

**Nevada State-Federal Judicial Council Meeting
Notes Summary – May 24, 2021, Via Zoom**

In Attendance:

Hon. William G. Cobb, U.S. Magistrate Judge, Chair
Hon. James Hardesty, Chief Justice, Supreme Court of Nevada
Hon. Jay S. Bybee, Circuit Judge
Hon. Miranda M. Du, Chief U.S. District Judge
Hon. Larry R. Hicks, Senior U.S. District Judge
Hon. August B. Landis, Chief U.S. Bankruptcy Judge
Hon. Cam Ferenbach, U.S. Magistrate Judge
Hon. Brenda Weksler, U.S. Magistrate Judge
Hon. Elayna Youchah, U.S. Magistrate Judge
Hon. Linda Marie Bell, Chief Judge, Eighth Judicial District Court
Hon. Mark Stevens, Municipal Court Judge
Hon. Dorothy Rowley, Eureka County Justice Court
Hon. Patricia Rae Lenzi, Tribal Courts of Nevada
Lori Teicher, First Assistant Federal Public Defender
Christopher Hicks, Washoe County District Attorney
Christopher Lalli, Clark County Assistant District Attorney
Hon. Benes Z. Aldana, President, National Judicial College
W. West Allen, President, National Federal Bar Association
Mark Busby, Deputy Circuit Executive
Debra Kempf, Clerk of Court, U.S. District Court
Holly Parker, Esq., Laxalt & Nomura
Eric Dobberstein, President, State Bar of Nevada
Margaret Wightman Lambrose, President, Nevada Chapter of the State Bar Association
AnnaMarie Johnson, Executive Director, State Bar of Nevada
Lauren Pena for Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada
Deonne E. Contine, Executive Director, Washoe Legal Services

Judge Cobb welcomed Council members to the meeting and explained Council “Representatives” (Judges) versus Invited Guests. Judge Cobb introduced State Court Judges, Federal Court Judges, Tribal Court Judge, and Invited Guests in attendance.

Comment regarding Termination of 9th Circuit Logistical Support for Council

Judge Cobb advised that he was just recently advised that the Judicial Council for the Court of Appeals of the Ninth Circuit voted to “sunset” logistical support for the State-Federal Councils of the Circuit. More specifically, the 9th Circuit’s Office of Circuit Executive (OCE) will no longer be providing administrative staff for services which have traditionally included maintaining a

current roster of the membership, notification and coordination of our biannual Council meetings and recording minutes of our meetings in the capacity as an unofficial Executive Secretary of the Council.

Judge Cobb stated that since the OCE will not be providing logistical support for the Council, Paragraph 6(c) of the Charter should be amended to delete the language below (in italics) from the Charter:

6.(c) An executive secretary to the Council shall be appointed to perform such duties as the taking and reading of minutes of meetings and other activities, providing notice and arranging meetings as requested by the Council, the submission of recorded minutes to members and such other responsibilities as may be required by the Council. *The executive secretary shall send a copy of Council minutes and other recorded activities to the Circuit Executive of the Ninth Circuit Court of Appeals, thereby enabling that office to serve as a depository for the exchange of information between states and federal judicial councils within the Ninth Circuit and other Circuits.* The executive secretary shall also maintain an official minute book to preserve the minutes of Council meetings and other activities.

Judge Cobb thanked Deputy Circuit Executive Mark Busby for stepping in to assist with today's meeting.

Remarks regarding Continuance of Council Despite Termination of 9th Logistical Support from Chief Justice Hardesty and Chief Judge Du

Chief Justice Hardesty and Chief Judge Du informed the Council that they conferred with their fellow Judges who support the Council continuing its existence. Chief Justice Hardesty and Chief Judge Du requested input from Council members regarding the continuance of the Council. Chief Justice Hardesty advised that if the Council does continue, his office will attempt to provide staff/administrative coverage for future meetings. Chief Judge Du also stated she would help secure staff/administrative coverage from the U.S. District Court Clerk's office.

