JUDICIAL COUNCIL MEETING

Minutes
Monday, July 18, 2016
Judicial Council Room
Matheson Courthouse
Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:
Chief Justice Matthew B. Durrant
Justice Thomas Lee
Hon. Marvin Bagley
Hon. Ann Boyden
Hon. Mark DeCaria
Hon. Thomas Higbee
Hon. David Marx
Hon. Reed Parkin
Hon. Derek Pullan
Hon. Randall Skanchy
Hon. Kate Toomey
John Lund, esq.

EXCUSED:
Hon. Paul Farr
Hon. Mary Noonan

STAFF PRESENT:
Daniel J. Becker
Ray Wahl
Jody Gonzales
Debra Moore
Dawn Marie Rubio
Rick Schwermer
Keisa Williams
Ron Bowmaster

GUESTS:
Hon. Dennis Fuchs
Jennifer Yim, JPEC
Ann Marie McIff Allen, JPEC
Hon. Paul Lyman
Hon. Reuben Renstrom

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**
Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Toomey moved to approve the minutes from the June 27, 2016 Judicial Council meeting. Mr. Lund seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**
Chief Justice Durrant provided an update on the work of the newly created ad hoc committee addressing the matter of jury trials in small claims cases. The ad hoc committee has developed interim rules for consideration.

3. **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**
Mr. Becker reported on the following items:
Judge of the Year Award. Judge Dane Nolan was awarded the *Judge of the Year Award* at the Bar's 2016 Summer Convention.
Judicial Retirement. Judge Maughan has announced his upcoming retirement, effective December 1.
Justice Court Administrator. Interviews for the justice court administrator position will be held on July 20.

Case Filing Update. Mr. Becker reviewed the year-end case filings. Overall, district court case filings reflect a 5% decrease, juvenile court referrals reflect a 10% decrease, and justice court case filings reflect a 7% decrease. No data was provided for the Appellate Courts at this time.

Questions were asked regarding the continued decrease in case filings. Mr. Becker mentioned that national studies are currently being conducted regarding case filing trends nationally. Once information from the study becomes available, Mr. Becker will review the report with the Council.

Mr. Becker mentioned that a Civil Justice Reform Initiative Report will be provided later in the week at the Conference of Chief Justice and State Court Administrators Annual Meeting.

Legislative Update. Mr. Schwermer provided a legislative update on the special session held on July 13. He highlighted the following: 1) 6 of 9 bills were considered, 2) SB 3004 – Continuing Care Retirement Community Amendments, 3) SB 3001 – Controlled Substance Database Modifications, 4) HB 3004 – Criminal Justice Reinvestment Amendments, 5) HB 3003 – Unmanned Aircraft Amendments, 6) SB 3003 – Judicial Nominating Commissions – Amendments, and 7) HB 3005 – Grandparent Rights Amendments.

Budget and Planning Session and Judicial Council Meeting. These meetings will be held on August 19 at the Matheson Courthouse.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

No meeting was held in July.

Policy and Planning Meeting:

Judge Parkin mentioned a rule is on today's agenda for final action.

Bar Commission Report:

Mr. Lund provided highlights from the Bar's 2016 Summer Convention to include: 1) attendance was at 360, 2) Professor Erwin Chemerinsky provided a keynote address entitled *How the Supreme Court has Made Your Rights Unenforceable*, and 3) Mr. Dean Strang, an attorney in Madison, Wisconsin, provided a keynote address entitled *Beyond Guilt or Innocence in One Case: Larger Questions that Making a Murderer Invites Us to Consider*.

5. RULES FOR FINAL ACTION: (Keisa Williams)

Chief Justice Durrant welcomed Ms. Williams to the meeting.

The Policy and Planning Committee recommended Rule 4-401.03 – Notice to public of recording be approved, as proposed, for final action.

Ms. Williams noted that the rule was effective May 10 but was subject to change upon expiration of the public comment period. She mentioned that no comments were received.

Motion: Judge Higbee moved to approve Rule 4-401.03 with the May 10 effective date. Judge Toomey seconded the motion, and it passed unanimously.

