



DMCJA Board of Governors Meeting
Friday, December 14, 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
Judge Linda Coburn
Judge Jennifer Fassbender
Judge Michael Finkle
Judge Michelle Gehlsen
Judge Drew Ann Henke
Judge Aimee Maurer (by phone)
Judge Samuel Meyer
Judge Damon Shadid
Judge Charles Short (by phone)
Judge Jeffrey Smith

Guests:

Mr. Clint Casebolt, Kitsap Co. Dist. Ct.
Mr. Sart Rowe, WSBA ATJ Board
Judge Jeffrey J. Jahns, Kitsap Co. Dist. Ct.
Ms. Rachel Hamar, WSAJ
Judge Kevin Ringus, BJA (non-voting)
Ms. Stacie Scarpaci, MPA

AOC Staff:

Ms. Vicky Cullinane
Ms. Sharon R. Harvey
Ms. Genie Paquin

Members Absent:

Commissioner Rick Leo
Judge Robert Grim

CALL TO ORDER

Judge Robertson, District and Municipal Court Judges' Association (DMCJA) President, called the DMCJA Board of Governors (Board) meeting to order at 12:33 p.m. She noted a quorum was not present and asked attendees to introduce themselves.

GENERAL BUSINESS

A. Minutes

Upon reaching a quorum, the Board moved, seconded, and passed a vote (M/S/P) to approve the Board Minutes for November 9, 2018, with following clerical corrections:

1. Amend *Discussion section, B. Washington State Court College & Mandatory Continuing Education (page 5)* to include, "**the DMCJA will co-sponsor the proposed rule**" in the following section:
"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."
2. Amend *Discussion, Section A (p 5)* to read, "There are **118 district court judges**" instead of 206 district court judges because 206 is the total number of DMCJA members.

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 Fassbender reported that dues notices were mailed out November 29, 2018 and are due February 15, 2019. She then informed that there is no Special Fund assessment this year. Board officers will meet at Washington Federal bank in March to add their names to the Special Fund account, which will allow Ms. Christina Huwe, DMCJA Bookkeeper, to receive the special fund report without being charged \$5.

C. Special Fund Report

M/S/P to approve the Special Fund Report. Judge Gehlsen, Special Fund Custodian, reported that the Special Fund Report Statement was provided for the Board's review. The Special Fund earned \$32.23 in interest through November 2018. Judge Gehlsen added that the Board moved the account to the business premium money market account, which has caused an exponential increase in interest from approximately \$4 monthly.

D. Standing Committee Reports

1. Legislative Committee

Judge Meyer reported that the Board approved all of the proposals brought by the DMCJA Legislative Committee, however, there were concerns regarding the "Notice of Disqualification" bill proposal. Thus, the Legislative Committee made revisions to the bill, which were provided to the Board in both electronic and hard copy form. Board members supported the revisions, which limited the duties of disqualified judges. Ms. Melanie Stewart, DMCJA Lobbyist, has been shopping DMCJA bills; some bills have been drafted by the Code Reviser's Office, and some have legislative sponsors. There is legislative support for DMCJA bills related to commissioners and small claims, which ran last year, and, Ms. Stewart is continuing to work with legislators to get sponsors on other DMCJA bills. Judge Meyer addressed concerns regarding the DMCJA Notice of Disqualification bill that was hotly debated at the November DMCJA Board meeting and recognized that this statute is different in Superior Courts than Courts of Limited Jurisdiction and the idea is to reconcile the two bills. Judge Meyer informed that further discussion with Ms. Melanie Stewart revealed that in order to get the bill passed, it must mirror the language of the Superior Court. If we go forward with the originally proposed bill, Judge Meyer suspects there will be questions from Judiciary Committees and a fair amount of opposition from the Defense Bar and within our Association as well. Hence, Judge Meyer brought this back to the Board to get additional input and direction for going forward. Judge Steve Warning, SCJA Legislative Committee Chair, and Judge Meyer had a phone conference to further discuss judicial disqualification issues. Judge Robertson added she would like to have the DMCJA Legislative and Rules Committee work together to see if there is some language that can be changed in the rule. Judge Meyer committed to go forward with mirroring the language to Superior Courts if he gets the support from the Board. He also reported that Ms. Stewart has meetings planned with some legislatures coming up and they will move forward with the Notice of Disqualification bill and other proposed DMCJA bills. The Board by general consensus approved the revised Notice of Disqualification bill, which was sent electronically to Board members and provided at the meeting.

2. Rules Committee

The Committee minutes for September 2018 are included in the meeting agenda packet.

