



2017-2018 Term

Hon. Anne L. Dodd, Chair

Hon. Wendy A. Cartwright, Vice-Chair

Stephane J. Latour, Esquire, Staff

Sharon Wright, Staff

Board Members:

Hon. George R. Ames, Jr.

Hon. Melissa Pollitt Bright

Hon. Sally Saunders Camp

Hon. Maureen Carr-York

Hon. Kimberly J. Cascia

Hon. Charles M. Coles, Jr.

Hon. Juliet G. Fisher

Hon. Athena Malloy Groves

Hon. Frank H. Lancaster

Hon. Theodore Philip LeBlanc

Hon. Michele E. Loewenthal

Hon. Leslie Smith Turner

*Administrative Office of the
Courts*

Internal Affairs

580 Taylor Avenue – A2

Annapolis, MD 21401

(410) 260-3453

CONFERENCE OF ORPHANS' COURT JUDGES

Maryland Judiciary
Judicial College Education and Conference Center
2011D Commerce Park Drive
Annapolis, MD 21401

MEETING MINUTES

Members Present:

Hon. George R. Ames, Jr.
Hon. Melissa Pollitt Bright
Hon. Maureen Carr-York
Hon. Wendy A. Cartwright
Hon. Kimberly J. Cascia
Hon. Charles M. Coles, Jr.
Hon. Anne L. Dodd, Chair

Hon. Juliet G. Fisher
Hon. Athena Malloy Groves
Hon. Frank H. Lancaster
Hon. Theodore Philip LeBlanc
Hon. Michele E. Loewenthal
Hon. Leslie Smith Turner

Staff Present:

Stephane J. Latour

On Monday, March 13, 2017, the Conference of Orphans' Court Judges met at 10:30 am at the Judicial College Education and Conference Center to approve the January Minutes and to discuss the established agenda.

The Chair welcomed the Hon. Charles Coles prior to the start of business.

I. Approval of January 23, 2017 Minutes

The Chair began the meeting by calling for the approval of the minutes of the January 23, 2017 meeting. Two requests for corrections were presented to the membership. First, there was a request to correct misspellings. And second, on behalf of the Education Sub-Committee, Judge Pollitt Bright requested an amendment regarding item 5. The Conference decided that an amendment was not necessary and instead decided to note the correction in the January 23rd minutes. The Chair requested clarification as to what would be reflected in the January 23rd minutes and was informed that *P.G. Co. Issue* was to be stricken.

Judge Ames subsequently moved for approval of the minutes (as corrected) which was seconded by Judge Cartwright. The minutes were approved with Judge Coles abstaining from the vote.

II. Committee Reports

Education Sub-Committee

2017 Membership

Hon. Melissa Pollitt Bright, Co-Chair

Hon. Wendy A. Cartwright, Co-Chair

Hon. George R. Ames, Jr.

Hon. Sally Saunders Camp [absent]

Judge Pollitt Bright explained to the Conference that work on the Orphans' Court pamphlet will be tabled until the mandatory *Workplace Laws, Regulations, and Policies Affecting Judges and Courts* (EEO course), as referenced in Chief Judge Barbera's recent e-mail, is completed by the OC judges. The judge then informed that the clusters will be peripherally engaged in the investigation this committee does regarding that same online course. She further informed that the center of their discussion revolved around the EEO course, and that the subcommittee will reach out to every OC judge to determine which ones need computer assistance to ensure compliance. The judge also plans to be present at the JCECC on April 7th to personally assist any OC judges present at training that day. This, in addition to the staff at the Judicial College who will render their assistance.

Judge Cartwright reported that the Judicial College is not yet ready to tackle the orientation curriculum for the next crop of new judges, is currently working on the 2018 courses and will finish structuring that curriculum before beginning on 2019. She also noted that she is deeply involved in this work and will be on top of it when the College's attention turns to 2019.

Judge Dodd informed that there were OC judges who do not have e-mail addresses. Judges' Cartwright and Pollitt Bright also informed that are a small number of judges who have no computers at home or at their respective courthouses. Judge Smith Turner noted these judges can be identified in the MAJOC directory. Judge Malloy Groves offered that if resources were an issue for some of these judges, that they should approach their county council for funds. Judge Pollitt Bright responded that this could be accomplished but that motivation might be lacking on the part of some of these judges for a host of reasons. Judge Smith Turner stated that computer training needs to be offered for the judges who are not technologically savvy, and Judge Cartwright informed that the College could assist in that department.

