judicial technology projects: (1) Superior Court Case Management System (SC-CMS), (2) Courts of Limited Jurisdiction Case Management System (CLJ-CMS), (3) equipment replacements, and (4) support staff for information technology projects. He stated that it is likely that the whole \$10 million will go to the CLJ-CMS Project, and he does not believe the CLJ-CMS Project will be negatively impacted. Mr. Radwan will keep an eye on it, and he expressed that he is available to all Board members if they have questions regarding the judicial budget.

3. Rules Committee

Ms. J Benway, AOC Staff for the DMCJA Rules Committee, answered questions related to the Committee's proposed amendments.

a. Proposed Amendment to CRLJ 5(e), *Service and Filing of Pleadings and Other Papers*

Ms. Benway reported on the Committee's proposed amendment to CRLJ 5(e). The rule currently prohibits courts of limited jurisdiction clerks from exercising discretion with regard to accepting documents filed with the court, which is contrary to GR 30 as well as CR 5(e). This issue has grown in importance with the advent of electronic filing, so the Rules Committee recommends allowing clerks the discretion to refuse to accept documents that do not comply with filing requirements. Therefore, the Committee is proposing the language "shall not" be replaced with "may." M/S/P to make this topic a discussion item.

b. Proposed Amendment to CrRLJ 5.1(b), *Commencement of Actions*

Ms. Benway reported on the Committee's proposed amendment to CrRLJ 5.1(b). This rule was enacted in 1987 and was meant to parallel RCW 3.66.070. However, in 1991 the statute was amended to include the phrase "under the influence of intoxicating liquor or any drug," but it does not appear that the rule was amended since 1987 so it no longer corresponds to the statutory language. Therefore, the Committee proposes it should parallel the language in RCW 3.66.070. M/S/P to make this topic a discussion item.

c. Proposed Amendment to IRLJ 4.1(b), *Parking, Standing, Stopping, or Pedestrian Infractions*

Ms. Benway reported on the Committee's proposed amendment to IRLJ 4.1(b). The Committee recently identified a small error in IRLJ 4.1(b): a statutory subsection is incorrect. The Committee recommends that the statute be amended by removing the subsection reference, so that this problem may be avoided in the future if the subsections are again renumbered. M/S/P to make this topic a discussion item.

d. New Proposed Evidence Rule 413

Ms. Benway reported on the New Proposed Evidence Rule 413 and informed that the Rules Committee wanted to bring this to the Board's attention in case the Board wanted to comment on the proposal. Ms. Benway explained that the deadline for comments is September 15, 2017, and requested that the Board send any comments before the deadline. There was Board discussion. Ms. Benway answered the Board's questions and informed that August 23, 2017, is the next Rules Committee meeting. Judge Ahlf suggested the Board refer it to the Rules Committee for their August 23 meeting. The Rules Committee should then forward recommendations to Judge Ahlf, who will send the Committee's comments to the Board for an email vote. Ms. Benway said she will do this, and informed that any other comments can also be sent to Ms. Benway or Judge Szambelan.

e. Minutes for April 26, 2017

The Board reviewed the April 26, 2017 Rules Committee Minutes.

E. Trial Court Advocacy Board (TCAB) Update

Judge Marinella reported that TCAB met the morning of August 11, 2017. They are pursuing adequate funding in the courts and rejuvenating the Justice in Jeopardy Initiative. The TCAB has created a plan that involves "layering," which would direct that the state pays 50% of district court and qualifying municipal judges' salaries. The TCAB will get current fiscal information from Mr. Ramsey Radwan to assure accuracy in the proposal. The TCAB is seeking judicial partners such as the Association of Cities, Association of Counties, and others. The TCAB wants to bring the DMCJA and Superior Court Judges' Association (SCJA) legislative committee chairs together, along with Tom Parker and Melanie Stewart, Esq., to prepare proposed legislation that would be presented in the 2019 legislative session. He explained that the material is already there; it just needs to be tweaked and worked up. That will entail cleaning up language in the trial court improvement fund statute, which is the TCAB's primary focus this year. The goal is to ensure that all Trial Court Improvement Account funds are used solely for the courts. He explained that the TCAB is simply asking that the promises that were made earlier, prior to the recession, now come to pass. Upon completion of the proposed legislation, the TCAB will share it with the Board for Judicial Administration (BJA).