6. **PROBLEM SOLVING COURT CERTIFICATIONS: (Judge Dennis Fuchs and Rick Schwermer)**

Chief Justice Durrant welcomed Judge Fuchs and Mr. Schwermer to the meeting.

Judge Fuchs reported that all the problem solving courts being considered for certification by the Council are being recommended for certification, with the exception of the Utah County Veteran's Court in the Fourth District, which is being recommended for conditional certification.

Judge Fuchs provided background information on the Utah County Veteran's Court in the Fourth District. He mentioned that the certification is pending, for the next 60 days if conditionally certified, to allow for an acceptable drug and alcohol testing program to be established.

Discussion took place.

Motion: Mr. Lund moved to certify the problem solving courts being recommended for full certification and conditionally certify the Utah County Veteran's Court in the Fourth District to allow for an acceptable drug and alcohol testing program to be established. Judge Higbee seconded the motion. The motion passed with Judge Pullan voting no.

7. **JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Jennifer Yim and Ann Marie McIff Allen)**

Chief Justice Durrant welcomed Ms. Yim and Ms. McIff Allen to the meeting.

Ms. Yim introduced Ms. McIff Allen to members of the Council and provided her background and work experience.

Ms. McIff Allen shared information regarding her experience on the Judicial Performance Evalaution Commission (JPEC).

Ms. Yim and Ms. McIff Allen highlighted the following in their update to the Council: 1) the commission has only met once since the last update, 2) Ms. Yim has or will meet with the court-level boards to get feedback on the judge's perspectives regarding courtroom observations, 3) Mr. Rick Hoffman has been appointed by the Supreme Court to fill the vacancy created by Mr. Eric de DeRosia's departure, 4) Chief Justice Durrant is scheduled to attend the commission's September meeting, 5) follow-up on the request to exclude attorneys from surveys of any attorneys referred to the Office of Professional Conduct by judges is taking place and will be addressed further by the commission, 6) in the process of hiring a new staff member to conduct the justice court mid-level evaluations, 7) an in-person qualitative survey has been developed for use with the justice court mid-level evaluations, and 8) working to improve the data quality.

Questions were asked of Ms. Yim and Ms. McIff Allen. Responses were provided.

Chief Justice Durrant thanked Ms. Yim and Ms McIff Allen for their update.

8. **BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Paul Lyman and Dawn Marie Rubio)**

Chief Justice Durrant welcomed Judge Lyman and Ms. Rubio to the meeting.

Judge Lyman highlighted the following in his update to the Council: 1) juvenile court e-filing, 2) issuing delinquency and child welfare orders in court, 3) PEW juvenile justice system review, 4) bi-annual bench book update, 5) probation initiatives, and 6) repositioning resources to more effectively serve youth.

Chief Justice Durrant thanked Judge Lyman for his update.

9. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW (SCCFL) UPDATE: (Judge Paul Lyman and Ray Wahl)

Chief Justice Durrant welcomed Judge Paul Lyman and Ray to the meeting.

Judge Lyman highlighted the following in his update: 1) committee membership, 2) reauthorization of the committee through 2017, 3) work of the divorce procedures subcommittee, 4) work of the custody evaluations subcommittee, 5) work of the domestic case processing improvement subcommittee, and 6) discussion on the use of special masters and potential changes to Rule 53.

Chief Justice Durrant thanked Judge Lyman for his update.

10. BOARD OF JUSTICE COURT JUDGES UPDATE: (Judge Reuben Renstrom and Rick Schwermer)

Chief Justice welcomed Judge Renstrom to the meeting.

Judge Renstrom highlighted the following in his update:

- Addressing a suggested reform that would require all justice court judges to hold a juris doctorate degree
- Passing of HB 160 – Justice Court Amendments – requiring in the counties of the first and second class that a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state
- Reviewing the current de novo process
- Addressing matters of judicial independence in justice courts

Chief Justice Durrant thanked Judge Renstrom for his update.

11. EXECUTIVE SESSION

An executive session was not held at this time.

12. ADJOURN

The meeting was adjourned.