It was clarified that the EEO course did not count towards the educational requirements that judges must take at the College, and that OC judges should be so informed. Judge Cartwright explained that the College is rolling out online computer modules in addition to courses at the JCECC. Finally, there was general discussion about compliance with course requirements and enforcement.

Legislative Sub-Committee

2017 Membership

Hon. Juliet G. Fisher, Chair
Hon. Maureen Carr-York
Hon. Kimberly J. Cascia
Hon. Frank H. Lancaster
Hon. Leslie Smith Turner

Judge Fisher informed the Conference that to date, the sub-committee was asked to review two proposed bills, HB 1160 (Baltimore County - Judges - Non Partisan Elections) and HB 1056 (Election Law - Court Offices - Non Partisan Elections), and outlined the positions taken by the members individually and as a group that was passed along to the Judiciary Legislative Committee.

Judge Fisher further informed the Conference that HB87/SB156 (Baltimore County – Orphans Court Judges -Non Party Affiliation) moved out of the Senate and is before the Ways and Means Committee in the House of Delegates. Judge Fisher pointed out that Judge Dodd researched Election Law § 9-210(a)(6) which defines “judicial office” and does not identify the Orphans’ Court. She then informed the Conference that (a)(7) identifies the OC as a “public office” which is why OC judges run party affiliated. Judge Dodd wants to know: 1) where else in the Maryland Code are OCJ not identified as a judicial office, and 2) if OCJs are a public office, does that mean OCJs are responsible for constituent services which she believes would compromise their impartiality?

There was lengthy discussion among the Conference whether the law needs to reflect that the OC should be listed as a “judicial office” but most wanted to know the consequences, if any, of changing the law before taking any vote on the matter as the Conference is not representative of all OCJs, and does not speak for all OCJs. It was ultimately decided that the matter needed further research as noted in the action items below.

Judge Cascia informed that the OC is not appropriately listed on the Judiciary website in perhaps two areas.

Judge Fisher discussed SB 73 (Raising Spousal Share) which was amended to 40K and passed out of the Senate and has a favorable review in the House. There was short discussion about the substance of the bill among the Conference.

Policy, Rules & Forms Sub-Committee

2017 Membership

Hon. Michele E. Loewenthal, Chair
Hon. Athena Malloy Groves, Vice-Chair
Hon. Charles M. Coles, Jr.
Hon. Theodore Philip LeBlanc

Judge Loewenthal reported that Judge Malloy Groves has not been contacted by OCJs about their input on changes to the OC website, and will undertake this responsibility. The judge next discussed the rule change for 16-813/Rule 3.9 (Services as an Arbitrator/Mediator) and contacted the Rules Committee and reported that it passed. It will be forwarded to the Court of Appeals at the appropriate time.

Judge Loewenthal then discussed the firearms issue, whether an amendment was needed to Rule 6-417 (Accounts) and if a certification was needed concerning the lawful distribution of firearms by the Personal Representative. The sub-committee had decided it was a not an easy issue. There was a lengthy discussion among the Conference about the dissemination and lawful transportation of firearms, and how best to deal with this obligation. The Conference wants to ensure such matters are handled properly and Judge Dodd asked the Sub-Committee to work on the matter. The goal is to have a rule change resolve the issue but perhaps by way of policy until that point.

Finally, Judge Loewenthal informed the Committee about an issue raised by an attorney as to why OC subpoenas are not available online (MDEC). The issue will be addressed as noted in the action items below. The same attorney raised another issue with respect to eliminating the need of an original signature on a pleading which is required by the court and not MDEC. The matter will be reviewed by the Sub-Committee.

Chairman's Report

Judge Dodd believes that the Chair should be a member of the Legislative Committee and be kept abreast of legislative issues as they happen. She proposed this be added to the list of duties/responsibilities of the Conference Chair. There was a motion by the Chair which was seconded, and the matter unanimously passed.

