

## FEDERAL PRACTICE COMMITTEE MEETING MINUTES

October 27, 2017

Robert V. Denney Federal Building

Lincoln, Nebraska

Attendees included Chief District Judge Laurie Smith Camp, District Judge John Gerrard, District Judge Robert Rossiter, Jr., Senior District Judge Joseph Bataillon, Magistrate Judge Cheryl Zwart, Magistrate Judge Susan Bazis, Clerk of Bankruptcy Court Diane Zech, Chief Probation and Pretrial Services Officer Kit Lemon, Federal Public Defender David Stickman, Acting United States Attorney Robert Stuart, Committee Chairperson Andre Barry, James Smith, Stuart Dornan, Jeremy Fitzpatrick, Jay Elliott, Jay Jolley (participated by phone), Rubina Khaleel (participated by phone), Dan Klaus (participated by phone), Kristina Murphree (participated by phone), Matthew Munderloh, Daniel Placzek (participated by phone) and Chad Swantz (participated by phone). Chief Deputy Clerk of District Court Gabriela Acosta also attended.

The following individuals were unable to attend: Clerk of District Court Denise Lucks, Michael Fenner, Eric Berger, and Michelle Epstein.

Andy Barry called the meeting to order.

### 1. **Approval of Minutes**

Committee members approved the minutes from the April 28, 2017, meeting.

### 2. **Review of Federal Practice Fund**

Gabriela Acosta reviewed the committee's financial reports for the 12-month period ending September 30. The reports reflect that, as of September 30, the Federal Practice Fund balance is \$197,241.65.

### 3. **Review of Draft Budget Report**

Gabriela Acosta explained that each year the court's administrative services supervisor prepares a draft budget based on historical spending. As reflected in the reports, the projected 2018 year-end balance for the Federal Practice Fund is \$196,281.36.

**Action taken.** Judge Smith Camp and committee members approved the draft budget.

### 4. **Report from the Clerk of Court**

Gabriela Acosta handed out the Judicial Caseload Profile for period-ending September 30, and noted that the district judges are right at the national average for weighted filings.

## 5. Report from Federal Practice Committee Chair Andy Barry

### Membership

The following members have served at least two years and agreed to rotate off of the committee: Andy Barry, Stu Dornan, Jay Jolley, Kristina Murphree, and Dan Placzek. In addition, committee members voted to appoint Ken Wentz to the committee. Ken is an attorney at Jackson Lewis, and is very active in the Nebraska Chapter of the Federal Bar Association. Chief Judge Smith Camp approved appointing Ken to the committee. Finally, the following committee members agreed to serve on a membership subcommittee that will identify new members and nominate a chairperson for the committee: Jeremy Fitzpatrick, Stu Dornan, and Dan Placzek. Judge Rossiter will schedule a conference call with Jeremy, Stu, and Dan in the near future.

### Continuing Legal Education (CLE) Program

Andy Barry and Dan Klaus discussed the recent CLE program, “Plausibility, Proportionality, and Professionalism: Practice Requirements Under the Current Federal Rules of Civil Procedure.” Andy Barry stated that Dan Klaus, who served as the presenter for the event, did a phenomenal job and received a 100 percent satisfaction rating. Dan’s presentation materials include a summary of Nebraska District Court cases discussing pleading standards and discovery rules. The presentation materials are available on the Federal Practice Committee’s webpage.

- Editorial note: The course materials are available at <http://www.ned.uscourts.gov/attorney/continuing-legal-education/archived-course-material>.

Dan and Andy stated the survey results were very positive. Two issues raised in the survey results were that there should have been more time for questions and that it would have been helpful for the presenter to repeat the question asked before answering the question. Andy suggested that future similar programs should feature both a moderator and a presenter to better facilitate discussion between the presenter and attendees.

### 2018 Programming

The president-elect of the Nebraska Chapter of the Federal Bar Association asked if the Federal Practice Committee would partner for an event or CLE showcasing the authors of the book about the early years of the federal district court in Nebraska. The book still needs to undergo a peer review process and it is not clear when the book will be published. Judge Smith Camp noted that Nick Batter, who wrote the book’s chapters on Judge Joseph Woodrough, is an excellent speaker and would be a good addition to any such program. Nick is corporate counsel at Hawkins Construction Company. Judge Smith Camp also noted that there are rules that may prohibit selling and promoting the book in a federal courthouse so the event should be held offsite.

## **6. For the Good of the Order**

Dave Stickman reported that the Judicial Council discussed two items of interest at its October 27 meeting. First, the Judicial Council voted to amend the Nebraska Criminal Rules to no longer require attorneys to obtain affidavits from defendants when moving to continue trial, extend time to file pretrial motions, or extend or shorten discovery time. Second, the Judicial Council discussed the possibility of using federal practice funds to provide computers to inmates for use in reviewing electronic discovery materials. Judge Zwart and the court's Technology Working Group will research the matter.