

Meeting Minutes: Trial Court Operations Committee
(Unofficial until approved)
December 19, 2018
9:00 a.m. Call to Order

**ND Supreme Court (1st Floor), Front Conference Room
and via GoTo Meeting**

State Capitol, Bismarck

Members Present

Anita Ibach
Judge Steven McCullough
Michele Bring
Chris Iverson
Bev Stremick
Jody Fixen

Members Absent

Judge Daniel El-Dweek

Others Present

Sara Behrens, Staff
Catie Palsgraaf, Citizen Access Coordinator

Chair McCullough called the meeting to order at 9:03 am. Chair McCullough directed the members' attention to the minutes of the September 26, 2018 meeting. **Ms. Stremick made a motion to approve the minutes. Ms. Fixen seconded the motion. Motion carried.**

Mental Health Commitment Forms

Chair McCullough moved on to the topic of the review of the Mental Health Commitment Forms (*meeting materials p. 7-23*).

Staff went through the final forms and no additional changes were made on the following: Report of Examination, Report Assessing Availability and Appropriateness of Alternative Treatment, Petition for Involuntary Commitment, Affidavit in Support of Petition, Application for Evaluation and Emergency Admission, Notice of Procedures and Rights, Notice of Purpose and Effects of Custody, Request for Transportation for Emergency Detention, Affidavit of Service and Request to Treat with Medication.

The final form discussed was the Order Following Preliminary Hearing. This form was put together by Chris Iverson and Staff. Chair McCullough found the form confusing as far as paragraphs 1, 2A and 2B. Staff clarified the intent is that either paragraph 1 or both parts of paragraph 2 would be met. Staff will work on making the form clearer and present at next meeting. Following next meeting, whole package of mental health forms will be sent to Administrative Council.

Small Claims Judgment Forms

Catie Palsgraaf was present to go over the small claims forms. (*meeting materials p. 24-34*).

No changes were made to the Judgment. Adjustments were made to the Notice of Entry of Judgment form to make it clearer. She also added an Affidavit of Service by Mail for the prevailing party to use to send a copy of the judgment and notice of entry of judgment to the judgment debtor. There was discussion about whether this would be generated by the clerk's office and sent or part of the packet. Ms. Palsgraaf explained that she set it up to be generated by the clerk's office to be provided to the prevailing party. It was decided that the Notice of Entry of Judgment, the Affidavit of Service and the Instructions would instead be made part of the small claims packet and be added to the forms on the website.

Ms. Palsgraaf asked whether the instructions made sense to everyone. Chair McCullough indicated that more emphasis should be put on the fact that the prevailing party does not need to serve themselves. It was also pointed out that something is missing from Step 2 where it states "party or parties in."

Because the forms will now be part of the small claims packet, the clerk letter is not needed.

Ms. Palsgraaf moved on to the Dismissal by Plaintiff. She stated that this is something that has come up a fair amount and clerks have requested a form to allow the plaintiff to dismiss the case prior to the defendant filing anything. Suggestions were made previously to make more room for an explanation and to add instructions. Chair McCullough would like this form included in the packet. There was discussion regarding with prejudice and without prejudice and concerns were raised that this could be confusing to the lay person. It was agreed that the form should be without prejudice only.

Chair McCullough directed attention back to the Judgment. He feels this form is a bit confusing after discussion of the other forms. Ms. Palsgraaf noted that this is the form that has been in use. Chair McCullough does not like how it is set out as it is not in logical order. He explained that it would be more logical to have the first section have request for dismissal, default and then hearing as the choices. The second section should be the ruling. Alternatively, it would be dismissed. Ms. Palsgraaf will work on the form and bring it to the next meeting.

