



**DMCJA Board of Governors Meeting**  
Friday, November 9, 2018, 12:30 p.m. – 3:30 p.m.  
AOC SeaTac Office  
SeaTac, WA

## MEETING MINUTES

### Members Present:

Chair, Judge Rebecca Robertson  
Judge Scott Ahlf (by phone)  
Judge Linda Coburn  
Judge Jennifer Fassbender  
Judge Michael Finkle  
Judge Michelle Gehlsen  
Judge Robert Grim (by phone)  
Judge Drew Ann Henke  
Commissioner Rick Leo  
Judge Samuel Meyer  
Judge Damon Shadid  
Judge Charles Short  
Judge Jeffrey Smith

### Guests:

Judge Mary Logan, BJA (by phone)  
Judge Kevin Ringus, BJA  
Ms. Stacie Scarpaci, MPA  
Ms. Rachel Hamar, WSAJ  
Ms. Margaret Yetter, DMCMA

### AOC Staff:

Ms. J Benway (by phone)  
Ms. Vicky Cullinane  
Ms. Sharon R. Harvey  
Ms. Genie Paquin

### Members Absent:

Judge Aimee Maurer

## CALL TO ORDER

Judge Robertson, 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 12:31 p.m. Judge Robertson asked attendees to introduce themselves.

## GENERAL BUSINESS

### A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Meeting Minutes for October 12, 2018.

### B. Treasurer's Report

M/S/P to approve the Treasurer's Report. The Treasurer's report was provided for the Board's review by Judge Fassbender. Judge Coburn added that an October 30, 2018 check had been returned to her. Judge Fassbender reported that according to Ms. Christina Huwe, DMCJA Bookkeeper, it was returned for being uncashed and is now expired. Ms. Huwe will resubmit the check for reimbursement.

### C. Special Fund Report

M/S/P to approve the Special Fund Report. The Special Fund Report Statement was provided for the Board's review. Judge Fassbender reported the Special Fund earned \$4.30 in interest through October 2018. She also reported that Ms. Huwe is working to obtain online bank statements because the bank is charging \$5.00 a month for paper statements. DMCJA bookkeeper, Christina Huwe, recommended and requested Judge Gehlsen ask the Board to switch from a regular business money market account to a premium business money market account. This change would allow for increased interest and no additional cost to switch for the Special Fund. The Board by general consensus decided to switch to a premium business money market account.

D. Standing Committee Reports

1. *Legislative Committee*

Judge Robertson requested that Judge Meyer present his discussion item, 2019 DMCJA Legislative Agenda proposals, during this portion of the meeting. Judge Meyer reported that there were ten proposals brought forward by the Committee and noted that last year there were seven total and none came through so the Committee is only recommending the top four this year, which are as follows:

1. **Affidavit of Prejudice (Notice of Disqualification)** – this bill would change “affidavit of prejudice” language to Notice of Disqualification” for consistency with the Superior Court statute. The amendment would (1) allow a disqualified judge to conduct arraignment and set conditions of release, and (2) allow a disqualified judge to serve upon agreement of parties.
2. **Discover Pass** – this bill seeks to keep monies collected from Discover Pass violations local; initially, all money stayed local from discover pass violations; however, the state receives all revenue now; the Committee for a number of years has been trying to introduce a split of funds between the state and local government. This is primarily important for the smaller counties such as Skamania and Pacific counties. Ultimately, the Committee would like a state and local split and therefore, the Committee agrees to run this back again.
3. **Commissioners of Limited Jurisdiction** – 1) Commissioners to Solemnize Marriage bill which would include district and municipal court commissioners in the list of those persons allowed to officiate weddings; 2) Powers of Commissioners – Limitations bill would reconcile powers for commissioners. It has been argued in Kitsap County that there are differences between Municipal Court Commissioners and District Court Commissioners which has been attacked through a Motion to Suppress, a warrant from a Commissioner in Municipal Court therefore it is the Committee’s consensus to run it again.
4. **Small Claims** – this bill would convert a small claims judgment to a district court judgment almost immediately after a small claims trial. The \$20 fee that one pays to get this converted is tacked on to the original filing fee which increases the total filing fee amount, however, no additional fee is added at the end of the trial. House Representative Roger Goodwin has expressed support for the bill.

