



DMCJA Board of Governors Meeting
Friday, October 9, 2020, 12:30 p.m. – 3:30 p.m.
Zoom Video Conference

MEETING MINUTES

Members Present:

Chair, Judge Michelle Gehlsen
Judge Anita Crawford-Willis
Judge Thomas Cox
Judge Robert Grim
Judge Drew Ann Henke
Commissioner Rick Leo
Judge Aimee Maurer
Judge Samuel Meyer
Judge Kevin Ringus
Judge Charles Short
Judge Jeffrey Smith
Judge Laura Van Slyck
Judge Karl Williams
Commissioner Paul Wohl

Members Absent:

Judge Tyson Hill

Guests:

Judge Tam Bui, BJA Representative
Judge Rebecca Robertson, BJA Representative
Judge Mindy Walker, Bylaws Committee Member
Stacie Scarpaci, MPA
Patricia "Patti" Kohler, DMCMA

AOC Staff:

Dory Nicpon, Judicial and Legislative Relations
Susan Goulet, Court Program Specialist
J Benway, Legal Services
Vicky Cullinane, Business Liaison

CALL TO ORDER

Judge Michelle Gehlsen, District and Municipal Court Judges' Association (DMCJA) President, noted a quorum and called the DMCJA Board of Governors (Board) meeting to order at 12:35 p.m. Susan Goulet shared that Sharon Harvey sends greetings to the Board.

GENERAL BUSINESS

A. Speedy Trial and Bench Warrants Announcement (Added Agenda Item)

Judge Gehlsen announced that at the most recent periodic call among regional presiding judges and the Chief Justice, the Chief Justice indicated that the Supreme Court will not be extending the "excluded period" for purposes of speedy trial calculations in its next pandemic-related order. The Chief Justice also shared that the new order will allow warrants to be issued on failures to appear (FTAs) but with parameters not yet specified. The new order should be published before October 15, 2020. DMCJA circulated a survey to presiding judges of courts of limited jurisdiction to gather feedback to inform the parameters the Supreme Court will set.

B. Minutes for September 11, 2020

The Board moved, seconded, and passed a vote ("M/S/P") to approve the Board Meeting Minutes for September 11, 2020. Judge Laura Van Slyck abstained.

C. Treasurer's Report

Judge Smith noted nothing extraordinary in the report. M/S/P to approve the Treasurer's Report.

D. Special Fund Report

Commissioner Leo reported earned interest of \$14.02. M/S/P to approve the Special Fund Report.

E. Standing Committee Reports

1. Legislative Committee

Committee reported under discussion items.

2. Rules Committee

Judge Gehlsen noted the Rules Committee has no meetings or minutes to report.

3. Diversity Committee

Judge Williams reported that DMCJA submitted a draft of a survey of electronic home monitoring (EHM) options and how jurisdictions fund them to ensure availability to all rather than only those who can afford to pay for it. Judge Gehlsen commented that Kitsap County has cut funding for EHM, and she wonders whether CARES funding could be available for that. Judge Williams indicated that an option is to sentence to jail, in which case the individual may have CARES-subsidized EHM due to COVID. Judge Short reported that the Board requested an action plan related to the DMCJA's priority initiative regarding systemic racism, so the Committee formed a sub-committee to develop the action plan. Judge Gehlsen indicated a letter for review and possible signature by all Board members will be in the November materials. She asked whether the action plan will be ready by November. Judge Short indicated the Committee will expedite it. Judge Gehlsen spoke of an email that she received from Justice Mary Yu about the Minority and Justice Commission (MJC) offering to be a resource for avoiding duplicated efforts and a coordinated approach. After discussion, Judge Gehlsen referred Judge Short to the MJC as a resource.

F. Judicial Information Systems (JIS) Report

Vicky Cullinane reported that there is much work underway with pilot courts for the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project. Judge Gehlsen discussed the contents of a legislative toolkit under development regarding the CLJ-CMS and its upcoming dissemination.

LIAISON REPORTS

A. Board for Judicial Administration (BJA)

Judge Robertson reported that the BJA Court Security Task Force is reauthorizing but not going forward with a budget request at this time. Judge Bui reported that Chief Justice Stephens spoke about COVID-related recognition awards (local heroes) for members of the court community who have been taking on huge projects during the pandemic. Judge Ringus reported that the BJA formulated its agenda, including supporting Thurston County Superior Court in requesting a ninth judge if they secure a local funding commitment. He shared that the BJA Legislative Committee had also formed a work group to examine continuity for single judge courts, which resulted in recommended legislation and a proposed court rule amendment. A second work group examined the potential reintroduction of the Clean Slate Act, which developed and legislative action plan for the 2021 legislative session.