Ex-Officio Legislative Caucus – the body met on January 26, 2017, and Judge Dodd informed the Conference of the attendees. She further informed that the RoW Chair would check with the RoWs to see if they are following Rule 6-202, instruction 2 dealing with the list of interested persons and the fact that it must be filed at the time a small estate is opened, not in 10 days as is done for regular estates. The RoW Chair believes that her colleagues comply with the rule. Judge Dodd also informed the Conference that the RoWs will not be filing any legislation this year, and the issue relating to copies of wills being approved administratively is moot. Judge Dodd further added that the RoWs are concerned about a commercial being aired in Baltimore City offering advice by that RoW. The Conference was informed that the RoWs are not taking a position on HB 8 regarding

certified mail. Finally, the Conference was reminded that the approved minutes from today's session would be distributed to OC Judges via the ListServ.

Staff Report - The Conference was informed that appointments to this body are at the discretion of Chief Judge Barbera who uses a variety of factors to make such a determination.

III. On-Going Issues

Judge Dodd informed the Conference that she informed Judge Coles about his sub-committee assignment, did draft a letter to MAJOC regarding having two at-large judges serve for 2 year terms and hopes to get a written response back, informed the OCJs that they would get a copy of the minutes (once approved) via the ListServ, and staff verified that Suzanne Pelz was informed that Judge Fisher now chairs the Legislative Sub-Committee, and that the OC minutes and agenda are posted on CourtNet.

Judge Cartwright informed that there is an OAG opinion on the duties of the Chief Judge which she is trying to locate. She is not certain if it was published, but recalls her sharing a memo at a MAJOC meeting.

AAG Alexis Rohde has been asked to speak at the Annual MAJOC meeting.

IV. New Issues

Judge Dodd added one item regarding policies and procedures for Orphans' Courts. She believes it would be a good idea for the membership to share policies/procedures that are particular to their courts.

Judge Malloy Groves told the Conference her court has a unique policy concerning *Guardianships* wherein her court requires that the Parental Consent Form be notarized; which is not required by Rule.

Judge Fisher told the Conference her court also has a unique policy regarding *Guardianships* wherein if they want to appoint someone guardian of the property and they are unable to get bonded for whatever reason but are the best person to serve in that capacity, in her court they have established forms that allow them limited authority to open a guardianship account with twenty dollars. Funds will be released into the account if certain conditions are met.

Judge Dodd distributed a handout to the members which outlined her court's Postponement Policy. The judge wanted the conference to be mindful of 2-102, Rules of Practice & Procedure, and make certain that any internal policies are in line and consistent with the Rules and Statutes.

Judge Pollitt Bright informed the Conference she sends back petitions where signatures are not legible.

V. Information Exchange

Judge Carr-York brought a situation to the attention of the Conference which was discussed. The conference gave a variety of answers on how to deal with such a situation cautioning against ex-parte communications.

VI. Review of Action Items

- Look into ensuring that OC judges who have no email accounts are informed of the mandatory EEO training course per Chief Judge Barbera's March 1, 2017 e-mail. **Staff**
- Education Sub-Committee will contact each OC Judge with respect to any assistance needed with the mandatory EEO course. **Judge Pollitt Bright**
- Research how OCJ are classified, i.e., public vs. judicial office, across the board in the Maryland Code. **Judge Fisher**
 - Contact AAG Alexis Rohde on this issue for advice. **Judge Fisher**
 - Inform Stephane Latour of feedback of AAG Rhode for possible conversation of issue with Kelley O'Connor (Government Relations Division). **Judge Fisher**
- Report back which Judiciary web page allegedly does not reference OC. **Judge Cascia**
- When will Rule 16-813/Rule 3.9 take effect once passed by the COA? **Judge Loewenthal**
- Reach out to JIS to see if placement of OC subpoenas on MDEC is possible. **Staff**
- Reach out to Loraine Hennessy concerning issues raised in letter from Adam M. Spencer, Esq. to Judge Fisher. **Judge Dodd**
- Add to the duties/responsibilities of the Chair that said individual be a member of the Legislative Sub-Committee. **Staff**

VII. Adjournment

The Conference adjourned shortly after 1:00 pm.