F. Judicial Information System (JIS) Report

Ms. Vicky Cullinane provided a Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project update. She reported that Journal Technologies was selected as the Apparent Successful Vendor (ASV) for the CLJ-CMS project, and that they started negotiations with Journal Technologies this week. She informed that they hope to have a contract in place by November 2017. She noted, however, that the other vendor has put in a protest, so that could have some potential impact on the project's schedule. They expect to know more by August 24, 2017, the deadline for a decision from the Deputy Commissioner of the Supreme Court. In the meantime, the project is moving on as if there was no protest. But it is possible the project schedule could be affected if the protest is successful. Board members asked for some clarification, and Ms. Cullinane answered their questions. Ms. Cullinane also shared that the CLJ-CMS Court User Work Group (CUWG) asked for everything they wanted in the RFP requirements. Now they will narrow it down to what is realistic

during the configuration phase of the project. They are also planning for the implementation schedule now, but they will not know exactly what the implementation schedule will be until the vendor is on board.

Ms. Cullinane further reported that the Superior Court Case Management System (SC-CMS) Project is expected to wrap up at the end of next year. She also reported on the Expedited Data Exchange (EDE) Project, and informed that King County District Court plans its first implementation in October 2017, with non-well-identified-person cases. Ms. Cullinane further informed that in April 2018 they will go live with well-identified-person cases, and that those cases will no longer appear in JIS. That case information will only be available in the Judicial Access Browser System (JABS). She explained that because JIS will be replaced, there is discussion regarding the use of staff time to create the data exchange necessary for the information to appear in JIS.

## **LIAISON REPORTS**

### **A. District and Municipal Court Management Association (DMCMA)**

Ms. Cynthia Marr, DMCMA President, reported that the DMCMA is working on their Fall Regionals, which will be in six different locations to reach as many staff as possible. This year's focus is on (1) leadership and (2) customer service. In addition, the DMCMA has begun planning their spring conference, which will be in May 2018 at the Campbell's Resort in Chelan, Washington. Ms. Marr further informed that the DMCMA Education Committee and DMCMA Long Range Planning Committee are planning a joint retreat.

### **B. Superior Court Judges' Association (SCJA)**

Judge Blaine Gibson, SCJA President-Elect, reported that the Pretrial Reform Task Force kickoff occurred in June 2017. In addition, he reported the SCJA President has started to review all of the SCJA's committee commitments, and that the SCJA is looking to pare down the number of committees in which its members are involved.

### **C. Washington State Association for Justice (WSAJ)**

Mr. Loyd Willaford reported that the WSAJ may have a new liaison. Mr. Darrell L. Cochran is the new WSAJ President. In addition, Mr. Willaford said he wanted to revisit the topic regarding courts scheduling only one or two days for civil trials, and informed that the WSAJ may have a proposal for a future education program. More information on this will follow.

### **D. Board for Judicial Administration (BJA)**

Judge Kevin Ringus reported that the next BJA meeting is on September 15, 2017. Judge Ringus informed that he will remain the BJA Legislative Committee Chair, and his next meeting with Mr. Brady Horenstein after the DMCJA Legislative Committee meeting is on August 18, 2017. He further reported that Judge Judy Jasprica will be the BJA Court Education Committee Chair, Judge Mary Logan will be the representative on the BJA Budget and Funding Committee, and Judge Dan B. Johnson will be Chair of the BJA Policy and Planning Committee.

## **ACTION**

1. *DMCJA Rules Committee Proposed Amendments to CRLJ 5(e), CrRLJ 5.1(b), and IRLJ 4.1(b)*  
M/S/P to approve the Rules Committee recommendation to forward the following proposed amendments to the Supreme Court Rules Committee:
  - a. Proposed Amendment to CRLJ 5(e)
  - b. Proposed Amendment to CrRLJ 5.1(b)
  - c. Proposed Amendment to IRLJ 4.1(b).

**2. DMCJA Special Fund Assessment**

M/S/P to approve the Reserves Committee's recommendation not to impose a Special Fund assessment for the 2017-2018 year.

**DISCUSSION**

**A. Brief DMCJA Board of Governors (Board) Orientation**

Ms. Sharon Harvey gave a brief DMCJA Board Orientation for the new Board members and provided the following documents pertaining to operation of DMCJA Board meetings: (1) *Operational Rules*, (2) *Rules for Conduct at Board Meetings*, and (3) *Motion Precedence and Conduct for DMCJA Board Meetings*. Members were also given a full set of updated DMCJA Board of Governors Reference Materials for 2017-2018. All Board members are encouraged to read and familiarize themselves with the Reference Materials and let Ms. Harvey know if they have any questions.