B. District and Municipal Court Management Association (DMCMA)

Ms. Kohler reported that DMCMA is developing implicit bias training with Commissioner Jonathan Lack, and new training related to change management throughout the month of October with the CLJ-CMS rollout ahead.

C. Misdemeanant Probation Association (MPA)

Ms. Scarpaci reported that the MPA hosted an academy attended by many new probation officers. Judge Gehlsen referenced that the DMCJA's request legislation related to coordinated probation supervision, and invited collaboration. Judge Ringus and Commissioner Wohl agreed to add MPA to the stakeholder list.

ACTION

1. Rules Amendment Request from DMCJA regarding GR 31 (Access to Court Records – Therapeutic Court Records)

M/S/P to request withdrawal of the proposal.

2. DMCJA 2021 Legislative Priorities: Recommendations to the Board

M/S/P to adopt the recommendations for the DMCJA Legislative Committee to 1) not take a position on the Clean Slate Act but engage with legislators on impacts; 2) reintroduce the probation bill draft; and 3) support legislation related to therapeutic alternatives.

3. Board D&O Insurance Status Update

M/S/P to purchase the three-year coverage for \$3,715, and to amend the budget consistent with the purchase.

4. Ladenburg v. Henke: Whether to submit an Amicus Brief

M/S/P to convene an ad hoc committee of Judges Meyer, Robertson, and Crawford-Willis to examine the issue and make recommendations to the Board.

DISCUSSION

A. Rules Amendment Request from DMCJA regarding CrRLJ 3.2.1 (Procedure Following Warrantless Arrest – Preliminary Hearing)

Judge Sam Meyer reported on a matter from Stevens County litigated approximately one year ago before the Supreme Court, for which the DMCJA submitted an amicus brief. He explained that when the ruling went against the district court position, the DMCJA submitted a rule proposal to eliminate the practice in Stevens County. The Supreme Court Rules Committee rejected the proposal. Judge Meyer spoke with Supreme Court Rules Committee Chair, Justice Charles Johnson, about the policy and implications. Justice Johnson suggested the proposal could be reintroduced if the practice spreads. Judge Meyer stated he does not recommend further action by the Board at this time.

B. Rules Amendment Request from DMCJA regarding GR 31 (Access to Court Records – Therapeutic Court Records)

Judge Gehlsen reported that DMCJA requested GR 31 amendments related to mental health records. Judge Goodwin was contacted by the Washington State Association of County Clerks (WSACC), who support the change but recommend the changes occur in GR 22 rather than GR 31. J Benway reported that Judge Eisenburg had originally proposed amendment of GR 22, and already had such a draft, which he has shared with the WSACC. The next deadline for submission is October 15, which may be unrealistic. There was discussion about how the proposal will still be posted on the web, but be dormant. Judge Gehlsen advised the Board that a GR 22 proposal might circulate for approval via email. M/S/P to move this to an action item.

C. Rules Amendment Proposal (Email) from SCJA regarding GR 26 (Mandatory Continuing Judicial Education – Adding an Annual Diversity, Equity and Inclusion Requirement)

Judge Gehlsen reported on a request received from the SCJA to add an annual education requirement related to diversity, equity, and inclusion. Judge Short discussed that there is not yet a specific proposal, and whether to characterize the training as ethics or regular credits is undetermined as yet. Judge Van Slyck spoke favorably of the concept but questioned the feasibility for judges, and suggested that the Board needs more details before acting. Judge Gehlsen indicated that she will contact SCJA to articulate support for the concept, as well as the concerns.

D. Whether to Assess Dues for 2020-2021 in light of Cancellation of 2020 DMCJA Spring Conference because of the Coronavirus (COVID-19) Public Health Emergency

This item was moved to the November meeting.

E. DMCJA 2021 Legislative Priorities: Recommendations to the Board – Judge Kevin Ringus

Judge Ringus reported that the DMCJA Legislative Committee received four proposals and reviewed three that didn't advance last year, and had extensive discussion with the SCJA regarding the sentencing court impacts of potential Clean Slate Act (CSA) legislation and a legislative engagement action plan for the CSA in 2021. Representative Goodman is willing to sponsor the DMCJA's coordinated probation bill proposal. Judge Ringus referenced DMCJA's priority of the CLJ-CMS Project. Commissioner Wohl referenced concerns among DMCJA membership about the proof of firearms surrender. Rather than seek specific legislation on that issue, the Committee is seeking to address it in legislation under development elsewhere related to protection orders. M/S/P to move this to an action item.

