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**2017-2018 Term**

Hon. Anne L. Dodd, Chair

Hon. Wendy A. Cartwright, Vice-Chair

Stephane J. Latour, Staff

Sharon Wright, Staff

**Board Members:**

Hon. George R. Ames, Jr.

Hon. Melissa Pollitt Bright

Hon. Sally Saunders Camp

Hon. Maureen Carr-York

Hon. Kimberly J. Cascia

Hon. Charles M. Coles, Jr.

Hon. Juliet G. Fisher

Hon. Athena Malloy Groves

Hon. Frank H. Lancaster

Hon. Theodore Philip LeBlanc

Hon. Michele E. Loewenthal

Hon. Leslie Smith Turner

Administrative Office of the Courts

Internal Affairs

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# CONFERENCE OF ORPHANS' COURT JUDGES

Maryland Judiciary  
Judicial College Education and Conference Center  
2011D Commerce Park Drive  
Annapolis, MD 21401

## MEETING MINUTES

### Members Present:

Hon. Melissa Pollitt Bright  
Hon. Maureen Carr-York  
Hon. Kimberly J. Cascia  
Hon. Charles M. Coles, Jr.  
Hon. Anne L. Dodd, Chair  
Hon. Juliet G. Fisher

Hon. Athena Malloy Groves  
Hon. Theodore Philip LeBlanc  
Hon. Michele E. Loewenthal  
Hon. Sally Saunders Camp  
Hon. Leslie Smith Turner

### Staff Present:

Stephane J. Latour

On Monday, June 5, 2017, the Conference of Orphans' Court Judges met at 10:30 am at the Judicial College Education and Conference Center to approve the March Minutes and to discuss the established agenda. Judges' Ames, Cartwright, and Lancaster were not present.

### **I. Approval of March 13, 2017 Minutes**

The Chair began the meeting by calling for the approval of the minutes of the March 13, 2017 meeting. Judge Carr-York requested a clarification on page six of the draft. Judge LeBlanc subsequently moved for approval of the minutes (as corrected) which was seconded by Judge Fisher.

### **II. Committee Reports**

#### Education Sub-Committee

#### 2017 Membership

Hon. Melissa Pollitt Bright, Co-Chair  
Hon. Wendy A. Cartwright, Co-Chair [absent]  
Hon. George R. Ames, Jr. [absent]  
Hon. Sally Saunders Camp

The Chair commended Judge Bright in front of the Conference for her herculean efforts in coordinating, assisting, and getting Orphans' Court Judges to complete the mandatory EEO Workplace online course. Judge Bright informed that the completion percentage was just short of 100%; that only three judges did not complete the course. Judge Bright asked the members to give some thought on how future online courses should be handled given that technological challenges exist for some jurisdictions. The subcommittee has now shifted its focus back to the pamphlet, and will have more information for the members about Orientation Classes for OC Judges at the next Conference meeting.

### Legislative Sub-Committee

#### 2017 Membership

Hon. Juliet G. Fisher, Chair  
Hon. Maureen Carr-York  
Hon. Kimberly J. Cascia  
Hon. Frank H. Lancaster [absent]  
Hon. Leslie Smith Turner

Judge Fisher informed that no meeting took place as session was over and there were no bills to consider. She did inform the Conference however, that HB87/SB156 (Baltimore County – Orphans Court Judges -Non Party Affiliation) was not voted on. Finally, she informed the members that she is having staff research the “public officials” vs “judiciary” issue discussed at the March meeting. The members voiced their opinions on this issue and proffered reasons as to why they were recognized in one capacity as opposed to the other. Judge Fisher will seek guidance from Alexis Rohde at OAG.

Finally, she shared her experience attending the National College of Probate Judges. There was a general discussion among the members about the importance of attending conferences.

### Policy, Rules & Forms Sub-Committee

#### 2017 Membership

Hon. Michele E. Loewenthal, Chair  
Hon. Athena Malloy Groves, Vice-Chair  
Hon. Charles M. Coles, Jr.  
Hon. Theodore Philip LeBlanc

Judge Loewenthal informed that Judge Groves presented changes to the website to the subcommittee which needs time to review them in detail before submitting a final draft to the Conference at its next meeting. The judge next discussed that the rule change for 16-813/Rule 3.9 (Services as an Arbitrator/Mediator) will be before the Court of Appeals on June 20, 2017. Judge Dodd highly suggested that someone from the subcommittee attend this meeting to support the rule change.