**B. Reserves Committee Recommendation for DMCJA Special Fund**

Judge Ahlf reported that the DMCJA Reserves Committee recommended the Board not have a Special Fund assessment for the 2017-2018 year. The Special Fund is a fund comprised of personal contributions from DMCJA members in which expenditures are made only for initiatives that benefit a substantial segment of the DMCJA membership, such as lobbying expenses. The Board discussed current issues regarding retirement contributions that impact judges' paychecks. The Board discussed the pros and cons of not assessing the Special Fund this year. In addition, the Board discussed the Judicial Benefit Multiplier. Mr. Radwan will send the "Judicial Benefit Multiplier" formula to Ms. Harvey, who will distribute it to the Board. The Judicial Benefit Multiplier topic will be put on for Discussion at the September Board meeting. M/S/P to move Special Fund topic to an action item.

**C. General Rule (GR) 37, Jury Selection, Stakeholder Group – DMCJA Representative Vacancies**

Judge Ahlf reported that he is recommending Judge R.W. Buzzard, Lewis County District Court, for the DMCJA Co-Chair position and Judge Franklin Dacca, Pierce County District Court, for the DMCJA Member position on the new GR 37, Jury Selection, Stakeholder Group.

**D. Proposed Amendment to CRLJ 5(e)**

M/S/P to make this an action item. The Rules Committee recommended that the language in CRLJ 5(e), pertaining to the court clerk's authority regarding documents that are presented for filing with the court, be changed, to replace "shall not" with "may," The Board considered the Committee's recommendation.

**E. Proposed Amendment to CrRLJ 5.1(b)**

M/S/P to make this an action item. The Rules Committee recommended that CrRLJ 5.1(b) parallel the current language in RCW 3.66.070. This rule was enacted in 1987 and was meant to parallel RCW 3.66.070. However, in 1991 the statute was amended to include the phrase "under the influence of intoxicating liquor or any drug," but it does not appear that the rule was amended since 1987 so it no longer corresponds to the statutory language. The Board considered the Committee's recommendation.

**F. Proposed Amendment to IRLJ 4.1(b)**

M/S/P to make this an action item. The Rules Committee wants to correct an error to a subsection in IRLJ 4.1(b), which currently refers to subsection 3, but, should refer to subsection 2. The Committee recommends removing the subsection reference so it does not need to be continually updated when the rule changes.

## INFORMATION

- A. *DMCJA Therapeutic Courts Survey for Association*  
Judge Ahlf encouraged Board members to take the DMCJA Therapeutic Courts Survey.
- B. *Board members are encouraged to apply to DMCJA representative positions. Available positions include:*
1. *Supreme Court Convened Workgroup on Proposed New General Rule (GR) 37—Jury Selection (1 Co-Chair and 1 Member)*
  2. *Engrossed Second Substitute House Bill (E2SHB) 1163 Workgroups*
    - a. *Domestic Violence Perpetrator Treatment Workgroup*
    - b. *Domestic Violence Risk Assessment Workgroup*
  3. *Presiding Judge & Administrator Education Committee (Co-Chair)*
  4. *Justice Assistance Grant Advisory Committee (1 Judge Member)*

Judge Ahlf asked Board members to let him know if they are interested in the Justice Assistance Grant Advisory Committee position or any of the other DMCJA representative positions.

- C. *In City of Seattle v. Erickson, No. 93408-8 (2017), the WA Supreme Court created a bright line rule for peremptory challenges related to Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712 (1986). In Erickson, the court held that the “peremptory strike of a juror who is the only member of a cognizable racial group constitutes a prima facie showing of racial discrimination requiring a full Batson analysis by the trial court.”*
- D. *U.S. Supreme Court adjudicated issue regarding refund of defendant’s restitution payment when conviction is ruled invalid. See Nelson v. Colorado, 137 S.Ct. 1249 (2017).*
- E. *The Judicial Information System Committee selected Journal Technologies as the Apparent Successful Vendor (ASV) for the new Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project.*
- F. *DMCJA Judges David Steiner and Rebecca Robertson provided General Rule 36 Trial Court Security Guidance to the court community on August 1, 2017.*

Judge Ahlf thanked DMCJA Judges Rebecca Robertson and David Steiner for providing General Rule 36 Trial Court Security Guidance to the court community on August 1, 2017.

## OTHER BUSINESS

### Next Meeting

Judge Ahlf informed that the next DMCJA Board Meeting is scheduled for September 17, 2017, 9:00 a.m. to 12:00 p.m., at the Annual Judicial Conference at the Heathman Lodge in Vancouver, WA. Ms. Peterson will send Board members information about the next meeting.

**ADJOURNED** at 2:45 p.m.