3. Diversity Committee

The minutes for October 2018 are included in the supplemental materials packet.

E. Judicial Information Systems (JIS) Report

Ms. Cullinane reported on the courts of limited jurisdiction case management system project (CLJ-CMS). She stated that they had hoped to have the options analysis contract with Gartner finalized by now, but with the holidays, there have been some delays. Gartner now plans to start January 7, 2019, and the options analysis is expected to take about three months. Therefore, we should have some answers of what the options will look like before spring conferences and well before the 2019 DMCJA Spring Conference.

LIAISON REPORTS

A. Administrative Office of the Courts (AOC)

Callie Dietz, State Court Administrator, welcomed Ms. Dawn Marie Rubio as our new State Court Administrator. Ms. Rubio will official become the State Court Administrator on January 1, 2019, but has been shadowing Ms. Dietz since November 19, 2018. Ms. Dietz expressed that Ms. Rubio is doing a fabulous job and added that both Ms. Rubio and Chief Justice Mary Fairhurst will make a great leadership team. Ms. Rubio comes to us with a lot of experience most recently out of Utah with the AOC and before that the Illinois AOC

and Florida court system. She has worked on the road with the National Center for State Courts for all courts and has a law degree. Ms. Dietz then introduced Ms. Dory Nicpon, AOC's new Associate Director for Legislative Relations. Ms. Nicpon comes to us from the Washington Department of Licensing and prior to that, the Washington State Patrol and Staff for State Senate. Ms. Dietz is pleased and looking forward to the great team Ms. Nicpon and Ms. Rubio will make. Ms. Dietz further reported as an overall AOC report, that we are getting ready for the 2019 Legislative Session. She further discussed the Superior Court Case Management System Project (SC-CMS). Event A of the SC-CMS is complete; as of the end of the year it is done, although that does not mean we are done, we still have things to work on and fixes to make and a five year maintenance contract with Tyler Technologies to ensure things go well. There are still implementations to be made with Odyssey with yearly updates. She noted and added to Ms. Cullinane's JIS report that the CLJ-CMS is still the number one priority for the Judicial Information System Committee (JISC). Ms. Dietz voiced her concerns regarding our dwindling JIS account as this is the first year that we have had to ask for money from the General Fund. She reminded us that the Judicial Education program is getting ready for Judicial College in January 2019 and we have 72 judicial officers signed up as a result of the turnover on the bench. She asked the Board to refer to Mr. Dirk Marler's report in the materials packet regarding "Deferred Findings" and noted that the fee code will be used for fees imposed on December 17, 2018, and thereafter. In closing, Ms. Dietz mentioned something nationally that would be a resource locally where the Board she worked on developed a three minute video free of charge that is a really good resource for an introduction to civics clubs at schools and defendants. It is on the National Center website at www.ncsc.org/explainor. Lastly, the Court Management Council has developed a webinar to assist in training new staff to help explain the difference between legal advice and helpful information.

B. Nominating Committee

Judge Ahlf reported that the Committee has met and will send a message to the DMCJA requesting candidates for the following DMCJA positions: President Elect; Vice President; Secretary/Treasurer; Full-Time District, Part-time District Court; Full-time municipal Court. He informed that the Committee has a list of interested candidates but anticipates a greater pool of candidates after soliciting candidates to the DMCJA membership.

C. Board for Judicial Administration (BJA)

Judge Kevin Ringus reported that the BJA met in November 2018 and discussed the 2019 Legislative Session. The Interpreter Services Task Force and Court Education Funding Task Force are moving forward. The BJA Legislative Committee weekly conference calls will begin on January 14, 2019. Ms. Nicpon reported on the BJA priorities and provided two documents developed by AOC to support these priorities. One of the documents lists all the legislative priorities on one factual page, the other document provides two pages that feature two of the highest BJA priorities, namely, court interpreter funding and court education funding. She further explained that these documents are available to any of our justice partners that have opportunities to speak with legislators or act as an advocate for the Judiciary. Ms. Nicpon shared with the group that as a result of the Judicial Needs Estimate, which identified the need for two additional Superior Court Judges, one in Clark County, and the other in the Tri-Cities, which consist of Pend Oreille, Stevens and Ferry Counties.

Judge Robertson added that the BJA voted to create the Trial Court Security Taskforce (Task Force), which is co-sponsored with the SCJA, at the November BJA meeting. Judge Robertson will co-chair the Task Force with SCJA Judge Sean O'Donnell. The co-chairs are currently selecting Task Force members. The goal is for all trial courts to become compliant with GR 36, Trial Court Security, by 2025.