The Committee also provided the following proposals for the Board’s review:

5. **Amendment to allow courts access to Department of Licensing (DOL) database of concealed pistol license (CPL) holders to allow court to comply with notification requirement** – Although the original proposal was for DOL to allow courts access to the DOL’s CPL holders database, this bill would instead require the DOL to report a CPL license revocation to the city, town, or county that issued the license. The current statute, RCW 9.41.270, requires the *court* to report the CPL revocation to the city, town, or county that issued the license. Melanie Stewart, DMCJA Lobbyist, will present the issue to the House Public Safety Committee.
6. **Anti-harassment Orders/Temporary Orders** – this bill would amend RCW 10.14 to allow district court judges to issue temporary orders for anti-harassment petitions that have been transferred to Superior Court. The language would mirror other related statutes. The Committee conducted a survey to determine how district and municipal court judges are currently handling temporary orders in anti—harassment petitions that have been transferred to Superior Court and discovered that a majority of the DMCJA membership issue temporary orders in anti-harassment petitions brought under RCW 10.14.150. Judge Robertson added that she had received a letter from the Attorney General’s Office (OAG) voicing a concern that district courts are not issuing these temporary orders, which is delaying access to justice. The OAG has asked Judge Robertson to intervene and send out a letter to the DMCJA membership providing guidance on the issue. She stated that further discussion is necessary since there is great debate regarding the issue among association members. Judge Meyer suggested adding this proposal to the priority bills listed above.

7. **DNA Samples** – this bill would amend RCW 43.43.754 to allow biological samples to be collected from municipal code violators. At present, DNA is not collected from municipal violators, which has adversely impacted public safety efforts.
8. **Advertising authority to solemnize marriages is breach of judicial ethics** – this bill would be consolidated with the Commissioners to Solemnize Marriage bill; it would also amend RCW 4.66.110 to allow district court judges to advertise that they perform marriages. The statute currently prohibits such personal advertising by a district court judge but has no such restriction for Superior Court, Court of Appeals, and Supreme Court judges.
9. **Interlocal Agreements for Probation Services** – this bill would allow courts to enter interlocal agreements for probation services. A detailed analysis was provided in the supplemental agenda packet.
10. **Statutory amendments related to Domestic Violence Protection Order (DVPO), Sexual Assault Protection Order (SAPO), harassment, and stalking to extend 14 day period for a full order hearing of the issuance of a temporary order** – this bill would clarify existing statutes that appear to limit the court's ability to reschedule the reissuance of a temporary order and the hearing beyond fourteen days. The amendments would provide parties and the court more flexibility to schedule these hearing beyond fourteen days.

The Board discussed the proposed Affidavit of Prejudice (Notice of Disqualification) bill in detail. Primary concerns were as follows: (1) discomfort with a judge setting conditions of release and bail after disqualification; (2) smaller courts primarily ones with only one judge do not have the option like larger courts to speedily bring a different judge on the bench to issue conditions of release and set bail in situations where Notice of Disqualification has been requested; (3) the decision has to be made within 48 hours, in other words, expeditiously. Judge Meyer discussed that the intent of the bill is to mirror the Superior Court statute. Judge Robertson recommended that the Legislative Committee further discuss the issues mentioned.

M/S/P to move the Legislative agenda to an Action item.

## 2. *Rules Committee*

Ms. Benway was available to answer any questions from the Board regarding proposed rule amendments published for comment by the Superior Court Judges' Association (SCJA) and Washington Association of Criminal Defense Lawyers (WACDL). She reported that the DMCJA Rules Committee had not reviewed these materials. Ms. Benway reviewed the Supreme Court Rules Committee's publications to find these topics and forwarded them to the Board for the Board to determine whether the Rules Committee should review them. Ms. Benway supplied a memo on what rules the Supreme Court has published for comment. They can be found outlined in the General Rule (GR) 9 Cover Sheet. One of the points raised was the process of handling requests from outside entities that wanted their rules reviewed by the DMCJA Rules Committee. Judge Robertson clarified that the DMCJA Rules Committee should review the Supreme Court Rules Committee's publications for comment but to refer to the Board only specific requests from outside entities that are sent directly to the DMCJA Rules Committee. Thus, the proposed rule amendments published by the Supreme Court for comment by the SCJA and WACDL should first be reviewed by the DMCJA Rules Committee.

### E. Trial Court Advocacy Board (TCAB) Update

Judge Robertson reported that TCAB will meet annually during the fall judicial conference. Other meetings will occur as needed; thus, this item will be removed from monthly Board agendas.

