



DMCJA Board of Governors Meeting
Friday, April 10, 2020, 12:30 p.m. – 3:30 p.m.
ADOBE CONNECT VIDEO CONFERENCE

AMENDED MEETING MINUTES

Members Present:

Chair, Judge Samuel Meyer
Judge Linda Coburn
Judge Thomas Cox
Judge Michelle Gehlsen
Judge Robert Grim
Judge Drew Ann Henke
Judge Tyson Hill
Commissioner Rick Leo
Judge Aimee Maurer
Judge Charles Short
Judge Jeffrey Smith
Judge Laura Van Slyck
Commissioner Paul Wohl

Members Absent:

Judge Rebecca Robertson

Guests:

Judge Tam Bui, BJA Representative
Judge Mary Logan, BJA Representative
Professor Susan Saab Fortney
Judge Judith Ramseyer
Judge Kevin Ringus, BJA Representative
Judge Mara Rozzano
Kevin Whatley, Equal Justice Network
Dawn Williams, DMCMA President

Administrative Office of the Courts (AOC)

Sharon R. Harvey, DMCJA Primary Staff
J Benway
Vicky Cullinane
Carl McCurley
Susan Peterson
Dawn Marie Rubio, State Court Administrator

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 approximately 12:00 p.m. The original in-person meeting was changed to a video conference because of the seriousness of the Coronavirus (COVID-19) pandemic.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Minutes for March 13, 2020.

B. Treasurer's Report

M/S/P to accept the Treasurer's Report. Commissioner Leo reported that the Treasurer's Report is located in the Supplemental Agenda packet. He mentioned that meeting via video conference during the COVID-19 pandemic has saved the association money. He further reported that only eleven have not paid their dues to date. Sharon Harvey offered to follow up with the eleven members who have not paid. Susan Peterson plans to assist Ms. Harvey in the endeavor.

C. Special Fund Report

M/S/P to accept the Special Fund Report. Judge Short reported that the Special Fund report is located in Board meeting materials. The Special Fund has earned \$33.06 in interest.

D. Standing Committee Reports

1. Legislative Committee (Orally added during the Board meeting)

Commissioner Wohl reported that House Bill (“HB”) 1293, Discover Pass, and HB 2295, Small Claims, have been signed by the Governor. These bills are effective June 11, 2020. He further reported that the Governor has vetoed HB 2793, Vacation of convictions, which is known as The Clean Slate Act, because there is no state funding for the measure as a result of resources needed to address the COVID-19 pandemic. Judge Ringus, BJA Legislative Chair, informed that there may be a Special Legislative Session in 2020 to address legislative issues related to the COVID-19 public health emergency.

E. Judicial Information System (JIS) Report

Vicky Cullinane, JIS Business Liaison, reported that the courts of limited jurisdiction case management system (CLJ-CMS) Project is close to signing a contract with Tyler Technologies for statewide CMS services. She informed that the JIS Committee may call a special meeting to approve the contract signing if necessary so as not to delay the project. She also reported that the CLJ-CMS Project Steering Committee has made some decisions regarding how to implement e-filing, which is planned to be rolled out statewide well before the rest of the statewide CLJ case management system.

LIAISON REPORTS

A. Administrative Office of the Courts (AOC)

Dawn Marie Rubio, State Court Administrator, reported on the newly created “Friday Forums,” which are webinars hosted by the AOC, DMCJA, and SCJA to assist trial courts during the COVID-19 pandemic. At present, there are six webinars scheduled as follows:

- (1) *Telephonic and Video Hearings and Public Access* (April 17, 2020); 12:00 p.m. to 1:30 p.m.
- (2) *Remote Hearing Logistics* (April 24, 2020); 12:00 p.m. to 1:30 p.m.
- (3) *Protection and Emergency Orders* (May 1, 2020); 12:00 p.m. to 1:15 p.m.
- (4) *Returning to “Normal” – Staff Morale, Self-Care, and Resuming Court Operations in a Social Distancing Environment* (May 15, 2020); 12:00 p.m. to 1:30 p.m.
- (5) *Returning to “Normal” – Jury Trials & Case Backlogs* (May 22, 2020); 12:00 p.m. to 1:30 p.m.
- (6) *Returning to “New Normal” – Permanent Operational Changes to Washington Courts Post Pandemic* (May 29, 2020); 12:00 p.m. to 1:00 p.m.

Ms. Rubio expressed that the AOC would like to support trial courts during this public health emergency. Both she, Judge Ramseyer, and Judge Meyer encouraged Board participants to contact either Sharon Harvey, AOC Primary Staff for DMCJA, or Crissy Anderson, AOC Primary Staff for SCJA, if they would like to present for the webinars. Ms. Rubio informed that information regarding the events has been sent to each trial court association. Board members expressed appreciation for the Friday Forums. There was mention that judicial credits may be offered to webinar attendees.

