LABOR-MANAGEMENT COMMITTEE MEETING

Set forth below are minutes of the recent AALJ/SSA Labor-Management Committee meeting held in Falls Church, Virginia. AALJ Executive Vice-President Marilyn Zahm is Chair of the LMC, a responsibility she has discharged admirably for almost seven years. As Chair, she prepares the agenda, in coordination with other LMC members as well as members of the NEB. Judge Dale Glendening and Marilyn prepared these minutes of our recent meeting.

AALJ Labor-Management Committee Agenda

June 10-11, 2015

For the Union
Marilyn Zahm – New York Region
Randy Frye – Atlanta Region
Dale Glendening – Atlanta Region
Peter Valentino – San Francisco Region
Ryan Alger – Boston Region

For Management
Joan Park Saunders – Dallas Region
Sherianne Laba – Kansas City Region (tel.)
Michael S. Hertzig – Dallas Region
Vadim Mozyrsky – Seattle Region
Amy Uren – Atlanta Region

Other Participants
John D. Kuhn – Division of Quality Service (DQS)
Peggy Coleman - DQS
Stephen Auth - DQS
Celene Wilson – Office of Labor Management and Employee Relations (in person day 1; telephone day 2)

Associate Chief Judge Garmon appeared by telephone and addressed certain issues on behalf of OCALJ.
1. Please provide the names of all Judges having their hearings scheduled for them by the Agency/HOCALJ pursuant to the pilot program provided for in the recently enacted regulation on scheduling. Please provide the criteria used to select the Judge(s)

None

2. Please provide a list of all NHC judges who have transferred out of an NHC during the past 4 months, with the following details:
   (A) what NHC they transferred from;
   (B) what ODAR hearing office they transferred into;
   (C) the date of assignment to an NHC;
   (D) what prior Agency experience, if any, they had;
   (E) the date of transfer from the NHC.
   (F) the date of their written request to transfer from the NHC.

NHC judges are included on the reassignment register. John Kuhn noted that the transfer register would show the judges being transferred out of the NHCs.

3. The Agency said that they would get back to us about why there was such a discrepancy between the allowance rate of the Hearing Offices and the allowance rate of the NHCs. At our last meeting, the Agency stated that they would provide more statistics to analyze this issue.

Judge Garmon said that it was hard to pin down a reason for the difference, although he disputed that there was any significant difference or that the discrepancy had any meaning. He noted that allowance rates among hearing offices differ.

Marilyn stated that the discrepancy was, in fact, significant (see below for the figures from the last LMC meeting) and that the representatives were well aware of the discrepancy, which is probably why many turn down video hearings. One of the managers remarked that this would occur only until video hearings are made mandatory. AALJ opposes video hearings being made mandatory. AALJ is adamant that the American public should have access to in-person hearings.

### ALLOWANCE RATE FOR NATION AND FOR EACH NHC
(FYTD 2015 THROUGH FEBRUARY 27, 2015)

<table>
<thead>
<tr>
<th>OFFICE</th>
<th>FY 2013</th>
<th>FY 2014</th>
<th>FYTD 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>NATION (EXCLUDES NHCs)</td>
<td>47%</td>
<td>44%</td>
<td>44%</td>
</tr>
<tr>
<td>NHC ALBUQUERQUE</td>
<td>44%</td>
<td>36%</td>
<td>34%</td>
</tr>
<tr>
<td>NHC BALTIMORE</td>
<td>44%</td>
<td>42%</td>
<td>45%</td>
</tr>
<tr>
<td>NHC CHICAGO</td>
<td>33%</td>
<td>28%</td>
<td>26%</td>
</tr>
<tr>
<td>NHC FALLS CHURCH</td>
<td>41%</td>
<td>37%</td>
<td>35%</td>
</tr>
<tr>
<td>NHC ST LOUIS</td>
<td>40%</td>
<td>42%</td>
<td>38%</td>
</tr>
</tbody>
</table>

Source: CPMS MI and DART Tables (DITI)
Prepared by: OESS/DMIA on March 10, 2015

Marilyn renewed her request for statistics to illuminate why the discrepancy occurs.
4. Cases are being culled from local hearing offices to send to the NHCs. All of the unrepresented claimants are being sent to the NHCs when this occurs, which leaves the judges in the local hearing offices with the most difficult cases and allows the NHCs to tout their case-handling ability – which is skewed by their caseload-type. This practice must be stopped.

Judge Garmon advised that management has no information that supports this assertion nor does it have data to support such a pattern; the rule is that cases are transferred on a first in, first out basis. Marilyn said that this is occurring in the Rochester hearing office and is likely a result of the way in which the Agency has determined to send cases out.

5. At the last few meetings, CALJ Bice said that she would post good instructions on the In Chambers web site for illustration purposes. Can we find out when this will be done?

Peggy Coleman reported that sample decisional instructions have been prepared for training purposes and that they will be placed on the website.

6. Region 3 is assigning cases to senior attorneys for them to make the determination on good cause issues and critical cases, rather than the judges. This is improper. Please stop this at once.