Domestic Violence Forms

Sally Holewa received a request from Unit 2 for a change to the domestic violence forms and add the ability to check either granted or denied. The practice right now in many counties is to handwrite granted or denied. Everyone was in agreement that this would be a good change and that it should be located at the top so it is readily apparent whether it was granted or denied. **Ms. Stremick made a motion to approve the change and send it to Administrative Council. Ms. Iverson seconded. Motion carried.**

Order of Dismissal

Ms. Iverson received a request to add as a reason for dismissal "NDSH has filed a Notice of

Release.” This form was changed in 2015 to cut down the reasons. The request is just to add this third option because they are currently having to add it to the form. Nobody opposed the addition. This will be added to the other mental health forms and approved at the next meeting.

DOCR Request

The final issue on the agenda is a request from the Department of Corrections. Ms. Stremick was told that the judgment had to indicate that a mandatory minimum applied so that DOCR knows the defendant is not eligible for parole. Ms. Iverson discussed the issue with Jeff and Cammie at IT and it was decided the easiest way would be to add a condition the clerk could choose if the judge indicated a mandatory minimum applied. DOCR initially stated this was acceptable but now they have indicated they want more on the judgment. Ms. Stremick stated that some defendants are not being accepted at the penitentiary until the judgment reads what DOCR wants it to read. Chair McCullough noted that the statutes are clear that when a judge orders incarceration to the DOCR that the sheriff must transport the defendant to the State Penitentiary and the State Penitentiary must accept the defendant. Discussion was had on what the next step should be to address this issue. Staff will invite DOCR to attend the next meeting and indicate that Jessica Johnson may be the appropriate person to attend. It was mentioned that she spoke at the clerk’s conference a couple of years ago.

Ms. Iverson made a motion to adjourn. The motion was seconded by Ms. Bring. Motion carried and the meeting was adjourned at 10:14a.m.

Meeting Materials

- September 26, 2018 meeting minutes (*meeting materials p. 1-6*)
- Mental Health Commitment Forms – Review of Completed Drafts
 - Report of Examination (SFN 17244 (F-2)) (*meeting materials p. 7-8*)
 - Report Assessing Availability and Appropriateness of Alternative Treatment (SFN 17245 (F-2A)) (*meeting materials p. 9-10*)
 - Petition for Involuntary Commitment (SFN 17260 (GN-1)) (*meeting materials p. 11-14*)
 - Affidavit in Support of Petition (SFN 17261 (GN-2)) (*meeting materials p. 15*)
 - Application for Evaluation and Emergency Admission (SFN 17264 (GN-5)) (*meeting materials p. 16-17*)
 - i. Notice of Procedures and Rights (SFN 17262 (GN-3)) (*meeting materials p. 18*)
 - ii. Notice of Purpose and Effects of Custody (SFN 17267 (GN-8)) (*meeting materials p. 19*)
 - Request for Transportation for Emergency Detention (SFN 17265 (GN-6)) (*meeting materials p. 20*)
 - Affidavit of Service (SFN 17269 (GN-10)) (*meeting materials p. 21*)
 - Request to Treat with Medication (SFN 18075 (F-3A)) (*meeting materials p. 22*)

- Order Following Preliminary Hearing (C-8A) (*meeting materials p. 23*)
 - i. Draft submitted by Chris Iverson
- Small Claims Judgment Forms
 - Small Claims Judgment (*meeting materials p. 24*)
 - Small Claims Notice of Entry of Judgment (*meeting materials p. 25*)
 - Affidavit of Service by Mail (*meeting materials p. 26*)
 - Instructions for Notice of Entry of Judgment and Affidavit of Service by Mail (*meeting materials p. 27-29*)
 - Clerk of Court Letter (*meeting materials p. 30*)
 - Dismissal by Plaintiff (*meeting materials p. 31-32*)
 - Instructions for Dismissal by Plaintiff (*meeting materials p. 33-34*)
- Memo from Sally Holewa re: Domestic Violence and Disorderly Conduct Restraining Orders with attachments (*meeting materials p. 35-38*)
- Request from Chris Iverson re: Orders of Dismissal (C-4) with attachment (*meeting materials p. 39-40*)
- Request from DOCR re: criminal judgments and mandatory minimums (*meeting materials p. 41-49*)