### Chairman's Report

The Chair discussed the following with the members:

- MAJOC declined to appoint members to the Joint Committee and will allow the Committee to be attended by all interested judges;
- Whether there was interest in pursuing the appointment of an Orphans' Court Judge, to the Commission on Judicial Disabilities and its Board; since no one was interested in serving, this will not be pursued;
- Ensuring that there is (adequate) communication with all OC judges who do not have email addresses; and
- Attorney Britt Stouffer agreed to pass on her suggestions for changes to the Maryland Rules regarding the responsibility of personal representatives to distribute firearms legally. Additionally, she handed out some information at the State Bar dinner held last May concerning a procedure manual for executors published by the ATF that gives guidance on avoiding criminal liability. This information will be forwarded to the Chair for distribution to the Conference.

### *Ex-Officio Legislative Caucus*

- Present at the meeting held on May 25, 2017 were: Register Loraine Hennessy (President of ROW Association), Judge Athena Malloy Groves (President of MAJOC), and Judge Anne Dodd (Chair of Conference of Orphans' Court Judges).
- Judge Dodd reported that the proposed change to MDRule 16-813/Rule 3.9 – *Service as Arbitrator or Mediator* – allowing Orphans' Court judges to serve as mediators, was passed.
- Register Hennessy said she received the letter from Mr. Spence regarding obtaining subpoenas via the MDEC web site but the registers were unable to act on it at this time.
- Judge Dodd asked Ms. Britt Stouffer for her suggestions on possible Rule changes regarding the responsibilities of personal representatives with regard to firearms, and will pass on this information once received.
- Judge Groves said that there is a new annual form for guardianship of the person that was adopted in 2016.
- There was a discussion about E & T §2-109 - *Judges Prohibited from Practicing*

*Law*, which does not allow Orphans' Court Judges to practice law in the majority of jurisdictions. In Baltimore City, Baltimore County and Prince George's County, judges are required to be attorneys; in Howard and Calvert Counties they may practice law; and in the remaining 17 counties they are prohibited from practicing law.

- Register Hennessy said that the registers were indifferent regarding any change to the name of the Orphans' Court.

*Staff Report* - The Conference was informed that the subpoena used in their cases could be placed in MDEC but it is not feasible at this time.

### III. On-Going Issues

There was no discussion.

### IV. New Issues

Judge Malloy Groves raised an issue for discussion relative to the Register of Wills who don't require or ask for consent from foreign heirs for the purpose of authorizing a personal representative and gave a hypothetical example for consideration. None of the other members had encountered this situation, but Judge Groves informed she has encountered this situation often in her jurisdiction. There was a subsequent conversation regarding the use of interpreters.

Judge Dodd raised a circumstance involving a male decedent of Middle Eastern descent who had a notarized but unsigned will that left everything to his wife. As a result, the matter was probated as an intestate will. As a consequence, decedent's father got half the estate.

Judge Loewenthal described a case wherein property was left to two relatives, one of who became the personal representative. The PR came before the court and argued the other relative should not get anything because she did not assist the PR in the handling of the estate. Judge Dodd informed that in co-PR situations, there is a provision that outlines how to handle such a situation; acknowledging this was not the fact pattern at issue.

There was a general discussion about estate cases involving the underling crime of murder and the Slayer Rule as a result of an inquiry by Judge Smith Turner.

Judge Coles asked the Conference about what language jurisdictions were using in relations to the distribution of firearms. The members discussed how this matter is still under review, and Judge Dodd refereed back to the Britt Stouffer/ATF language judges are trying to obtain.

**V. Review of Action Items**

- Research membership for Commission on Judicial Disabilities and its Board. **Staff**
- Research how OCJ are classified, i.e., public vs. judicial office, across the board in the Maryland Code (relative to the Election Law). **Judge Fisher**
  - Contact AAG Alexis Rohde on this issue for advice. **Judge Fisher**
  - Inform Stephane Latour of feedback of AAG Rhode for possible conversation of issue with Kelley O'Connor (Government Relations Division) **Judge Fisher**
- Report back which Judiciary web page allegedly does not reference OC. **Judge Cascia**

**VI. Adjournment**

The Conference adjourned around 12:45 pm.