B. Board for Judicial Administration (BJA)

Judge Ringus, DMCJA Representative for BJA, reported that the BJA Legislative Committee is soliciting BJA proposed legislation for the 2021 Legislative Session from each court level. In 2020, two BJA bills passed the Legislature. Judge Logan, DMCJA Representative for BJA, reported that Ramsey Radwan, Management Services Division Director, had disseminated the final Supplemental Budget, which revealed funding for all Judicial requests, except HB 2793, Vacation of convictions, which is also known as the Clean Slate Act, and SB 5149, Monitoring for Victim Notification. Judge Bui reported that the BJA Court Education Committee (CEC) met and considered options regarding how to spend previously unused monies that resulted from cancelled conferences because of the COVID-19 pandemic. Judge Bui reported that the next CEC meeting is April 30, 2020.

C. District and Municipal Court Management Association (DMCMA)

Dawn Williams, DMCMA President, reported that all scheduled events, such as regional trainings and its annual conference, have been cancelled. Ms. Williams further reported that her court has discussed using the zoom video conference tool to assist during the COVID-19 pandemic. Judge Ramseyer encouraged Ms. Williams to attend the Friday Forum webinars to learn more about video conferencing platforms.

D. Superior Court Judges' Association (SCJA)

Judge Ramseyer, SCJA President, reported that the SCJA's Annual Business Meeting scheduled for April 28, 2020 has been cancelled because of the COVID-19 pandemic. She informed that the SCJA had its elections via email. The SCJA is currently scheduling meetings via the zoom video conference tool.

ACTION

1. Request for Support of Proposed Amendment(s) to Admission and Practice Rule (APR) 26
M/S/P to extend the Board vote regarding APR 26 to April 24, 2020 to allow Board members more time to review the issue. The plan is to send an email vote to Board members.
2. Request to Purchase Zoom Pro
M/S/ P for Sharon Harvey to purchase the zoom pro product on behalf of the DMCJA.

DISCUSSION

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

Kevin Whatley, Equal Justice Washington, Executive Director, reported on proposed amendments to APR 26 that would require private attorneys in Washington State to purchase malpractice insurance. Mr. Whatley, who provided the Board with voluminous materials regarding the mandatory malpractice insurance request, reported on the history of the rule and considerations regarding the rule by the Washington State Bar Association ("WSBA") Mandatory Malpractice Insurance Task Force. The presenter expressed that this is an access to justice issue, specifically for people of color, who often retain private attorneys without malpractice insurance; and, informed that former Chief Justice Mary Fairhurst had worked on the issue of mandatory malpractice insurance for private attorneys. Professor Susan Saab Fortney, who had written an article on the subject, expressed to the Board that she is available for any questions regarding the subject.

Board members had a robust discussion regarding the request to support the proposed rule amendments. During the discussion, it was noted that the WSBA Board of Governors did not accept the recommendations of the task force. It was further noted that the DMCJA is the only trial court association requested to support the proposed amendment. Judge Meyer expressed that the DMCJA Rules Committee recommended that the DMCJA take no position because this is a policy issue. Kevin Whatley urged the Board to take a position. Judge Meyer informed that individual judges may comment in favor of the proposed amendment regardless of the official DMCJA position. M/S/P to make the discussion an action item. The Board had another robust discussion. Kevin Whatley expressed that the WSBA Board of Governors did not move forward with the rule amendments because of issues related to the free market that may increase membership dues. There was discussion of the various models such as Idaho Model and Oregon Model. Many Board members expressed that they needed more time. The comment deadline period is April 30, 2020. M/S/P to make this an action item.

B. Washington State Center for Court Research (WSCCR) Presentation

Carl McCurley, PhD., reported on the Judicial Needs Estimate (JNE). He informed that the AOC is laying groundwork to support validating the current approach to estimating the number of judges required to meet courts' workload. The current JNE approach, the "objective workload" approach, is used only by Washington State, and its estimates should be compared to those of the more widely-used "weighted caseload" approach. The objective method has revealed that

cases in courts of limited jurisdiction have declined twenty percent while the number of judges has not reduced, which calls into question how well the method reflects the work being done by judges. He explained that a weighted caseload would require both gathering data about the time required for hearings for particular case types and about the time spent off-bench, whether the off-bench time is related to cases or to other activities such as traveling when appearing as a temporary judge in another court. In contrast, the objective method considers only trends in case volume and determines the number of judges needed based on the caseload. It does not give account of differences across courts in terms of the different ways of operating, such as presiding over therapeutic court dockets. This method looks at trends and does not take into account the various ways judicial officers spend their time. The AOC, in coordination with the judges' associations, is considering whether to change to a weighted caseload in order to best capture the judicial needs for courts. The Board discussed the two methods and noted that it is important to obtain data that is not captured in the courtroom; hence, in-court reporting should not be the only data captured. Judge Meyer thanked Dr. McCurley for presenting the information to the Board.

