



DMCJA Board of Governors Meeting
Friday, March 13, 2020, 12:30 p.m. – 3:30 p.m.
CONFERENCE CALL
TELEPHONE: 1-877-820-7831; PIN: 258348#

MEETING MINUTES

Members Present:

Chair, Judge Samuel Meyer
Judge Michelle Gehlsen
Judge Robert Grim
Judge Drew Ann Henke
Judge Tyson Hill
Commissioner Rick Leo
Judge Rebecca Robertson
Judge Charles Short
Judge Jeffrey Smith
Judge Laura Van Slyck
Commissioner Paul Wohl

Guests:

Judge Tam Bui, BJA Representative
Paige Carter, PhD, Citizen Participant
Judge Jeffrey Goodwin, Rules Committee Chair
Judge Kevin Ringus, BJA Representative
Dawn Williams, DMCMA

Administrative Office of the Courts (AOC)

J Benway
Vicky Cullinane
Sharon R. Harvey (Primary Staff)

Members Absent:

Judge Linda Coburn
Judge Thomas Cox
Judge Aimee Maurer

CALL TO ORDER

Judge Meyer, District and Municipal Court Judges’ Association (DMCJA) President, noted a quorum and called the DMCJA Board of Governors (Board) meeting to order at 12:32 p.m. The in-person meeting was changed to a conference call because of state and local orders regarding the Coronavirus (COVID-19) public health emergency.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Minutes for February 7, 2020.

B. Treasurer’s Report

M/S/P to approve the Treasurer’s Report. Board members were directed to review the report in meeting materials. Commissioner Leo reported that he will speak with Susan Peterson, AOC Court Association Assistant, who assists the Treasurer with membership dues, and inform her of association members who have not paid to date.

C. Special Fund Report

M/S/P to approve the Special Fund Report. Board members were directed to review the report in meeting materials. Judge Gehlsen requested the removal of her contact information on the account. Ms. Harvey stated that she will contact Margaret Huwe, Washington Federal Bank, and request that the bank update their records to remove Judge Gehlsen’s contact information and replace it with that of Judge Charles Short, who is the current Special Fund Custodian.

D. Standing Committee Reports

1. **Rules Committee’s Minutes for December 18, 2019** -Judge Meyer informed that Ms. Benway, AOC Staff for the Rules Committee, is available to answer any questions regarding the Minutes.

2. Nominating Committee's Slate of Candidates

The Slate for Election includes the following candidates: (a) **President**: Judge Michelle Gehlsen; (b) **President – Elect**: Judge Charles Short; (c) **Vice-President**: Commissioner Rick Leo; (d) **Secretary-Treasurer**: Judge Jeffrey Smith; (e) **Past-President**: Judge Samuel Meyer; (f) **Board Position #5** (Full-Time Muni Ct): Judge Anita Crawford-Willis and Judge Laura Van Slyck; (g) **Board Position #6** (Part-Time Municipal Court): Judge Kevin Ringus and Judge Mara Rozanno; (h) **Board Position #7** (Commissioner or Magistrate): Magistrate Jennifer Cruz; (i) **BJA Representative** (Municipal Court Position): Judge Mary Logan and Judge James Docter; **BJA Representative** (Open Position #1): Judge Rebecca Robertson and Judge Douglas Fair.

3. Legislative Committee

Commissioner Wohl reported that the following DMCJA proposed bills passed the Washington State Legislature:

- **Discover Pass – HB 1293**
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. The current bill has the 75/25 split, in which 75% of the discover pass violation fee revenue is deposited into the state's Recreation Access Pass Account and 25% of the funds are retained locally.
- **Small Claims – HB 2295**
This bill amends HB 1048, Small Claims Judgment, which was proposed by the DMCJA and passed the 2019 Legislature. The request is to amend [RCW 12.40.105](#) to allow a 30 day appeal window before a judgment is issued to the defendant.

