

UNITED STATES DISTRICT COURT
District of Kansas

Bench-Bar Committee Meeting

MINUTES OF APRIL 28, 2023, at 9:00 a.m.

LAWRENCE, KS

IN ATTENDANCE:

HONORABLE DANIEL D. CRABTREE, JUDGE
HONORABLE ERIC F. MELGREN, CHIEF JUDGE
HONORABLE JOHN W. BROOMES, JUDGE
HONORABLE KENNETH G. GALE, MAGISTRATE JUDGE
HONORABLE TERESA J. JAMES, MAGISTRATE JUDGE (via Zoom)
HONORABLE DALE L. SOMERS, CHIEF BANKRUPTCY JUDGE (via Zoom)
SKYLER B. O'HARA, CLERK OF COURT
KATE BRUBACHER, U.S. ATTORNEY
MELODY BRANNON, FEDERAL PUBLIC DEFENDER
TIMOTHY M. O'BRIEN, CHAIR, KANSAS BENCH-BAR
DAVID PRELLE ERON, ESQ.
BRADLEY T. WILDERS, ESQ.
ERIC W. BARTH, ESQ.
ANGELA D. GUPTA, ESQ.
TERELLE A. MOCK, ESQ.
RAZMI M. TAHIRKHELI, ESQ.
JENNIFER HILL, ESQ.
JENNIFER B. WIELAND, ESQ.
KATE MARPLES SIMPSON, ESQ.
KIM LEININGER, CHIEF DEPUTY CLERK
CHASITY SCHOONOVER, OPERATIONS ADMINISTRATOR

1) APPROVAL OF OCTOBER 5, 2022, MINUTES

After welcoming members and making introductions, Judge Crabtree asked the committee if they noted any corrections or changes to the October 5, 2022, minutes. There were no corrections. Terelle Mock moved to adopt the minutes as written, Melody Brannon seconded the motion, and the motion passed unanimously.

2) CHIEF JUDGE REPORT

Chief Judge Melgren acknowledged Judge Gale's final meeting as a member of the Bench-Bar Committee due to his retirement from the Wichita magistrate judge bench in August 2023. Although there were many outstanding candidates from whom to choose, the court ultimately selected Wichita attorney Brooks Severson to fill Judge Gale's position.

We continue to have a district judge vacancy to fill Judge Robinson's position as well as the 10th Circuit Court of Appeals vacancy to fill Judge Briscoe's position. Judge Jerome Holmes is our new 10th Circuit Chief Judge, and he plans to join our court's October retreat at Washburn University School of Law.

3) CASELOAD STATISTICS

Judge Crabtree shared the district's caseload statistics and referred the committee to the court's website for more information.

4) CLERK'S OFFICE UPDATE

Clerk of Court Skyler O'Hara announced that Jessica Knox was hired in January to replace Jeff Breon as the Shared Administrative Services Financial Manager. Ms. Knox came to the court from the Missouri National Guard, and the court is fortunate to have her on the finance team.

President Biden announced the end of the pandemic, and the CARES Act provisions expired nationally effective on May 10, 2023. The District of Kansas ended the CARES Act provisions on February 23, 2023. The Court Administration and Case Management Committee (CACM) has undertaken a study to look at best practices learned during COVID, including the CARES Act provisions that could be useful to continue but would require legislative action to do so.

We resumed attorney/judge luncheons in each location. All registered attorneys are notified of local luncheons by email blast. Attendees receive free lunch and free CLE. We are hosting paralegal luncheons that will allow law firm staff to meet our clerk's office team in each location and gain a better understanding of our court's case management procedures. Please share those invitations with your staff.

There is a national effort to modernize our electronic case management system (CM/ECF). The new system is projected to be completed in 2027 and should increase overall security of the system. It offers full text searching within documents, and a single point of entry for all federal court cases.

Finally, Magistrate Judge Gwynne Birzer was reappointed to a second, eight-year term in Wichita. Ms. O'Hara encouraged the attorney members to contact her if they need assistance or have suggestions on ways for the court to better serve the bar.

5) LOCAL RULES

a. D. Kan. Rule 6.1(d)

The new local rules went into effect on December 1, 2022. Judge Mitchell said that the court and the bar is going through an adjustment period. The time for filing response and reply briefs, in particular, caused implementation challenges. There have always been two sets of briefing schedules – a longer period of time for dispositive motions, such as Motions to Dismiss and Motions for Summary Judgment and a shorter response time for filing everything else. The feedback received from the bar is that the distinction is confusing because, other than the obvious motions, there are a lot of other types of motions that may or may not be considered dispositive. Chasity Schoonover commented on the

complexity of programming CM/ECF to accurately generate deadlines for the various response and reply events. Judge Mitchell suggested that the court should call out the specific category of motions with the longer response/reply deadlines and shorten the response/reply time for motions to extend time and motions to increase page limits. Committee members agreed that it would be helpful to call out the specific response dates.