D. Misdemeanant Probation Association (MPA)

Ms. Scarpaci reported that that the next MPA meeting is January 28, 2019. One of the main topics on the agenda is working on revamping a letter that went out in 2006 by various King County judges regarding substance abuse treatment providers related to compliance reports and evaluations and the minimum expectations of them. Probation Departments have noticed a decrease in treatment providers as a result of the 2006 letter. Ms. Scarpaci will inform the Board of the status of the issue after the January MPA meeting.

E. Superior Court Judges' Association (SCJA)

Judge van Doorninck provided a written report that can be found in the meeting agenda packet.

F. Washington State Association for Justice (WSAJ)

Ms. Rachel Hamar reported on the WSAJ events and legislative agenda for 2019. The Annual Holly Ball is tonight in Seattle. There will be a judicial training for members on January 11, 2019. On January 29, 2019, the WSAJ membership will be in Olympia for Lobby Day. She explained that in the past the WSAJ legislative agenda has focused on expanding jurisdictional limits for civil purposes, but the 2019 Legislative agenda will focus on amendments to the wrongful death statute including adding a cause of action for parents of unmarried adults age 18 years and older.

ACTION

- A. Domestic Violence Perpetrator Treatment vs. Moral Reconciliation Therapy – Whether to Adopt Judge Linda Coburn's MRT Memo as the Official DMCJA Position

M/S/P to adopt Judge Coburn's moral reconciliation therapy (MRT) Memo as the official DMCJA position. Judge Robertson referred to the packet which includes the Department of Social and Human Services (DSHS) response that indicates their position is that MRT is the same as Domestic Violence Perpetrator Treatment (DVPT) and is, therefore, subject to certification by DSHS. Judge Robertson stated that she believes this is an infringement on judicial independence because DVPT is run through the Executive Branch whereas MRT is basically run through court probation departments via peer to peer counseling.

- B. M/S/P to endorse Kitsap County District Court's request to onboarding to the expedited data repository through data exchange.
- C. M/S/P to approve sixteen hundred dollars (\$1600) for the YMCA Youth & Government Program. This amount will be taken from the DMCJA Judicial Community Outreach line item.
- D. M/S/P to send a comment supporting SCJA proposed amendments to Code of Judicial Conduct (CJC) 2.9 regarding pretrial risk assessment evaluations.

DISCUSSION

- A. *Access to Justice (ATJ) Technology Principles – Mr. Sart Rowe*

Mr. Sart Rowe reported that it has been about 15 years since the Washington State Supreme Court adopted the original access to justice principles back in 2004. In the last few years we have identified that technology has changed a lot in the last 15 years and what the access to justice court has done over the past two years is to take a look at the original court order from 2004 to see what changes can be made, specifically to technology. Mr. Rowe noted that the current draft indicates final draft submitted to Washington Supreme Court on 8/7/2018, after the JISC meeting Chief Fairhurst suggested that we reach out to internal stakeholders and get more feedback, thus, this is not a final draft, and the comment period is opened back up for remarks and input, which gives us time to craft an improved draft that needs to be back to the WA Supreme Court in May 2019. We have plans to bring that draft to the February JISC meeting. There will be a public comment webinar on January 25, 2019 in conjunction with the State Bar.

Mr. Rowe further explained that the original order was written at about the 13th grade level and one of the biggest pieces of feedback was that it was difficult to understand the verbiage, therefore, the WSBA ATJ Board has modified the order to read at an eighth grade reading level having it accessible and in a neutral forum along with simplifying the language. There are additions regarding accountability and fairness, especially in technology and the associated algorithms, which are evaluated during implementation for equity, unfair

outcomes, and negative impacts. Openness, privacy and safety have expanded, especially as we move toward online information and records. He explained that there is a push to move forward with Plain Language Forms that should be considered moving forward as approximately 75 percent of people are, unrepresented, particularly in family law. What we are looking for are ways to improve this and what would make it more useful to the individuals who will implement this within the court system. Mr. Rowe will provide Ms. Harvey with the link for judges to submit their comments regarding the draft rule. Judge Ahlf added the outlook and concern over current uses of mandatory language and that the JISC was more in favor of policy versus a rule concept.

B. Information Technology Governance (ITG) Request: Kitsap County to Onboard to Expedited Data Repository Through Data Exchange.