Commissioner Wohl reported that the following DMCJA proposed legislation either did not pass the 2020 Legislature or was not introduced for various reasons:

- **Affidavit of Prejudice (Notice of Disqualification) - House Bill (HB) 1305: *Did not pass***
This bill changes, "affidavit of prejudice" language to "Notice of Disqualification" for consistency with the Superior Court statute. The amendment (1) allows a disqualified judge to conduct arraignment and set conditions of release, and (2) allows a disqualified judge to serve upon agreement of parties. (Did not pass.)
- **Interlocal Agreements for Probation Services – HB 2605 (Bill Number for 2018 Session): *Not introduced.***
This bill would allow courts to enter interlocal agreements for probation services. (Not introduced.)
- **Competency Statutes: *Not introduced.***
 - a. [RCW 10.77.068](#) - Amendment request to (a) align statutory timelines with those set forth in Trueblood v. Washington State Department of Social and Health Services, 73 F.Supp.3d 1311 (2014), and (b) render bases for continuances in the statute consistent with Trueblood.
 - b. [RCW 10.77.010](#) (13) - Amendment request to define history of violent actions to include non-exclusive list of types of evidence Court may consider; [RCW 10.77.088](#) amendment request to add a standard for determining whether a defendant has a history of violent acts
 - c. [RCW 10.77.088](#) - Amendment request to eliminate renumbering confusion related to RCW 10.77.088(3) pursuant to 2ESSB 5444 and SB 5205

Judge Meyer offered Judge Ringus, Board for Judicial Administration (BJA) Legislative Committee Chair, an opportunity to discuss BJA-related bills. Judge Ringus reported that the following bills discussed extensively by the BJA Legislative Committee passed the 2020 Washington State Legislature:

- **HB 2793 (Criminal records/vacation aka "Clean Slate Act")** – This bill provides for an automated process to vacate certain convictions.

- **HB 2567 (Courts/arrests)** – This bill is a response to arrests of non-citizens in and around state courthouses by federal agents. The BJA Legislative Committee had concerns that the technical aspects of the bill would create a heavy burden on the judicial system.

Judge Ringus informed that the BJA Legislative Committee will send a message to the Judiciary soliciting ideas for the next legislative session. Kim Hunter, Washington State Bar Association (WSBA) liaison, informed that HB 1788, *Concerning the Washington State Bar Association*, did not pass the Legislature in 2020.

E. Judicial Information System (JIS) Report

Ms. Cullinane, AOC – JIS Business Liaison, reported on the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project. She informed the Board that the Administrative Office of the Courts (AOC) is still in negotiations with Tyler Technologies, which is the chosen vendor for the new CLJ CMS. She reported that the Coronavirus (COVID-19) public health emergency has halted Court User Workgroup (CUWG) meetings. She further reported that the Project plans to roll out the pilots about eighteen months from contract signing. To assist the board in its request to the Washington State Association of County Clerks (WSACC) for Odyssey Portal access, Ms. Cullinane provided the CLJ-Judicial Officer Role 2.0 document located in meeting materials. She explained that the tables show the access CLJ judicial officers could have in the Odyssey Portal, based on their current access to the JIS application. She further explained that the table shows CLJ judicial officers not having access to documents in the Odyssey Portal because they do not currently have access to documents in JIS. AOC is not making a recommendation regarding access to documents in the Odyssey Portal. The document also shows which counties are using the Odyssey document management system and which are using other document management systems. If CLJ judicial officers were given access to documents in the Odyssey Portal, they would only have access to documents for courts that are using the Odyssey Portal.

