



DMCJA Board of Governors Meeting
Friday, April 14, 2017, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office
SeaTac, WA

MEETING MINUTES

Members Present:

Chair, Judge G. Scott Marinella
Judge Scott Ahlf
Judge Linda Coburn
Judge Karen Donohue (phone)
Judge Douglas Fair
Judge Michelle Gehlsen
Judge Michael Lambo
Commissioner Rick Leo
Judge Mary Logan (non-voting)(phone)
Judge Samuel Meyer
Judge Kevin Ringus (non-voting)
Judge Rebecca Robertson (phone)
Judge Douglas Robinson
Judge Charles Short
Judge Tracy Staab

Guests:

Judge Elizabeth Cordi-Bejarano
Judge Timothy Jenkins
Ms. Cynthia Marr, DMCMA
Judge Aimee Maurer (phone)
Ms. Melissa Patrick, MCA
Mr. Loyd Willaford, WSAJ

AOC Staff:

Ms. J Benway (phone)
Ms. Vicky Cullinane
Ms. Callie Dietz (phone)
Ms. Sharon R. Harvey
Ms. Susan Peterson
Ms. Lenora Sneva

Members Absent:

Judge Michael Finkle
Judge Janet Garrow (non-voting)
Judge Judy Jasprica (non-voting)
Judge David Steiner

CALL TO ORDER

Judge G. Scott Marinella, 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 approximately 12:40 p.m. Judge Marinella asked attendees to introduce themselves.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Amended Minutes for March 10, 2017 Minutes, which include corrections regarding the Salary Commission report to state, "She informed that courts of limited jurisdiction judges' salaries are not on par with the federal judges' salaries," the elimination of the last sentence of the JIS Report that states, "Judge Staab informed that Tyler, which is the vendor for the Superior Court case management system (SC-CMS), liked that Spokane already had in place, and, therefore, is planning to incorporate it into the SC-CMS," and the notation that both Judge Garrow and Commissioner Leo attended the March meeting.

B. Treasurer's Report

M/S/P to approve the Treasurer's Report. Judge Meyer reported that money is coming in and bills are being paid from DMCJA financial accounts. He informed that Ms. Peterson circulated a reminder to the DMCJA

membership regarding dues payments. He further reported that bills have come in and \$30,000 was allotted for pro tempore reimbursement for the courts of limited jurisdiction case management system (CLJ-CMS) Project and has been paid. Judge Meyer also informed that the DMCJA Spring Conference will cost \$40,000.

C. Special Fund Report

M/S/P to approve the Special Fund report. Judge Robertson reported on the status of the Special Fund. She informed that dues checks are rolling in, and those who have not paid are being addressed.

D. Standing Committee Reports

1. *Legislative Committee*

Judge Meyer reported that the legislative session has now passed cutoff for both the House of Representatives (House) and the Senate, and the consensus is that there will be a special session. He informed that the state budget is at issue. He explained that the House budget is more favorable to the CLJ-CMS project than the Senate budget. He asked Board members to contact their legislators with regard to the court budget. He said the budget issue likely will not be resolved when the Board meets in June. He then encouraged judges to contact their legislators to support the House budget.

Judge Meyer then provided a legislative update on DMCJA proposed bills. He reported that House Bill (HB) 1195, *Surrender of Person Under Surety's Bond*, passed both chambers. In addition, HB 1199, *Allowing Youth Courts to have Jurisdiction over Transit Infractions* passed the Legislature. Further, HB 1221, *Solemnization of Marriages by CLJ Commissioners*, HB 1196/SB 5175, *Modifying Process to Recover Judgments in Small Claims Court*, and HB 1478/SB 5342, *Discover Pass Penalty Distribution*, did not pass the Legislature this year.

He further reported that the HB 1783, *Legal Financial Obligations (LFO)* bill passed out of the House, but failed to pass in the Senate. This year, there was a 4% interest agreement attached to the bill. The LFO bill is now dead, but the bill may do better next year, according to Judge Meyer. He also informed that it does not look like there will be any DUI legislation this year.

2. *Rules Committee*

Ms. Benway provided the February 22, 2017 DMCJA Rules Committee meeting minutes as information to the Board, and was available to address Board members questions.

E. Trial Court Advocacy Board (TCAB) Update

Judge Marinella reported that there was no TCAB meeting this month, and they will not meet again until August 2017 after the legislative session is over. They are pursuing adequate funding in the courts and rejuvenating the Justice in Jeopardy Initiative, and the TCAB has created a plan that involves a "layering" type of legislation. They plan to work with lobbyists, judges, and legislators. Judge Clarke will remain on the board as well. They also hope for support from the Board for Judicial Administration (BJA). The TCAB members will report back to the DMCJA and SCJA Boards as they proceed.