Vote of State/Federal Court Members to Amend Council Charter

Judge Cobb proposed the revision/amendment and stated that amendment required a majority vote "of the Council members in attendance." Chief Justice Hardesty seconded the motion, and the revision of the Charter was approved.

Special Presentation: The Council invited University of Nevada, Reno, Professor Shawn Marsh, Ph.D., to present to the Council. Dr. Marsh is the Director of the Judicial Studies Graduate Degree Program and Associate Professor of Judicial Studies, Communication Studies, and Social Psychology at the University of Nevada, Reno. As the Director of Judicial Studies, he oversees

the nation's only program to offer both Masters and Ph.D. degrees in judicial studies exclusively for sitting judges. Dr. Marsh is a social psychologist with research and teaching interests in the areas of psychology and the law, bias and decision-making, dispute resolution, adolescent development, trauma, resiliency, juvenile justice, and judicial education.

Dr. Marsh discussed educational opportunities available to judges and stated the University of Nevada, Reno, is the only university in the country to offer the Ph.D. program to judges. The program began in 1986 and, to date, over 200 judges have graduated from the program. Dr. Marsh can provide links with more information about the program.

Dr. Marsh responded to questions from the Council.

Judge Cob thanked Dr. Marsh for his presentation.

Current Issues in the State Judiciary

Chief Justice Hardesty informed the Council that the Nevada Supreme Court has been extremely busy on several topics, including the reopening of District Courts for jury trials and the backlog of pending matters, Water Law, Addiction Mediations and Assembly Bill 43 – Nevada Supreme Court studying certain issues relating to the Commission on Judicial Discipline.

Chief Judge Bell stated that the Eighth Judicial District Court has made great improvements in the last year. Their IT department developed a program/application that has helped streamline how orders are received and docketed (over 150,000 orders have been processed in the last year using this application) and also an electronic search warrant program. Chief Judge Bell stated that since May 2020, over 7,000 search warrants have been processed using this program. The Eighth Judicial District Court has restarted jury trials – so far, they have had three (3) criminal trials, seven (7) civil trials and thirty (30) short trials. Chief Judge Bell reports that the Eighth Judicial District Court has twenty-two (22) new judges as a result of the election.

Judge Rowley informed the Council that the Nevada Justice Courts have been conducting virtual/Zoom hearings and stated there are concerns as to staffing regarding rural judges and training.

Current Issues in the Federal Judiciary

Circuit Judge Bybee advised the Council that the 9th Circuit Court of Appeals was not interrupted by COVID - Zoom hearings have worked very well. Judge Bybee stated that most likely in-person arguments would not resume until fall 2021 or first part of 2022. All 9th Circuit seats have been filled but noted several Circuit Judges are expected to take senior status.

Chief Judge Du informed the Council that criminal proceedings in the U.S. District Court have been severely impacted by COVID. Criminal trials resumed again in March 2021 and the U.S. District Court is currently using a division-wide trial stack. In Reno, there have been three (3) criminal jury and two (2) civil jury trials. In Las Vegas, there have been seven (7) jury trials and there have been no issues as a result of the resumption of jury trials.

Chief Judge Du thanked Chief Justice Hardesty in leading the efforts for the court receiving prioritized vaccinations.

Chief Judge Landis summarized case filings in Bankruptcy Court and what has been happening since the start of COVID. The Clerk's office is expected to open June 1, 2021.

Federal Court Pro Bono Program Update

Magistrate Judge Cam Ferenbach stated that the program has been ongoing for approximately five (5) years and needs upgrading to help with the delay in finding pro bono counsel for cases, etc. Magistrate Judge Weskler has been extremely helpful assisting with the pro bono program.

Magistrate Judge Brenda Weskler informed the Council that she is trying to find ways for attorneys to take pro bono cases such as offering CLE credit and has proposed increasing the amount for reimbursement of costs from \$2,500 to \$7,500. Judge Weskler said this proposal is on the agenda for the next Judges' meeting. Additionally, the court is trying to convince the prisons to acquire video equipment for Zoom hearings so that attorneys will not have to travel to the various prison to meet with a client.