In response to questions regarding access to court records, Ms. Cullinane explained the differences between the issues related to document sharing by the King County Clerk’s Office and limited jurisdiction judicial officers’ access to Odyssey superior court documents. Judge Meyer mentioned that he and Judge Robertson had a conference call with Barbara Miner, King County Clerk, and Judge James Rogers, King County Superior Court (KCSC) Presiding Judge regarding document sharing from the King County Clerk’s Office case management system. During this meeting, Ms. Miner and Judge Rogers explained that document sharing by the King County Clerk is governed by county rule or ordinance, which states that courts have to pay for access, with the exception of King County District Court. Judge Meyer inquired whether the ordinance may be changed to provide free access to all judges needing crucial information to perform their judicial duties. Ms. Miner and Judge Rogers informed that they will discuss the matter internally and get back with Judge Meyer and Judge Robertson. Judge Robertson reported that King County has a pilot project with her court, Federal Way Municipal Court, and court record access will extend to others in King County if the pilot is successful. Judge Meyer informed that he has received no response from Judge Rogers or Ms. Miner since their last meeting.

LIAISON REPORTS

There were no reports from the AOC, MPA, SCJA, or WSAJ.

A. Board for Judicial Administration (BJA)

Judge Ringus, DMCJA representative for BJA, reported that the next meeting will be held via zoom (video conferencing tool) in response to the Coronavirus (COVID-19) public health emergency and state and local orders banning certain in-person meetings. He added that legislative funding package requests will be discussed at the meeting.

B. District and Municipal Court Management Association (DMCMA)

Dawn Williams, DMCMA liaison, reported that the DMCMA conference scheduled for May 16-20, 2020 may be either cancelled or postponed because of the impacts of the Coronavirus (COVID-19) pandemic. She further reported that regional trainings have been postponed because of the public health emergency. The DMCMA Board meeting has been postponed to April 2, 2020, according to Ms. Williams.

C. Washington State Bar Association (WSBA)

Kimberly Hunter, Esquire, WSBA liaison, reported that she plans to address the following items at the March WSBA Board meeting: (1) request to remove requirements to change judicial membership to another classification (currently requires character fitness, classes, and fees); (2) CJE/CLE Credits – request to allow out of state credits to be applied toward required credits. She stated that it is likely that these requests will be approved. Ms. Hunter expressed to the Board that she has enjoyed serving as the WSBA liaison to the DMCJA Board. She informed that she cycles off in September 2020 and will pass on all information to the new WSBA liaison. The Board thanked Ms. Hunter for her outstanding service as the WSBA liaison.

ACTION

A. *State of Washington v. Stevens County District Court Judge (Status Update)*

1. **DMCJA Rules Committee: Memorandum for Proposed Amendments to CrRLJ 3.2.1 (GR 9)**

M/S/P to endorse and send to the Supreme Court Rules Committee for comment, proposed amendment to CrRLJ 3.2.1 (d)(1), which states, “Once a misdemeanor or gross misdemeanor case has been filed in a court of limited jurisdiction, any accused detained in jail must be brought before a court of limited jurisdiction as soon as practicable after the detention is commenced, but in any event before the close of business on the next court day.”

DISCUSSION

A. **Request for Support of Proposed Amendment(s) to Admission and Practice Rule (APR) 26**

Kevin Whatley, Equal Justice Washington, has requested that the Board support mandatory insurance for all practicing attorneys. This topic has been deferred to the April Board meeting.

B. *State of Washington v. Stevens County District Court Judge (Status Update)*

1. **DMCJA Rules Committee: Memorandum for Proposed Amendments to CrRLJ 3.2.1**

Judge Meyer reported that he has worked with the DMCJA Rules Committee to draft an amendment to Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 3.2.1. The proposed amendment deletes, “Unless an accused has appeared or will appear before the superior court for a preliminary appearance,” and replaces it with, “Once a misdemeanor or gross misdemeanor case has been filed in a court of limited jurisdiction,” in order to allow district courts to retain jurisdiction over misdemeanor and gross misdemeanor cases originally filed in district court. Judge Meyer requested Board approval of this proposed rule amendment. This topic relates to a Washington State Supreme Court decision that held the Superior Court may conduct preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in district court. *See State of Washington v. Stevens County District Court Judge*, 7 Wn. App. 2d 927, 436 P.3d 430 (2019). He explained that the decision was largely based on court rules; thus, Judge Meyer met with the DMCJA Rules Committee to discuss a possible court rule change. He informed that thirty-eight of thirty-nine counties handle preliminary hearings the same way.

