

**MINUTES OF THE
FEDERAL PRACTICE COMMITTEE**

**FRIDAY July 18, 2002
Held at the Eight Circuit Judicial Conference
Minneapolis, Minnesota**

The meeting was called to order at 7:00 a.m. by Chief District Judge Richard Kopf. Federal Practice Committee members attending the meeting were: District Judge Joseph Bataillon, District Judge Laurie Smith Camp, Senior Judge Warren Urbom, Chief Bankruptcy Judge Timothy Mahoney, Magistrate Judge F.A. Gossett, Bankruptcy Clerk Diane Zech, District Court Clerk Gary McFarland, Federal Public Defender David Stickman, U.S. Attorney Michael Heavican, Roger Kirst, Robert Kirby, Todd McWha, Brenda Council, Charles Lowe, Stu Dornan, and Mary Gryva.

1. Chief District Judge Richard Kopf announced that Chief Bankruptcy Judge Timothy J. Mahoney had been appointed to the Bankruptcy Appellate Panel.

Chief Judge Kopf complimented Chief Judge Mahoney and pointed out to the Committee members that this is indeed an honor, as there were a number of highly qualified applicants who had applied for this position. Judge Mahoney explained to the Committee that while this will be an additional workload, it should not affect his workload within the District of Nebraska.

2. Chief Bankruptcy Judge Mahoney made a report to the Committee on the second bankruptcy judge position.

Judge Mahoney anticipates requesting that this position be filled in approximately two and a half years, approximately at the time that Judge Mahoney turns age 60. Judge Mahoney anticipates that he will either take retirement or senior status at age 65. By filling the position in two and a half years, the second bankruptcy judge will be given an opportunity to become aware of administrative functions of the bankruptcy court in order to better prepare this person for the chief judgeship.

Judge Mahoney pointed out that if an emergency happened within the District of Nebraska, it is relatively easy to cross-designate bankruptcy judges from other districts to help this district. If an emergency would arise, Chief Bankruptcy Judge Mahoney will ask the district court for permission to request a cross-designated judge.

Judge Mahoney reports that the bankruptcy caseload has increased 10 to 30 percent. It is anticipated that bankruptcy filings will total approximately 9,000 cases this year. As a result of the bankruptcy conversion to CM/ECF, the increased caseload can be easily handled without the need for additional employees.

3. Chief Judge Kopf reported that Judge Bataillon has been appointed to the Federal Judges Association.

Judge Kopf noted that Judge Bataillon had been selected to represent the Eighth Circuit judges in the Federal Judge Association. This is a high honor.

Judge Bataillon was then called on to report on two matters. The first matter he reported on was the current situation with Minnesota Chief District Judge James Rosenbaum and the issue of the House Judiciary Committee treatment of the Judge Rosenbaum.

Judge Bataillon then reported on the Amber Alert bill. Judge Bataillon pointed out that this legislation is of great concern, as it would result in a serious additional reduction of a judge's sentencing discretion.

4. Nebraska CM/ECF Team.

Chief Judge Kopf informed the Committee that the Nebraska CM/ECF Team had received the 2003 Director's Award. Additionally he invited the Committee members to attend the Pacer Fee study session to be held July 31, 2003.

5. Judge Bataillon and Chief Judge Kopf reported on the North Platte courthouse.

They explained that GSA had sent a letter to the judges indicating that the North Platte courthouse had been listed as a tier three courthouse. By designating this courthouse as a tier three courthouse, GSA is thus indicating that this building is underperforming as to the income which it is generating as compared with the expense to keep the building in the GSA inventory. Judge Bataillon has contacted the congressional contingent, and in particular, Senator Nelson's office. Senator Nelson's office is cooperating fully in working to keep this courthouse open. They have contacted other governmental agencies in an attempt to get the building more federal tenants, thus increasing the rent received for the building. At this time it

appears that the courthouse will remain open for the next five years. The court is committed to keeping its federal presence in North Platte under any circumstances.

6. Report by Gary McFarland as to the balance in the Federal Practice Fund.

Gary reports that the beginning balance on January 1, 2003 was \$206,853.57, and the current balance as of July 1 was \$197,689.45. Further, Gary reported that the Fund currently has as contingent liabilities the amount of \$47,742. Among these outstanding authorizations is \$21,000 for Kellie Paris Asaka to handle 15 prisoner civil rights cases at \$1,400 each. The maximum number of cases for Ms. Asaka is fifteen per year. Thus, the \$21,000 outstanding authorization may be overstated, if she is appointed on less than fifteen cases. In addition, the Federal Mediators Workshop has been approved for an authorization of \$5,000. Finally, the cost of attendance at the Judicial Conference by Federal Practice Committee members was estimated to cost \$18,700. At this time, the total of the approved, but not yet paid, authorizations total \$47,742.

Chief Judge Kopf directed that a copy of the July reports be sent to all members of the Federal Practice Committee.

7. Combining the Omaha and Lincoln civil dockets.

Chief Judge Kopf explained that this matter would be discussed at the Judicial Council meeting to be held July 28, 2003. The options before the judges are:

- (1) To do nothing.
- (2) Combine the Omaha and Lincoln civil dockets and have lawyers travel.
- (3) Combine those same dockets, but have judges travel.
- (4) Combine the docket for specific cases involving USA as plaintiff, pro se cases, social security cases and bankruptcy appeals.

Chief Judge Kopf mentioned that at this time he does not know which way the court will be going on this issue, but that all would be informed later.

8. Robert Kirby reported on the activity of the subcommittee which was appointed to examine the expenses of mediation training.

In brief, Bob reported that it is the subcommittee's recommendation that no

more than \$4,000 on average be spent annually on mediation training. This matter will be considered at the July 28 Judicial Council meeting.

9. U.S. Magistrate Judge F.A. Gossett III was introduced to the Committee.

10. Open Questions.

By David Stickman. David Stickman asked if the Federal Practice Committee would be willing to consider giving assistance to the Nebraska Minority and Justice Task Force, to assist them in presenting interpreter training. David is currently serving on the Minority and Justice Task Force. Chief Judge Kopf indicated that the Federal Practice Committee would consider this matter when presented with a request, but that a formal request should be made stating what training would be conducted, and what the ongoing process would be for continuing this training. Chief Judge Kopf did point out that the Federal Practice Fund has already provided the Minority and Justice Implementation Committee with the sum of \$2,500 this year. In addition, the Federal Practice Fund has previously provided roughly \$5,000 in support of the Supreme Court's interpreter training effort.

Stu Dornan indicated that the availability of interpreters for criminal defense lawyers is becoming increasingly important with storage of prisoners at Lexington and in areas south of Lincoln. Mary Gryva indicated the same thought as Stu Dornan.

Chief Judge Kopf complimented David Stickman on his fine work with the Minority and Justice Task Force.

By Senior Judge Warren Urbom. Judge Urbom asked if funding could be provided to the Jury Instruction Committee for the Eighth Circuit. Senior Judge Urbom pointed out that these lawyers are not compensated for their travel. Chief Judge Kopf advised that funding has been given by the District of Nebraska's Federal Practice Fund to the Circuit in order to fund the travel of these lawyers.

The meeting was concluded at 8:00 a.m. (Minutes taken by Gary McFarland.)