

Public Access Committee Meeting Minutes

September 7, 2018

The meeting was called to order at 1:35 p.m.

Voting Members Present: Judge Jerry Jones, committee chair; Marci Hoffman, Court Executive, 19th Judicial District; Sabra Millett, Clerk of Court, 2nd Judicial District; Darren Cantor, Office of Alternate Defense Counsel; Chief Judge Michael Martinez, 2nd Judicial District; Polly Brock, Clerk of Court and Court Executive, Colorado Court of Appeals; Cheryl Layne, Clerk of Court, 18th Judicial District; April McMurrey, Deputy Regulation Counsel; Melissa Thompson, Office of Respondent Parents Counsel; Rob McCallum, Public Information Officer; Kent Wagner, Office of Judicial Performance Evaluation; Ryan Peyton, Colorado Attorney Mentoring Program; Timothy Lane, Colorado District Attorneys' Council; Lynnette Cornelius, Clerk of Court, 4th Judicial District (Via telephone); Judge William Lucero, Office of the Presiding Disciplinary Judge

Non-Voting Members Present: Justice William Hood, Committee Liaison, Colorado Supreme Court; Terri Morrison, Legal Counsel, Colorado Judicial Department; Steven Vasconcellos, Senior Manager, Court Services; David Quirova, Jr., Court Services

Guests: Claire Walker, Court Services; Paul Chessin; Marilyn McCormick and Lee Coddling representing LexisNexis CoCourts; Steve Balcerovich and Kris Geraths representing Background Information Services; Jeff Roberts and Steve Zansberg representing Colorado Freedom of Information Coalition; Michele Webster, Colorado Center on Law and Policy; Karen Wu and Jose Vasquez, Colorado Legal Services; Jason Bergbower, ITS; Bob Connelly, Private Attorney

Welcome new liaison and new member

Justice William Hood will be taking over as Committee Liaison for Justice Monica Márquez. Peggy Gentles, Court Executive from the 14th Judicial District, is a new member.

Approval of Minutes from May 11, 2018 meeting

Kent Wagner and Linda Weirnerman were listed as non-voting members on the May 11, 2018, minutes. Minutes will be amended to reflect Kent Wagner and Linda Weirnerman as voting members. Polly Brock moved for the Committee to accept the minutes from the May 11, 2018, meeting. Timothy Lane seconded the motion. The motion passed unanimously.

Old Business

Redaction subcommittee — Judge Jones

A redaction subcommittee was created last year to explore the possibility of requiring attorneys to redact documents before they are filed with the court rather than having the burden rest solely on court staff. That subcommittee disbanded without a consensus for any changes to the current process. The subcommittee will be reformed and members from the previous subcommittee were asked to rejoin. Volunteers for the subcommittee may email Judge Jones and Terri Morrison.

Discuss re-formation and direction of the redaction subcommittee — Paul Chessin, Jose Vasquez, Michelle Webster, Chris Ryan

The court document management system (jPOD) automatically defaults some documents as “Protected” until the court can review them and determine if any information needs to be redacted before they are set to “Public” status. Colorado Legal Services is unable to view documents filed with the court when they are uploaded as “Protected” in jPOD. This interferes with CLS being able to assist clients in cases. Some of the documents, such as the summons and complaint or exhibits in civil cases, do not contain information that require redactions but remain in “Protected” status. The Colorado Center on Law and Policy is unable to access court records that it was previously allowed to view for research. Courts may not have enough staff and time to review all attached exhibits and make the necessary redactions to make the documents immediately accessible to parties or the public.

Chris Ryan explained that there is a coding issue with the court’s E-Filing system that defaults certain documents in all case classes in a “Protected” status, and there are case classes in which the same documents should be public. Information Technology Services and the Clerk’s Advisory Committee will work together on this issue to determine proper document security settings and make programming changes. The Clerks of Court are also working on ways to make the document request process consistent.

It is preferred that a broader spectrum of attorneys be involved with the redaction subcommittee. If there are any private attorneys or others on the Public Access Committee who would like to volunteer, they may email Judge Jones and Terri Morrison. It is important that no one group with a particular interest drive the policy for the subcommittee.

Suppressed and sealed documents subcommittee update — Judge Jerry Jones, Chris Ryan

There have been inconsistencies with sealed and suppressed cases in the courts. There are cases that have no information on why the determination was made to seal or suppress a case. Cases have been sealed or suppressed for the purposes of obtaining a warrant, for example, or case status was never revisited after the reason for the initial suppression or sealing no longer existed. A suggestion has been made for the courts to grant a written order that contains reasoning for sealing or suppressing a case for a certain amount of time. The obligation would fall on parties who want to keep the case sealed or suppressed to file a request or status report with the court. There was a programming issue in which sealed and suppressed cases were treated the same and parties to a case were not able to view suppressed case information electronically. This programming has been corrected by ITS.

It has been suggested that it would be ideal if a universal rule was created by the subcommittee which other court rules can reference. It is imperative that there is Judge representation on this subcommittee. Suggestions for Judges on this subcommittee can be emailed to Judge Jones.

Suppressed court records — Steven Zansberg

Mr. Zansberg asserted that § 30-10-101, C.R.S., contains language that says all court pleadings filed in a case should be suppressed and that only parties of interest or their attorneys may have access. Mr. Zansberg expressed that he will be seeking legislative changes regarding this issue. It was pointed out,

however, that House Bill 10-1062 struck out courts from this section of the statute. This will matter will be reviewed by the sealed and suppressed subcommittee.

Set meeting for May 2019

The May 2019 meeting date was tentatively set for May 3, 2019, at 1:30 p.m. The date will be revisited at the January meeting.

Next Meeting Date

The next committee meeting dates are,

- January 11, 2019, at 1:30 p.m. in the Supreme Court Conference Room
- (Tentatively) May 3, 2019, at 1:30 p.m. in the Supreme Court Conference Room

The meeting adjourned at 2:52 p.m.