Judge Crabtree asked bar members to comment on their experience with the new sealing process. Mr. Barth said the time to file a motion (seven days) can be too short requiring a quick turnaround. Judge Mitchell explained that it was a compromise, as some judges wanted it shorter and other wanted it longer. Kate Simpson expressed concern that the provisionally sealed document could be automatically unsealed. Judge Mitchell said that the party who filed the document provisionally under seal is supposed to file a notice to the court that it can be unsealed. The court will then direct the party to file the document in the public record. Generally, committee members agreed that the bar needs more time with the new rule.

b) D. Kan. Rule 83.5.2, Admission to the Bar

Judge Crabtree referred to page 18 in the agenda book. A year ago, Thomas Alvord with LawHQ, P.C. proposed a local rule amendment that automatically allows the admission of out-of-state attorneys with no pro hac vice requirements. The Bench-Bar Committee and the board of judges rejected the proposal. Tim O'Brien shared the proposal with the Kansas Bar Association and

reported that they do not support the amendment at the state level for the same reasons discussed by this committee last year.

c) D. Kan. Rule 38.1, Random Selection of Grand and Petit Jurors

Judge Crabtree explained that this committee has the authority to study, consider, and recommend local rules and rule amendments. On April 28, 2021, the Federal Public Defender asked this committee to consider an amendment to the court's jury plan that would supplement voter registration lists with Kansas driver's licenses and Kansas issued adult identification card lists. At its May 13, 2021 meeting, the Bench-Bar Committee discussed and voted to unanimously approve the amendment. Skyler reported the board of judges considered the amendment and appointed a committee to study the issue and make a recommendation for the court's consideration. The Case Administration and Case Management Committee (CACM) is also studying this issue. Melody Brannon stated 30% of Kansas citizens are excluded from petit and grand jury pools, and trends around the country strongly favor using supplemental sources. Judge Crabtree will report back to the court on this issue.

6) Bench-Bar Fund Report

Ms. O'Hara referred the committee to the Bar Fund Financial Report on page 38 of the agenda book. As of March 31, the fund balance was \$631,712. It is anticipated that approximately 6,500 attorneys will register in 2023, adding approximately \$162,000 to the fund balance. The court is contemplating ways to spend the funds.

Chief Judge Melgren received a \$5,000 request from the Federal Bar Association (FBA) for their upcoming national convention. The Western District of Missouri has already given \$5,000 to the FBA to assist in funding the event.

Judge James encouraged supporting this request. Although there may be concern that this could open a Pandora's box of similar requests from other bar organizations, the FBA exclusively supports the federal court and provides CLE that improves the quality of the federal bar.

Angela Gupta shared that she is currently the President of the Federal Courts Advocates Section (FCAS) of the Kansas City Metropolitan Bar Association that focuses solely on federal court practice. She believes this organization falls into the same category as the FBA. After further discussion, Ms. Gupta made a motion to approve \$5,000 from Bench-Bar Committee funds to support the FBA's annual conference. Jennifer Hill seconded the motion, and it was unanimously approved by the committee.

Judge Crabtree announced the completion of the map of the federal criminal process. He thanked the Federal Public Defenders Office and Ryan Hudson for their work on the project. Ms. Brannon said the map is available on their website and can be widely shared. They recently started sharing it with clients and found it to be very useful. Judge Crabtree suggested the map be reviewed on a regular basis to keep it current as things change.

7) New Business and Fall Meeting

Tim O'Brien provided an update on the Kansas Bar Association Bench-Bar Committee. Their focus has recently shifted to working with the Kansas State Legislature to increase funding for state court agencies and judges. His committee is also working on ways the KBA can

organize the process of educating voters and guiding them through the Kansas appellate judge retention process.

Judge Crabtree announced there will be two vacant positions on the bench-bar committee at the end of the year and encouraged committee members to ask their colleagues to submit applications when the vacancies are announced in August. The fall meeting will be held at the Topeka Courthouse. We will share a date when it is scheduled.

The meeting having convened at 9:00 a.m., adjourned at 11:30 a.m.

Respectfully submitted,

s/ Kim Leininger

Chief Deputy Clerk