Moreover, Judge Meyer reported that Judge Gina Tveit, Stevens County District Court Judge, informed him that the Superior Court has extended its practice beyond preliminary appearances. This issue is currently being litigated, and, will be a discussion topic at the April Board meeting. The Board discussed possible solutions for Stevens County District Court and agreed that courts may create such procedures by agreement. Judge Meyer noted that during the 2020 Legislative Session, Senate Bill 5450 (*Concerning superior court judges*), which increases the amount of judges in Stevens County, Ferry and Pend Oreille, was introduced. M/S/P to make an action item the request for Board endorsement of proposed rule amendment for CrRLJ 3.2.1. The topic of the Stevens County Superior Court extending its practice beyond preliminary hearings will be discussed at the April Board meeting.

C. DMCJA Rules Committee: Rules Published for Comment by the Washington State Supreme Court (WSSC)

The DMCJA Rules Committee provided the Board with a comprehensive list of proposed rule amendments published for comment by the WSSC. Judge Goodwin, DMCJA Rules Committee Chair, joined the meeting and offered to answer any questions. This item was deferred to the April Board meeting.

INFORMATION

Judge Meyer informed the Board of the following:

- A. Message from Chief Justice Debra Stephens – 2020 State of the Judiciary
- B. The Public Health Emergency Bench Book is a resource for Washington State Judges. For more information regarding the bench book, please visit the following web link:
<http://www.courts.wa.gov/content/manuals/publicHealth/pdf/publicHealthBenchBook.pdf>.
- C. TVW has featured Washington Courts. For interviews regarding district and municipal courts and therapeutic courts, please visit the following web links:
 - <https://www.tvw.org/watch/?eventID=2019111019>
 - <https://www.tvw.org/watch/?eventID=2019111111>
 - <https://youtu.be/ahBL0p3Te3c>
- D. Judicial Institute presents: Bridging the Gavel Gap, Exploring the Journey to the Bench, on March 18, 2020, 4:30 p.m., at the Gonzaga School of Law. Judge Aimee Maurer, Spokane District Court, will serve on the panel. The Judicial Institute also presents, Pathways to the Bench, on March 17, 2020 at 1:00 p.m. in Yakima, WA.
- E. DMCJA Chief Justice Fairhurst National Leadership Grant is available for eligible DMCJA members. See Guidelines.
- F. The DMCJA Board of Governors Retreat is May 8-9, 2020 at The Marcus Whitman hotel in Walla Walla, WA.
- G. Pretrial Justice Institute (PJI) has released a statement changing its position on the use of risk assessment tools. The PJI, which once supported risk assessment tools, is now recommending against their use. For more information, please visit the following web link: <https://www.pretrial.org/wp-content/uploads/Risk-Statement-PJI-2020.pdf>

OTHER BUSINESS

Next Board Meeting

The next DMCJA Board Meeting is April 10, 2020, from 12:30 p.m. to 3:30 p.m., via video conferencing.

Conferences and Board Retreats

The Board discussed whether to cancel or postpone the Board Retreat and DMCJA Spring Conference in response to state and local orders related to the Coronavirus (COVID-19) public health emergency. The Board decided by general consensus to wait two weeks before making a decision. Ms. Harvey agreed to consider zoom, which is a video conferencing tool, for the April Board meeting because teleconference audio was challenging. She also informed that the AOC provides video conferencing via Skype for Business and Adobe Connect. Commissioner Leo reported that he has signed The Marcus Whitman hotel contract, which subjects the DMCJA to cancellation fees. Ms. Harvey informed that The Centennial Hotel, which is the site for the DMCJA Spring Conference, will charge approximately sixty-one thousand dollars (\$61,000) to cancel unless the government issues an order banning such gatherings in May 2020.

ADJOURN

The meeting was adjourned at 1:28 p.m.