Current Issues in the Tribal Court

Judge Lenzi reported that the tribal court is not open to the public yet as there have been a number of tribal members and Judges that have passed away due to COVID. Once the court is ready to reopen, it will be a slow process. The court has been conducting hearings remotely. Judge Lenzi requested that the Judges on the Council share more information on how they are conducting trials. Judge Lenzi advised that the Washoe Tribal Court will have new building and is scheduled to open in September 2021.

Current Issues from Council Guests

Hon. Benes Z. Aldana, President, National Judicial College, reported that the National Judicial College is requiring staff, faculty, and students to be fully vaccinated. President Aldana discussed new courses being offered and various scholarships available to Judges.

W. West Allen, President, President, National Federal Bar Association, summarized the Federal Bar Association's Legislative Priorities for 2021 which include: (1) Greater Security for Federal Judges and Courthouses; (2) More Judgeships for Federal Courts; (3) Responsible Federal Court Case Records Reform; (4) Adequate Funding for Federal Courts; (5) Establishing an Independent Immigration Court; and (5) Foundation of the Federal Bar Association Charter Amendments.

Eric Dobberstein, President, State Bar of Nevada, discussed the review of bar discipline and expansion of the diversion program for bar counsel. The 2021 Bar Conference will be held June 17-19 at the historic Hotel Del Coronado and the theme will focus on issues of social justice, diversity and inclusion, and national lessons that may inspire local action. Chief Judge Du will be speaking during the General Session – Building the Pipeline for Diversity, Equity and Inclusion in Your Law Firm on June 18 (12:15 p.m. – 1:15 p.m.). Ann Morgan will be new incoming State Bar President.

Christopher Hicks, Washoe County District Attorney, summarized how his office is adapting to the COVID pandemic, and for the most part, they have been completely paperless since December 2019. The biggest challenge right now is budget restraints. They have gone over two years without any additional funding. His office is beginning to start trials and will try one case per week in criminal cases working through the most serious cases first.

Christopher Lalli, Clark County Assistant District Attorney, informed the Council that Clark County has restarted jury trials and, so far, the process has been successful. The backlog of jury trials is substantial (into the thousands) and the numbers have not stopped. Mr. Lalli reported that Chief Judge Hardesty and Chief Judge Bell had a large number of case settlements during the shutdown which he appreciated very much.

Lori Teicher, First Assistant Federal Public Defender, informed the Council that they have begun to safely visit with clients and anticipate returning to courthouses. Their office is excited to hear about the proposal of video equipment at the prisons and advised that if she can assist with the process to please reach out to her.

AnnaMarie Johnson, Executive Director, Nevada Legal Services, stated that with regard to the pro bono program, their office is unable to represent clients in federal prison or who are incarcerated. She anticipates her office being extremely busy beginning next month with the rental eviction moratorium ending, DETER/unemployment issues, housing issues, bankruptcy filings and other debt collection issues.

Lauren Pena, Legal Aid Center of Southern Nevada, informed the Council that her office has helped approximately 52,800 people since the pandemic. The office reopened April 1, 2021, with 100% of staff returning to work. They will be extremely busy beginning next month with the rental eviction moratorium ending, DETER/unemployment issues, housing issues, bankruptcy filings and other debt collection issues.

Deonne Contine, Executive Director, Washoe Legal Services, reported that they are looking for pro bono attorneys and plan to add staff to their housing units and self-help programs.

Final Remarks – Judge Cobb

Judge Cobb advised that this will be his final meeting as Chair of the Council as his three year term in office [per Para 7 of the Charter] has concluded. Judge Cobb further advised that under Paragraph 6(a), a *state court* representative would assume the Chair of the Council which presumably would be Chief Justice Hardesty's responsibility to determine the next state representative who will serve as chair and schedule the next Council meeting. Judge Cobb expressed his appreciation to the Council for the privilege as serving as Chair.

Next Meeting

The logistics for the next meeting, which will presumably be in the fall, will be provided at a later date.