

UNITED STATES DISTRICT COURT
District of Kansas

Bench-Bar Committee Meeting

MINUTES OF OCTOBER 13, 2021

via ZOOM

IN ATTENDANCE:

HONORABLE DANIEL D. CRABTREE, JUDGE
HONORABLE JOHN W. BROOMES, JUDGE
HONORABLE JAMES P. O'HARA, CHIEF MAGISTRATE JUDGE
HONORABLE TERESA J. JAMES, MAGISTRATE JUDGE
HONORABLE DALE SOMERS, CHIEF BANKRUPTCY JUDGE
DUSTON SLINKARD, ACTING U.S. ATTORNEY
MELODY BRANNON, FEDERAL PUBLIC DEFENDER
JOHN W. SHAW, ESQ.
STEPHEN H. NETHERTON, ESQ.
PATRICIA E. HAMILTON, ESQ.
RYAN KEITH MEYER, ESQ.
DAVID PRELLE ERON, ESQ.
BRADLEY T. WILDERS, ESQ.
BRANDEN SMITH, ESQ.
BRYAN CLARK, ESQ.
SKYLER B. O'HARA, CLERK OF COURT
KIM LEININGER, CHIEF DEPUTY CLERK
STEPHANIE MICKELSEN, DIRECTOR OF COURT ADMINISTRATION
JEFF BREON, DEPUTY DIRECTOR OF COURT ADMINISTRATION

GUESTS:

KIRK REDMOND, FIRST ASSISTANT FEDERAL PUBLE DEFENDER
RYAN HUDSON, ESQ.

NOT PRESENT:

HONORABLE MARLA J. LUCKERT, CHAIR, KANSAS BENCH BAR

1) APPROVAL OF MINUTES

Judge Crabtree welcomed everyone and thanked them for their flexibility in changing the meeting from in-person to ZOOM. He asked the committee if they noted any corrections or changes to the April 13, 2021 minutes. Melody Brannon stated that Branden Smith was present at the April meeting and should be added to the minutes. It was moved and seconded to approve the minutes as amended. Judge Crabtree asked if there was any discussion, hearing none, he called for a vote and the minutes were unanimously approved.

2) FEDERAL CRIMINAL JUSTICE SYSTEM MAP PUBLICATION

Kirk Redmond with the Federal Public Defender's Office and Ryan Hudson, Esq., referred the committee to Tab 2 in the agenda book, "The 'Route to Justice' Federal Criminal Map." They asked the Bench-Bar Committee to consider funding the production of a graphic representation of the federal justice system. The cost is anticipated to be \$7,500 to produce the map (in English and Spanish), revise it, and make color copies available for use by criminal defendants, lawyers, court staff, law students, and the public. The map will also be available on-line. It can be used for educational purposes and presented in a way that allows people of many different backgrounds to better understand the criminal justice system.

Judge O'Hara believes this is an excellent idea and hopes that it will be a substantial improvement over the model displayed in our courthouses. Judge Crabtree explained that upon this committee's approval, the map project funding will be included in the 2022 Budget Proposal for the court's consideration. Bryan Clark moved to approve bench-bar funding to produce the map and Bradley Wilders seconded the motion. The motion carried unanimously. Judge Crabtree thanked Kirk and Ryan for their efforts.

3) PROPOSED LOCAL RULES REVIEW PROCESS

Judge Crabtree reported that at the last bench-bar meeting there was a discussion regarding our rules process and committee members shared their thoughts and ideas. This was reduced to a written proposal and shared at the judges' annual fall meeting on October 5, 2021 where it was approved by the court with some modifications. Every three years, the committee will do a comprehensive review of the court's rules, rotating between civil and criminal. The rules committee has the jurisdiction to suggest changes at any time. Proposed changes would be submitted to the bench-bar committee for consideration and then to the court for final approval.

4) PROPOSED LOCAL RULES AMENDMENTS

Skyler O'Hara reported that at the last bench-bar meeting the committee approved an amendment to local rule 83.5.5, Withdrawal of Appearance, that carves out an exception for U.S. Bankruptcy Court practitioners to withdraw from cases under certain circumstances. This

amendment was then taken to the full court and approved. A notice of the proposed amendment will soon be published before it is officially adopted.

Ms. O'Hara also reported that at their fall meeting, the court considered the proposed changes to local rule 38.1, Random Selection of Grand and Petit Jurors. The court agreed that adding driver's license and state identification rolls to our voter registration rolls is necessary to increase the diversity of our jury pool. The court approved the proposed change in concept and plans to further research the issue to determine if there are other measures the court should take to further diversify our juries with a goal to have the amended jury plan in place prior to the next wheel refill in 2023.