F. Judicial Information Systems (JIS) Report

Ms. Cullinane provided a courts of limited jurisdiction case management system (CLJ-CMS) Project update. She informed that the project will likely not meet the deadline of selecting a vendor in May 2017 for a couple of reasons. She said site visits are happening near the end of April 2017, so the procurement office needs a bit more time to compile all the scoring results. Also, the steering committee wants to be sure they have all the necessary information to make the best decision. Therefore, a vendor will likely be selected in June 2017. The CLJ-CMS Project team continues to visit sites and gather information of potential vendors. It is projected that in September 2017, there will be a vendor under contract and work will begin. Ms. Cullinane reminded the Board that it is critical for CLJ judges to reach out to their legislators. She also requested that the Board support the proposed House budget. The CLJ-CMS Project needs adequate funding this year, and the House

budget is closer to providing the necessary funding than the Senate budget. In addition, Ms. Cullinane introduced Ms. Lenora Sneva, who is the new AOC Organizational Change Management Coordinator for the CLJ-CMS Project.

Ms. Dietz informed that Chief Justice Mary Fairhurst and Mr. Brady Horenstein met with Senator John Braun, and that it went very well. The Senator was very interested in IT projects and indicated that he would be somewhat supportive of providing and returning general fund money into the JIS fund, which is positive news for the CLJ-CMS Project.

LIAISON REPORTS

A. District and Municipal Court Management Association (DMCMA)

Ms. Cynthia Marr, DMCJA President-Elect, reported that the CLJ-CMS Project is the current focus of the DMCMA. She informed that the DMCMA is trying to promote this project in all possible ways. In addition, in May, the DMCMA will hold a spring training and its annual conference, which is May 21-24, 2017, at the Semiahmoo Resort, in Blaine, Washington.

B. Misdemeanant Corrections Association (MCA)

Ms. Patrick reported that MCA's annual conference will be in May 2017 in Spokane. There are currently ninety registered participants. In addition, MCA elections will take place the first two weeks of May 2017.

C. Superior Court Judges' Association (SCJA)

Judge Marinella reported for Judge Sean O'Donnell, who was absent, that a Pretrial Task Force kickoff will be held on June 22, 2017 in Seattle. Invitations will go out soon. He also informed that the Pretrial Task Force planning committee met on March 31, 2017 at the AOC Office in SeaTac.

D. Washington State Association for Justice (WSAJ)

Mr. Willaford reported that on May 4, 2017, the WSAJ is hosting its annual Law Day Celebration and Awards Dinner honoring members of the Judiciary. He informed that Judge Andrea Darvas, King County Superior Court, has been named 2017 WSAJ Judge of the Year. Mr. Willaford provided flyers for the event and expressed that the Law Day Dinner is for a good cause. He further informed that the WSAJ supports General Rule (GR) 36, Jury Selection, which addresses Batson challenges.

Judge Marinella asked if there had been feedback regarding courts scheduling only one or two days for civil trials, and expressed that he wants to keep an open dialogue regarding the issue. Mr. Willaford informed he thinks the topic will be discussed at WSAJ's next Auto Cases continuing legal education training.

E. Board for Judicial Administration (BJA)

Judge Ringus reported that, at the March 17, 2017 BJA meeting, the BJA selected two strategic goals to work on. The strategic goals are (1) adequate and sustainable funding of court education and (2) funding for interpreter services. They will meet again on May 19, 2017, to adopt the charter for their strategic goals.

Judge Fair reported that the Court Education Committee had their retreat on Friday, March 24, 2017, at the Cedarbrook Lodge in Seattle. They are getting organized now to carry out their charter during this last year. A broad range of stakeholders attended the retreat, including someone from all commissions and five Supreme Court justices. They discussed the need for a stable funding source and developed a roadmap for success. It will likely be a 3-5 year process. Judge Fair said he will report more about it at the DMCJA Board Retreat, and asked that this topic be put on the Board Retreat agenda.