F. Advisory Notice by WSBA Council on Public Defense: Implementation of the Standards for Indigent Defense During the Coronavirus Emergency

Judge Gehlsen reported on the materials sent to Judge Scott Ahlf by the Council on Public Defense. Judge Ahlf asked about distribution of the information. Judge Gehlsen asked if the Board had any concerns sending the materials via the listserv. The Board expressed no concerns.

G. Board D&O Insurance Status Update – Judge Jeffrey Smith

Judge Smith reported that DMCJA received a quote from Propel Insurance (Traveler's), which was included in the packet. One million in coverage for \$1,303 per year premium. Judge Smith recommends the Board approve, and discussed payment options (installments, annual, or three-year prepaid for a discount of \$194). Judge Smith recommended prepaying for three years. There is an existing line item in the budget. Susan Goulet noted that \$1,500 is approved in the budget, so if prepayment is preferred, then the Board should consider allocating more funding for this expense. Judge Smith noted that there is significant positive balance projected for year-end, and raised the possibility of investing some of the surplus in an interest bearing option. Judge Gehlsen concurred with preferring the discounted, prepayment option. Judge Ringus noted the difference between calendar and fiscal years. Following discussion, M/S/P to move this to an action item.

Judge Robertson proposed establishment of a grant fund for courts in lieu of investing the year-end surplus. Judge Gehlsen referenced reduction of dues as an option to consider as well.

H. DMCJA Bylaws Committee Report – Judge Mindy Walker and J Benway reporting on advisable pandemic-related amendments

Judge Mindy Walker reported that there were a number of proposed changes for the bylaws associated with being able to conduct business without meeting in person, including addressing how ballots can be cast remotely when the conference does not occur in-person. Other proposed amendments concern conducting meetings virtually. J Benway reported that there is a conundrum that the bylaws may only be amended at the in-person conference. She discussed a possible provisional adoption until subsequent approval. Judge Gehlsen asked if the proposed changes address the possibility of when Spring Conference does not occur, and only email business is done. Ms. Benway indicated the changes proposed contemplate that the Board would convene remotely. The Board indicated that in addition to meeting remotely, an option to meet by email should also be available. Judge Ringus asked about what was done to facilitate the email vote in June 2020 when the in-person conference was cancelled. Judge Gehlsen set this for the November meeting so the Board can examine the email used to conduct a vote in June 2021. Judge Gehlsen also confirmed that the Bylaws Committee will report in November on any advisable amendments related to Board diversity.

I. Ladenburg v. Henke: Whether to submit an Amicus Brief

Judge Gehlsen referenced the Board materials. Judge Henke indicated that she is willing to answer any questions but she must recuse herself from the discussion and any vote regarding it. She subsequently left the meeting. Judge Gehlsen referred the Board to the Amicus Policy in the materials. There was discussion of whether the request meets the criteria for filing an amicus brief. There was discussion that the Board's options include examining GR 29, responding to the specific request, or convening an ad hoc committee. M/S/P to move this to an action item.

INFORMATION

Judge Gehlsen spoke of sending an invitation to the listserv for two breathing and stretching opportunities on November 13 and 20, 2020, and inviting the Board to join the first ten minutes of the session on November 13 prior to its meeting. Judge Gehlsen brought the following informational items to the Board's attention.

- A. The DMCJA President has appointed the DMCJA Nominating Committee. See Nominating Committee Roster [DMCJA Bylaws, Art. IX, Sec. 2(a)(2).]
- B. Comment Letter in Support of Proposed Amendment(s) to JISC Rule (JISCR) 13, Local Court Systems
- C. Coronavirus Aid, Relief, and Economic Security Act (CARES) Funding – [Application](#) for Reimbursement
- D. Resource Library published at pages 29-35 (with hyperlinks) in the Special Pandemic Edition of Full Court Press for resources related to: court operations; general coronavirus information; virtual courtrooms; jury trials; workplace considerations; access to courts/justice; pages of interest; family and specialty courts and dockets; staff and self care; messaging/communications; resources for the public; and "We MacGyvered It" (Friday Forum Webinars)
- E. New Resources on Court Interpreting from the Interpreter Commission
- F. CLJ-CMS Project Update from Project Steering Committee
- G. Updating future Meeting Schedule to reflect meeting via Zoom through the current term.

OTHER BUSINESS

Judge Gehlsen noted that the next DMCJA Board Meeting is scheduled for November 13, 2020, from 12:30 a.m. to 3:30 p.m., via Zoom video conference. The meeting was adjourned at 2:32 p.m.