Agency representatives professed not to know anything about this. Bill Clark read an email dated May 2015 from a manager in the Philadelphia East Hearing Office that specified that senior attorneys would be assigned cases to make these decisions. Judge Park-Saunders, who stated that this should not be done, will follow-up.

7. Bad Boy/Bad Girl letters – Some HOCALJs and HODs are sending out these letters whenever a case becomes “seriously delinquent” which, by the way, reflects nothing more than arbitrary numbers. Often these delinquencies are caused by management behavior, such as dumping many drafts into EDIT at one time or piling too many cases in ARPR. No common sense is used in issuing these letters; for instance, judges out on leave for extended periods receive them immediately upon return. Further, HOCALJs are stating that there are no extenuating circumstances when cases are late, which is untrue. We want to address the following matters:
   - Extenuating circumstances – what does the agency consider them to be? Do HOCALJs have any discretion?
   - Deduct the days the judge is out of the office when compiling figures for “delinquent” cases
   - Consider only work days when determining if a case is “delinquent”
   - Double the amount of time in each category for determining delinquency.

Peggy noted that this was discussed in March – these determinations are made on a case-by-case basis. Judge Garmon reiterated that. Marilyn stated that she is getting complaints from judges about harassing letters from management under circumstances that do not warrant such action. Judge Garmon said that if cases were old before the extenuating circumstances occurred, then this would be something to be considered. Marilyn cited a case that is subject of grievance, where a HOCALJ is refusing to take health and family crises into account, deeming them not to be extenuating circumstances. Judge Garmon requested specifics; the grievance will be sent to him.

Judge Garmon stated that the HOCALJ typically makes the decision as to whether there are any extenuating circumstances; the HOCALJ has the discretion to do so. It appears to AALJ that some HOCALJs are quite dismissive about extenuating circumstances. Marilyn asked whether Management has a list of what constitutes extenuating circumstances and whether there is written
Agency policy on the subject. Judges Park-Saunders, Laba and Garmon denied that they had seen any policy in this regard. Judge Park-Saunders stated in Region 6, management seeks a dialogue with the judge about how to get the case moving.

Peter Valentino stated that support staff supervisors should be able to determine a reason why a case has not moved. Judge Park-Saunders indicated that staff may or may not know whether the status if correct and what if anything is occurring that is causing the case to not move

AALJ is asking the agency to use “work” days and not calendar days in computing the age of a case. Judge Garmon stated that we must be mindful of public service and calendar days define the period that that a claimant is waiting.

Peter noted that there are judges who have substantial dispositions and still are called out because of cases in ARPR status too long. Marilyn added that judges have a strong work ethic - they work at home and in the office on their own time, strive to “make” the numbers, but still are criticized when they fall behind.

Marilyn recommended that the agency change the definition of “seriously delinquent” to allow the judge more time, since clearly this is an artificial time line. Judge Garmon indicated that AALJ’s request is noted.

Judge Uren advised that they use a weekly T-1 report in the Macon ODAR for those judges who request it and that this has been well-received. It is a useful report, showing the days in status of all of the Judge’s cases. Marilyn indicated that she thought this was the best tool she has heard recommended because it is a non-judgmental and only is provided to those judges who want it.

Judge Alger reported that in his hearing office, a greater number of cases are being sent out for writing and, when returned, “dumped” – all at one time - into his case load as “edit”. It is impossible to edit 15 to 30 cases within the “seriously delinquent” time frame, particularly when these cases are returned from out of town writers. Bill Clark asked whether NCAC was bundling cases when sending them back to the hearing offices (which is what likely is leading to these “dumps”).

Marilyn asked what management intends to do about this problem. Judge Park-Saunders said that management will have to address this.

Judge Park-Saunders indicated that there is a need for better communication between management and judges.

There was further discussion regarding a judge managing his or her own work load. Judge Glendening indicated that Group Supervisors were not being mentioned in this discussion. What is the role of Group Supervisors in case management? Managers did not respond.

Management brought up DART reports as a method for managing the caseload. Marilyn noted that judges as a group have never had training on DART.

Marilyn noted that the Do It Yourself (“DIY”) mentally is pervasive throughout the agency. Judges have more and more work shoved on them and yet the “expectation” for 500-700 dispositions is never adjusted.
8. Questions regarding so-called Quality Review:

- When a QR person reviewing a decision writer’s draft identifies an alleged ALJ error, what is the route it then takes to be communicated to the ALJ? (QR to RCALJ to HOCALJ to ALJ?)

Mark Sochaczewsky, Carolyn Tedino & Melinda Wells responded by telephone.

In-line quality review pulls cases randomly from RTS, EDIT and SIGN to determine policy compliance and legal sufficiency. If the writer does not have a policy compliant decision, it may be because of the judge’s decisional instruction. There is no category for “ALJ error.” If there is a problem with the ALJ’s instructions, the QR will suggest feedback to the ALJ through the RCALJ and HOCALJ. If both agree, then the HOCALJ will have a collegial discussion with the judge, the purpose of which is training to improve the process. Records are not kept of the feedback or discussion.