ACTION

1. BJA Representatives' Staggered Terms Proposal

M/S/P to adopt the following proposed BJA Staggered Term Proposal language with an amendment to add "four year terms" to the sentence, "Representatives shall not serve more than two four year terms consecutively." The Board referred the proposed amendment to the DMCJA Bylaws Committee, which will prepare a draft on a ballot for members to vote on at the DMCJA Spring Conference. The language is as follows:

ARTICLE VIII - Board for Judicial Administration

Section 1. BJA Representative:

The Association shall be represented on the Board for Judicial Administration (BJA) by the Association President and by four members, as follows: One (1) municipal court judge, one (1) district court judge and two (2) members at large. Selection shall be by vote of the membership as with other Association officers. The Association President position shall be for the period of the Association Presidency. The President-Elect shall be an *ex officio* member of the BJA during their term as President-Elect. All other positions shall be for a term of four years—provided that the terms of members which begin on July 1, 2017 shall be for less than a full term, two years, and shall thereafter be for a term of four years. Representatives shall not serve more than two four year terms consecutively. A representative may serve an unexpired term, less than a full term, and then serve two consecutive terms.

Selection of BJA representatives shall be based on demonstrated commitment to improving the courts and should reflect ethnic, gender, geographic and caseload differences.

DISCUSSION

A. Judicial Assistance Services Program (JASP) Update

Judge Timothy Jenkins reported on the status of the Judicial Assistance Services Program (JASP). He explained that JASP was set up in 2004 to provide judicial officers with confidential help and intervention when they need it. He provided informational brochures about the program. The program provides peer counselors who are available to help judges in crisis. Judge Jenkins explained that judges may either refer themselves or be referred by another judge, court personnel, or an attorney. He informed that JASP is a confidential service separate from the Commission on Judicial Conduct. He further explained that upon receiving a referral, the JASP counselor works with the JASP Chair to determine which peer counselor to assign to judge. The peer counselor makes a confidential call to the judge to talk and encourages the judge to talk with the JASP counselor who can offer a couple of counseling sessions or can refer them to other resources in their community. Counseling sessions with the JASP counselor or with the peer counselor may be conducted via telephone or in person. The current JASP counselor is located in Bellevue. The program addresses issues regarding family, relationships on the bench, and those concerning the well-being of a judge. In addition, JASP now offers services regarding issues related to judicial retirement. The JASP provides articles for the Full Court Press in order to educate judges of its services.

Judge Jenkins informed that Dr. Barbara Harper, who served as a counselor before retiring, founded the JASP, with the assistance of Judge Charles Delaurenti and Judge Clifford Stilz, which is affiliated with and modeled after the Washington State Bar Association's Lawyers Assistance Program. Judge Jenkins further informed that he will serve as the Vice Chair of JASP in 2018. He then encouraged the Board to support a JASP program that the group will present at the 2017 Fall Judicial Conference.

B. Senate Bill (SB) 6360, Consolidation of Traffic-Based Financial Obligations, Workgroup

Judge Elizabeth Bejarano, DMCJA Representative to the SB 6360 Workgroup, gave a status update on the project. She reported there are two proposals. The first one is written by the collection agencies. In this proposal, if a defendant goes to court and wants to get their license back, the active collection agency would

take all fees and work out a payment plan with the defendant, and address any other debt owed. Then any hold on their license is lifted and they can get their driver's license back. If they do not follow through, they are released from the program.

The second proposal is more reflective of what the DMCJA has discussed. Here, the AOC would be involved, payments would be split up by percentage, eligibility is defined, and it allows more grace time until a defendant is kicked out of the program. Once the defendant is in this relicensing program, the administrator would contact the defendant within 21 days. An administrative fee would offset the administrative costs.

Judge Bejarano requested input from the Board regarding both draft proposals. The Board discussed the proposals, Judge Bejarano answered questions, and the Board provided some suggestions. The SB 6360 Workgroup is required to provide feedback to the Office of the Attorney General by December 1, 2017, with a recommendation for a plan to consolidate traffic-based financial obligations statewide. September 2017 is the deadline to have recommendations mapped out. The Attorney General will decide what version to present to the Legislature. This topic will be an action item at the June Board meeting.

C. Courthouse Security Rule Update

Judge Robertson reported that the Trial Court Security Rule has been adopted. She informed that the next step is to educate courts in the state about the new rule. Judge Marinella said it would be helpful if a message with Judge Robertson's information went out on the DMCJA listserv. Judge Robertson will work with Ms. Janet Skreen and Ms. Shannon Hinchcliffe to create an announcement for the membership.