Ms. Cullinane explained that ITG is the process in which the business owners, “customers” will have a key role in determining what are the most important projects for AOC to work on, rather than AOC making these decisions. AOC has limited resources, staff, and money so even if projects seem like priorities to the customers we may not get to work on it right away, but at least the priorities are identified by the customers. For example, the courts of limited jurisdiction’s (CLJ’s) most important project is the DISCIS replacement project for a new CLJ Case Management System. Similarly, Kitsap County is requesting their ITG go through this process which first needs DMCJA endorsement, then following this the information will go to AOC for analysis of roughly how much money or resources it will take to complete. Following this, the information will come back to the DMCJA Board for endorsement where if confirmed will be handed over to the Users Group who then as a whole will decide if this is something the group wants AOC to work on. The last step will send the request onto the Court Administrator or the CIO or JISC depending on the size and cost of the request. Finally, AOC will decide when it has the resources to work on the project. Ms. Cullinane and Judge Robertson discussed whether other CLJ’s were on the list with Data Exchange requests and discovered that Seattle Municipal Court was added. Judge Jahns concluded this discussion by adding specifics regarding Kitsap County. In 2009, Kitsap decided to start an electronic filing system. The initial goal was to have the documents on the internet for lawyers to view rather than having to come into the court to request paper files. Ms. Cullinane added that for AOC there is money attached and that the ITG process is married to the budget process. Additionally, she explained that a budget request is necessary and in the 2019-2021 budget, AOC requested money for onboarding an additional unidentified court, which was cut out of the initial request, therefore, there is not any money in the 2019-2021 budget for any additional court to join. Seattle Municipal Court is in this situation right now, as they have a contract and a vendor, but no financial resources. Here, the CLJ-CMS is a priority over Data Exchange requests.

C. YMCA Youth & Government Funding Request

The YMCA Youth & Government Program has requested a DMCJA contribution of sixteen hundred dollars (\$1600) or more. The Board discussed whether to contribute more than the \$1600 it typically provides to the group and determined that it would consider whether to increase the amount at the 2019 DMCJA Board retreat. M/S/P to move this topic to an action item.

D. Memo from Rules Committee regarding CJC 2.9 Proposal

There was robust discussion regarding the proposed amendments. For instance, one Board member voiced concerns about the proposed rule because it is not clear how each court operates, especially not knowing when the risk assessment is performed, and if the defendant is represented at arraignment with the courts “attorney for the day.” Board members also questioned whether the Static Risk Assessment Tool is used and what goes into that. Further, Board members questioned whether the rule specifically can protect the information collected. A Board member expressed that the rule will likely not prohibit legal action, primarily the

right to remain silent. Another Board member voiced concerns regarding risk assessments performed in the Therapeutic Courts and believes the rule is necessary. This Board member added that the superior courts likely use the Static Risk Tools to assess defendants. Another Board member added that the use of the static risk assessment provides for no contact with the defendant, thus, it is all done from the public records and, therefore, all communication with defendants is stopped for pre-trial release. A Board member supported the rule as pretrial interviews are important details for the bench setting bail. Another Board member added that Spokane District Court considers pretrial interviews and their pretrial services department does not include court employees, but that these interviews are critical for release decisions. M/S/P to move this topic to a discussion item.

INFORMATION

Judge Robertson informed Board participants of the following:

- A. Board members are encouraged to apply for DMCJA representative positions. Available positions include:
 1. JIS CLJ "CLUG" User Group
 2. Presiding Judge & Administrator Education Committee
 3. WSBA Court Rules and Procedures Committee
- B. DMCJA Board members are encouraged to submit Board agenda topics for monthly meetings.
- C. Thank you Ms. Callie Dietz for your service as Washington State Court Administrator from July 2012 to December 2018.
- D. On January 1, 2019, Ms. Dawn Marie Rubio will become the Washington State Court Administrator.
- E. Judge Claire Bradley, Kitsap County District Court, has been appointed and ratified to become the DMCJA Alternate Representative on the Commission on Judicial Conduct.
- F. Judge Jason Poydras, King County District Court, will serve as the DMCJA Liaison for the WSBA Access to Justice Board.
- G. 2018 DMCJA Annual Report
- H. Swearing-In Ceremony for District Court Judges – According to a recent DMCJA survey, 64% of members think the ceremony is a good idea; however, about 63% of members expressed that they *would not attend* if the ceremony is held for various reasons, such as absence from court, Olympia location, waste of government funds, superior court judges swear-in district court judges, etc. See survey results here: <https://www.surveymonkey.com/results/SM-JCCLGKN9V/>.

The Board by general consensus agreed not to sponsor a district court swearing-in ceremony based on survey results. Ms. Dietz received flowers from the DMCJA and a standing ovation for her service as State Court Administrator.

OTHER BUSINESS

- A. The next DMCJA Board Meeting is January 11, 2019, 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office, SeaTac, WA.

The meeting was adjourned at 2:54 p.m.