5) ADR REPORT

Chief Magistrate Judge O'Hara provided an informational report on the court's Alternative Dispute Resolution (ADR) efforts. Judge O'Hara explained that our program is mandated by the Civil Justice Act. In structuring ADR procedures, other courts in the country, such as the Western District of Missouri, take a very different approach than our court. Judge O'Hara explained that when Magistrate Judge Waxse retired, he was appointed as the district's ADR coordinator. As a result, he sees every scheduling order and ADR report filed. Overall, things are working well with trends staying consistent across the district. Most of our cases are resolved relatively quickly. After reviewing our court's statistics on civil cases filed from 2018 to 2021, the numbers provide a general sense that we are applying the right amount of pressure to resolve cases. Judge O'Hara explained that less than 50 percent of attorneys are filing the required ADR report. This report provides valuable ADR information, and he anticipates that the court will put pressure on attorneys to file the reports. Of the ADR reports filed, half of the cases going to mediation settle out. On average, those cases are settling about four months out from the settlement conference.

The court maintains a list of approved mediators and one of the features of the program is that every lawyer who meets requirements to become an approved mediator, agrees to annually

conduct two pro bono or reduced fee mediations. He believes this feature is underutilized and should be used when the cost of mediation is an issue for the parties. Attorneys on our mediation list who are not complying with this requirement should be reported and removed from the list.

6) BENCH-BAR FINANCIAL STATEMENT & FY2022 BUDGET PROPOSAL

Jeff Breon referred the committee to Tab 6, Bench-Bar Financial Statement & FY 2022 Budget. Mr. Breon reported that overall bench-bar related expenditures were down due to pandemic issues. Fund expenditures can have wide swings from year to year, for example, the expenses for court appointed attorneys depend on the number of attorneys appointed by the court. Budget projections are forecasted on the high side so that we do not need to frequently return to the committee for approval of additional spending. The \$7,500 the committee recommended today will go into the budget as a separate line item for the court's consideration. Judge James moved to approve the 2022 budget with the addition of the discussed \$7,500. Duston Slinkard seconded the motion and the motion passed unanimously. Judge Crabtree thanked Jeff for his presentation.

7) SELECTION OF NEW MEMBERS

Judge Crabtree thanked the parting members, including John Shaw, Patricia Hamilton, and Stephen Netherton, for their service. With their departure and the departure of Corliss Scroggins Lawson, we have four committee positions to fill. While we need to actively recruit from parts of Kansas outside of the largest metro areas in filling these four vacancies, we are generally looking to fill one Kansas City position, two Topeka positions, and one Wichita position.

After discussing all the applications, the committee agreed to recommend the following candidates: Razmi Tahirkehli (Kansas City), Terelle Mock (Topeka), Angela Gupta (Topeka), and Eric Barth (Wichita). Judge Crabtree will present these candidates to the court for approval and will contact the successful applicants who will begin their term in January 2022.

8) PROPOSED 2022 LAW DAY MOCK TRIAL EVENT AND CEREMONY

Judge Somers shared with the committee that the U.S. Bankruptcy Court took the lead in applying for a grant from the Administrative Office of the U.S. Courts to hire a diversity intern for the district. After receiving the grant, the court hired Myah Blocker, a junior at the University of Missouri Kansas City, for a paid position shared between bankruptcy and district court. One of her assigned duties is to develop and lead a project that would promote diversity and inclusion in the district. As a result, Ms. Blocker is coordinating a Law Day event to be held in Kansas City on May 1, 2022. In future years, the Law Day event will rotate among the three courthouses.

Ms. Blocker's proposal included a diversity and inclusion award, named after Chief Judge Robinson, to be given to an attorney in the state who has championed and promoted diversity issues. Judge Somers does not believe the Court should be the one to select the award recipient and needs to find an entity, such as the Bench-Bar Committee, to take ownership of the award process and make sure that it continues in years to come. After discussing the issue, the committee members generally support the project and shared their thoughts on making sure the award process is sustainable from year to year.

9) NEW BUSINESS AND NEXT MEETING

Bradley Wilders suggested that the new rules committee may want to consider a rule that would address sealed documents similar to the Western District of Missouri's rule. More specifically, he suggested a local rule that incorporate the Tenth Circuit's requirements, more narrowly defines the requirements to seal documents, and clarifies the procedures for filing documents. Judge O'Hara offered that the court's Rule One Committee, including Judge Mitchell, John Shaw, Larkin Walsh, and Angela Coble, developed a proposed rule that would largely follow the Western District of Missouri's rule. The rule would allow for the provisional filing of a document designated as confidential which would trigger a meet and confer period and give the party an opportunity to make a case for filing the document under seal. The committee is meeting in November and hopes to have a report by the end of the year.

Hearing no further business, Judge Crabtree advised that the next meeting will be held in spring 2022 and we hope it will be in person.

The meeting, having convened at 12:00 p.m., adjourned at 2:38 p.m.

Respectfully submitted,

s/ Kim Leininger

Chief Deputy Clerk