### F. Judicial Information System (JIS) Report

Ms. Cullinane reported that the CLJ case management project has selected a consultant, Gartner, to assist the steering committee with an options analysis. AOC is expecting to complete the contract negotiations with the consulting company soon. They have given us a fairly short time-line for completing the options analysis. The consulting company will be looking at three options, or may suggest another:

1. A best-of-breed (combining separate modules for functions like document management and case management);
2. Updating the existing JIS and coding new functions;
3. Or a hybrid of the first two options, updating JIS and adding off-the-shelf products for the missing functions, like document management.

There are also issues with the New DOL DRIVES System and the tech teams from both AOC and DOL are working through them.

Ms. Cullinane also reported on DOL and that they are now putting municipal code violations on driving records, which has not been previously done for many years. Margaret Yetter added that moving violations are reporting, but reporting as non-moving and therefore, not suspending defendants' licenses.

## **LIAISON REPORTS**

### A. Administrative Office of the Courts (AOC)

Judge Robertson reported that Ms. Callie Dietz's official last day with AOC is December 31, 2018. Ms. Dietz will attend the December 14, 2018 DMCJA Board Meeting at SeaTac, which will be her last meeting.

### B. Board for Judicial Administration (BJA)

Judge Kevin Ringus reported that the BJA had a joint meeting with the Court Management Council in October 2018. The BJA Legislative Committee has met via telephone and will support many of the proposed legislative items on its agenda. In the next few weeks, judiciary members will conduct interviews for the AOC Associate Director for Judicial and Legislative Relations position, which was previously held by Mr. Brady Horenstein.

### C. District and Municipal Court Management Association (DMCMA)

Ms. Yetter reported that Ms. Dietz's attended the November DMCMA meeting, which will be Ms. Dietz' last meeting because she retires at the end of the year. Her attendance provided the DMCMA an opportunity to say goodbye and to thank Ms. Dietz for her service as State Court Administrator. She further reported that mandatory administrator training was discussed at their meeting yesterday. Ms. Yetter further informed that the DMCMA is looking forward to finding its 2019 -2020 conference location as it will be the association's 50<sup>th</sup> anniversary.

### D. Misdemeanant Probation Association (MPA)

Ms. Scarpaci reported that the MPA has not met since the last DMCJA Board meeting.

### E. Superior Court Judges' Association (SCJA)

Judge Van Doorninck submitted a report that addressed key SCJA issues.

### F. Washington State Association for Justice (WSAJ)

Ms. Rachel Hamar introduced herself as the new WSAJ liaison. She has replaced Mr. Loyd Willaford.

## **ACTION**

- A. *2019 DMCJA Legislative Agenda Proposals* - The Board moved, seconded, and passed a vote (M/S/P) to approve the following proposed DMCJA bills for the 2019 Legislative Session:
  1. Affidavit of Prejudice (Notice of Disqualification)
  2. Discover Pass
  3. Commissioners to Solemnize Marriage; Powers of Commissioners-Limitations
  4. Small Claims
  5. Anti-harassment Orders

- B. *Reserves Committee Recommendation regarding Special Fund* - M/S/P to approve the following DMCJA Reserves Committee recommendations: (1) maintain the Special Fund account at Washington Federal bank, (2) **do not collect Special Fund assessment from members during 2018-2019 but consider whether to collect Special Fund dues at the 2019 Board Retreat**, and (3) Special Fund Custodian should decide whether the recommendations fit the Fund's daily needs and look at options in order to best maximize returns and make recommendations to the Board.
- C. *Washington State Court Administrator College & Mandatory Continuing Education* - M/S/P to approve the draft rule related to mandatory continuing court education.

## DISCUSSION

### A. Swearing-In Ceremony for District Court Judges

Judge Robertson informed that a district court judge inquired whether a swearing-in ceremony would be held for recently elected district court judges at the Temple of Justice in Olympia, WA. The DMCJA has never held a swearing-in ceremony for district court judges. In contrast, swearing-in ceremonies at the Temple of Justice are sometimes held for municipal court judges, who are often sworn into office by the city mayor. The last Washington State Supreme Court swearing-in ceremony for municipal court judges was in December 2017. The Board voted to allocate \$500 for the event at the 2017 Board Retreat. There was robust discussion regarding whether to offer this benefit to **one hundred eighteen (118) district court judges** and their families. One Board member suggested that the District Court swearing-in ceremony take place at the Annual Judicial College. Judge Robertson added that a good approach might be to conduct a poll via the DMCJA listserv to determine whether district court judges are interested in attending such an event.