D. Lake Forest Park Municipal Court: Mayor's proposed Termination of Court

Judge Robertson reported that the Mayor of Lake Forest Park informed Judge Linda Portnoy that he had submitted a proposal to terminate Lake Forest Municipal Court and contract out their court services to either the county or another city. Judge Robertson informed there was a preliminary Lake Forest Park Council meeting which she and Judge David Larson, Federal Way Municipal Court, attended. Additionally, on April 13, 2017, 6:00 p.m., at City Hall, the City Council held another meeting in which judges and the public were invited to present their thoughts on the court termination proposal and respond to the Council's questions. Judge Robertson attended that meeting, along with approximately 18 other judges. Judge David Larson gave a presentation, and Judge Ahlf was also in attendance. The Mayor did not attend this meeting.

The participants at the April 13, 2017 meeting were supportive of Lake Forest Municipal Court. Attendees noted, however, that judges did not say anything disparaging about King County District Court, which will likely assume Lake Forest Park Municipal Court cases. Several citizens spoke about the importance of keeping the court local. About 90% of the comments were positive about retaining the court, and there was great support for Judge Portnoy and the court. However, no decision was made about the court because the Mayor was not in attendance. Another meeting is scheduled on April 27, 2017, 7:00 p.m., at City Hall. Here, the Mayor will make his presentation to the Council and answer the Council's questions. The Council will review the Mayor's answers and hear from the community before making a final decision.

E. Implicit Bias Jury Instructions

Judge Linda Coburn provided an Implicit Bias video link for Board members to view prior to the Board meeting. She reported that in the video top Judicial officials acknowledge that implicit bias exists during the jury process. She asked the Board to consider sending a letter to the Pattern Jury Instructions Committee (Committee) to consider adding implicit bias language in the Washington State jury instructions. The Board discussed the possibility. It was noted that researchers say there is not sufficient evidence at this time to confirm that implicit bias instructions are effective. Further, some experts in the field say the courts should not use these instructions until they are proven effective because they might do more harm than good. There is also concern that these instructions could be overwhelming for jurors. There was mention that implicit bias jury instructions and the accompanying video are being circulated throughout King County courthouses. At Seattle Municipal Court, some judges use them and some do not.

The Board discussed considering the various views regarding implicit bias jury instructions, and decided to consult the Committee to determine whether this issue has been addressed. Ms. Harvey agreed to contact Ms. Lynne Alfasso, AOC Staff for the Committee, to determine whether the Committee has considered the topic. Ms. Harvey will provide the status of the Committee's work regarding implicit bias at the May Board meeting. Judge Marinella informed the Board that Judge Marilyn Paja and Judge Anne Harper are DMCJA Representatives on the Committee. Judge Coburn further informed that she had to receive permission to view and share the implicit bias video.

F. DMCJA Finances – Whether to Reduce the Number of Banks holding DMCJA Funds

The discussion regarding whether to reduce the number of banks holding DMCJA funds will be tabled until the next Board meeting.

G. Access to Justice Newly Developed State Plan

Judge Maurer reported that the Access to Justice Board convened a group of civil legal aid providers in 2015 to design a plan to realize the vision that poverty is not an impediment to justice. The group developed a draft State Plan for the delivery of civil legal aid over the past fifteen months. The group requests feedback on its draft, which was provided in meeting materials, by April 17, 2017.

INFORMATION

- A. There are two vacant DMCJA Representative Positions for the Presiding Judge and Administrator Education Committee. Please contact Judge Marinella or Ms. Harvey if interested.
- B. There is a vacant DMCJA Representative Position for the WSBA Council on Public Defense Committee. Please contact Judge Marinella or Ms. Harvey if interested.
- C. The Washington State Association of Drug Court Professionals is hosting its annual drug court conference October 27, 2017, at the Southcenter DoubleTree Hotel in Seattle. Dr. Doug Marlowe will be the main speaker. This event is open to all therapeutic courts; therefore, courts of limited jurisdiction judges are welcome to attend. Janet Skreen, AOC Staff for SCJA, is the contact person; however, Ms. Harvey can also provide more information regarding the event.
- D. The Data Dissemination Committee (DDC) Violence Against Women Act (VAWA) Workgroup is looking for a DMCJA member to serve on their committee. Please contact Judge Marinella or Ms. Harvey if you are interested in joining the group. This information will also be sent out to the DMCJA Listserv.

OTHER BUSINESS

Judge Meyer informed that Ms. Melanie Stewart, DMCJA Lobbyist, is under the weather, and requested that the Board send her flowers. The Board agreed to send flowers by general consensus.

The next DMCJA Board Meeting is May 13, 2017, 11:10 a.m. to 1:00 p.m., at the Chrysalis Inn, Bellingham, WA.

ADJOURNED at approximately 3:07 PM.