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

Judge Meyer provided an update on the case, *State of Washington v. Stevens County District Court Judge*, 194 Wn.2d 898 (2019). He informed of a recent situation in which the Superior Court is handling all in custody hearings regardless of whether it is a CrRLJ 3.2.1 hearing, which is beyond the scope of the Supreme Court's Order. Board members were provided the Notice of Appeal for Writ of Mandamus Order and Order for Peremptory Writ of Mandamus in meeting materials. Judge Meyer expressed that he will work with J Benway, AOC Staff for DMCJA Rules Committee, to submit a proposed amendment regarding CrRLJ 3.2.1 to the Washington State Supreme Court Rules Committee.

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

The DMCJA Rules Committee provided a memorandum to the Board with suggested positions for the following rule amendments: (1) APR 26, (2) CR 30, (3) CrRLJ 1.3, (4) CrRLJ 3.1, (5) CrRLJ 3.1 (f), (6) CrRLJ 3.4, (7) CrRLJ 8.2, (8) GR 7, (9) GR 29, and 10) GR 31. Sharon Harvey informed Judge Meyer that the Board had already voted on certain rules. For instance, DMCJA decisions were as follows:

Date	Rule	Board Decision
7/12/2019	GR 7	Voted to refer it to DMCJA Rules Committee (for their suggestion).
7/12/2019	GR 29	Voted to refer it to DMCJA Rules Committee (for their suggestion).
9/22/2019	CrRLJ 1.3	Voted to forward proposal to amend to Supreme Court Rules Cmte.
11/8/2019	IRLJ 1.2 and 2.2	Voted to oppose WSBA proposal to amend IRLJ 1.2 and 2.2
11/8/2019	CRLJ 82.5	Voted to support proposed new rule
2/7/2020	GR 38	Voted to support proposed LFO Remission Rule
3/13/2020	CrRLJ 3.2.1	Voted to endorse CrRLJ 3.2.1 (Stevens County District Court Judge case)

The Board by general consensus supported a letter being sent to the Supreme Court Rules Committee expressing the DMCJA's position to accept the DMCJA Rules Committee's recommendations regarding the listed rules.

E. Status Update: DMCJA Spring Conference and Board Retreat and COVID-19

- (1) Board Retreat: Judge Gehlsen reported that the Board Retreat will be held on May 8, 2020 via video conferencing instead of The Marcus Whitman Hotel as a result of the COVID-19 pandemic. The Marcus Whitman Hotel has agreed to release the association from the contract without any monetary penalty. It was suggested that the association should hold its retreat at The Marcus Whitman Hotel next year.
- (2) Spring Conference: Judge Meyer reported that the DMCJA Annual Spring Conference has been cancelled. He informed that the DMCJA Education Committee is putting together an education program remotely. Judge Short, DMCJA Education Committee Chair, reported that the Education Committee is considering a plan in which educational sessions are presented in both the mornings and afternoons. Board members discussed various

options regarding the times of these webinars. Judge Short further reported that the webinars will be live interactive programs that are recorded. Judge Meyer further informed that the Board Retreat will start at 9:00 a.m. and precede the Board meeting in the afternoon.

- (3) Request to Purchase Zoom Pro – The Board discussed purchasing the zoom video conferencing tool. Sharon Harvey reported that zoom has several products, such as Basic, Pro, Business, and Enterprise. Ms. Harvey suggested that the Board select the Zoom Pro version because it hosts up to 100 participants and has a 24 meeting duration time. Judge Gehlsen requested that security measures are in place upon purchasing the product. Judge Coburn provided security tips regarding the Zoom product. The Board moved, seconded, and passed a vote to make this an action item.

INFORMATION

Judge Meyer shared the following information with Board participants:

- A. 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>. Other resources include: (1) [Court Closures and Emergency Modifications](#) (statewide); (2) [Information on Parenting Plans](#); (3) [Washington Supreme Court Order for Court Operations During COVID-19 Public Health Emergency](#); Washington State Law Library Resources: [Blog](#) and [Main Web Page](#)
- B. DMCJA *Chief Justice Fairhurst National Leadership Grant* is available for eligible DMCJA members. See Guidelines.
- C. The DMCJA Board of Governors Retreat will be held via video conference on May 8, 2020.

OTHER BUSINESS

Next Board Meeting

The next DMCJA Board Meeting is May 8, 2020 at 9:00 a.m. via Zoom video conferencing.

ADJOURN

The meeting was adjourned at 2:28 p.m.