### B. Washington State Court College & Mandatory Continuing Education

Ms. Yetter provided the Board with a draft rule regarding Mandatory Continuing Court Education. She mentioned that she had received comments from Ms. Dietz that support this implementation, but that AOC staffing issues are present at this time and that an implementation date for launching this is eighteen months to two years out. She further reported that the Superior Court Administrators as well as the Juvenile Court Administrators were not in favor of this mandatory education implementation. Ms. Yetter asked what she needed to do to move this rule forward and Judge Robertson expressed that either she or Ms. Yetter could send a GR 9 Coversheet with the proposed mandatory administrator education rule to the Supreme Court. **The DMCJA will co-sponsor the proposed rule.** M/S/P to move this topic to an action item.

### C. Domestic Violence Perpetrator Treatment (DVPT) vs. Moral Reconciliation Therapy (MRT)

Judge Robertson reported that there have been changes in the Washington Administrative Codes (WACs) and subsequently there is a DSHS employee that has been presenting to various groups the belief that DVPT is in theory the same treatment as MRT. This employee has threatened to call the Attorney General's Office (OAG) to voice this issue. Judge Robertson contacted the OAG via letter. The OAG responded to Judge Robertson letting her know they did not have a position on this and that DSHS needed to make the call on this issue. At this point nothing more has transpired, but the DMCJA will stand by their members' position. Judge Coburn added that she believes there is a separation of powers issue at hand. The question was raised as to whether there was research to support MRT as to whether it works or not. Judge Logan noted that she believes the Department of Corrections (DOC) has "general" data that is not grouped into or related to DV assessments to back this up, therefore, it is more than just anecdotal data. The issue was raised that probation officers would have to be certified in MRT if it is to be considered the same type of therapy as DVPT and that is not a viable option. The other issue raised was the concern that defendants would not have enough money to pay for the

added fees to follow through with this therapy if it is enforced as a therapy equal to others. The Board decided by general consensus not to discontinue MRT performed by probation officers within probation departments at this time. M/S/P to move to an action item for the December Board meeting, the issue of accepting Judge Coburn's letter as the official DMCJA position.

D. 2019 DMCJA Legislative Agenda Proposals – Judge Samuel G. Meyer  
Judge Meyer provided this information during his DMCJA Legislative Committee report.

E. Reserves Committee Recommendation regarding DMCJA Special Fund  
The Reserves Committee provided the following recommendations to the Board: (1) maintain the Special Fund account at the Washington Federal Bank, (2) Board should not collect Special Fund dues during 2018-2019, but consider whether to assess Special Fund dues at the 2019 Board Retreat, and (3) Special Fund Custodian should decide whether the recommendations fit the Fund's daily needs and look at options in order to best maximize returns and make recommendations to the Board. M/S/P to move this topic to an action item.

## INFORMATION

Judge Robertson mentioned the following information to the Board:

- A. Board members are encouraged to apply for DMCJA representative positions. Available positions include:
  - 1. Commission on Judicial Conduct (CJC)
  - 2. JIS CLJ "CLUG" User Group
  - 3. Presiding Judge & Administrator Education Committee
  - 4. Washington State Access to Justice Board (Liaison Position);
  - 5. WSBA Court Rules and Procedures Committee
- B. Policy Analyst Project Ideas for 2018 are as follows:
  - 1. Judicial Independence Matters (Municipal Court Contracts)
- C. DMCJA Board members are encouraged to submit Board agenda topics for monthly meetings.
- D. On January 1, 2019, Ms. Dawn Marie Rubio will become the Washington State Court Administrator.
- E. Congratulations to the following DMCJA Members:
  - 1. Judge Coburn received the Asian Bar Association of Washington's Judge of the Year Award. For more information, see the following web link: [ABAW Judge of the Year](#).
  - 2. Judge Logan on Spokane Community Court winning a 2018 APEX award. For more information, see the following web link: <https://www.wsba.org/about-wsba/apex-awards>
- F. The Washington Pretrial Reform Task Force has created an information sheet regarding its mission and accomplishments. Judge Mary Logan is a co-chair; other co-chairs include Justice Mary Yu and Judge Sean O'Donnell

## OTHER BUSINESS

The next DMCJA Board Meeting is scheduled for December 14, 2018, from 12:30 a.m. to 3:30 p.m., at the AOC Office in SeaTac, WA.

The meeting was adjourned at 2:08 p.m.