- How does the QR person denominate the alleged error and what do the different denominations mean? (ALJ error 1)

There is no category of “ALJ error.”

A Group 1 error is defined as something that will lead to a remand (such as, no discussion of SGA after onset, the finding of a severe impairment where there is no corresponding limitation in the RFC).

Group 2 errors are those errors unlikely to result in remand. Non-compliance with eBP is a Group 2 error (such as inappropriate documentation of movement status in CPMS or clerical mistakes).

- Are all alleged ALJ errors identified by QR persons communicated to the ALJ? If not, please explain.

There is no QR finding designating an ALJ error. Any concern with an error in the instructions should be communicated as noted above.

- Are HOCALJs the only management personnel that communicate an alleged ALJ error to ALJs?

Yes.

- What instructions are given to HOCALJs about communicating QR ALJ alleged errors to ALJs? Are these directives that the ALJ must follow or risk disciplinary action?

Advice and guidance are for “teaching” purposes and are to be performed in a collegial atmosphere.
Marilyn asked what will happen if ALJ does not agree with the HOCALJ. Judge Sochaczewsky stated that judges have the final decision – the HOCALJ will not interfere with judicial independence.

- Does the HOCALJ have to make any “outcome” or “disposition” report on QR ALJ errors communicated to ALJs? If so, where is the report kept? Who gets copies? Does the ALJ get a copy? How long is the report kept?

No report is made; no record is kept and no disciplinary action can result.

In response to Peter Valentino’s question, the Appeals Council has no access to any documents or data from the QR process and cannot use this information in its decision-making.

- Are reports kept by ALJ names?

No, not for ALJs or for anyone else.

- Is this the QR process for writers: when QR identifies errors in the decision writers draft, the HOD or GS then communicates a paraphrase of the QR identified errors (directed not to give the actual QR report to the writer); the writer then makes the corrections; the HOD or GS reviews the corrections; and has to file some kind of a closeout report. Is there is a similar requirement for HOCALJ?

There is no close out report. Once QR reviews are completed, they may be shared. The HOD can communicate feedback to employees – but not to ALJs.

The QR staff uses a checklist to review each case; there will be 108 questions to address in the new checklist.

Marilyn asked about obtaining reports outlining the findings of the QR reviews. Judge Sochaczewsky will look at and see what information can be shared.

The QR staff is “ramping up” its review of the NCACs and pulling-unit work products – cases are chosen by random sampling.

It is expected that the QR program will be permanent.

9. Travel dockets. See attached for reasons why we need to change the current guidelines. In addition, there are problems outlined below with splitting travel dockets:

   Here in Seattle, we have historically had travel dockets around the state. With the advent of videoconference hearings, it hasn’t always been necessary to travel for the entire docket, and a number of the ALJ’s split the dockets either by doing part in person and the rest in the home office, or splitting it with other judges so one does the in person and the other does the video portion and then they switch off. This has the effect of reducing travel costs for the agency and reducing the amount of travel judges are required to do.

   However, recently, they are being told they cannot split the dockets, as they must do a travel docket of not less than 24 cases. The infamous “Anglada” memo is their authority. Therefore, if
only 8 hearings need in person and the rest can be either incorporated with regular Seattle hearings, they are being denied the ability to do this because they are “required” to do a 24 case docket while in travel. Travel dockets are actually being denied.

Of course this is nonsense and makes a mess of so many things. It is not and has never been a “requirement” that all travel dockets must have 24 cases. The Anglada memo also predated video hearings. To force judges to have a full 24 cases, means they end up holding hearings in person that could be video and increases travel costs. It also delays hearing cases because judges have to wait for the travel docket to schedule the hearings instead of just incorporating them into their Seattle hearings.

We have recently been told we have to travel to the Tri-cities in Eastern Washington, which is at least a 4 hour drive. Until this, the furthest was Yakima a 2 ½ to 3 hour drive. Yet, we are to hear the same number of cases.

More problems from Seattle:

Seattle judges are being told that EVEN when they are allowed to travel for part of a docket, for example Monday and Tuesday, and then return to the office for in person for, again for example, Wed, Thursday, and Friday (which is possible for Bellingham as it is close enough to drive back and forth) they STILL have to schedule a full 24 hearings that week. Or another scenario, the judge is able to do the entire “travel” docket at home because they don’t have any video declinations, they are being told they MUST schedule a full 24 cases, again citing the Anglada memo.

From another office:

We are getting dockets for remote sites where some claimants have declined video and others have not. Local management says it is too difficult to pull only video declinations and put them on distinct dockets due to aged case/critical case priorities. Myriam suggested that the declinations be scheduled on the same day[s], so that a judge could do some of the cases live and do the rest from Albuquerque. Local management relayed the proposal and region rejected as below.

The proposal would save hotel costs and the travel distance does not change based on the length of the docket.

Judge Garmon advised that the Judge Anglada memo (referenced in the CBA) is still in effect. Marilyn asked whether the memo could be revisited in light of changed circumstances since it was first issued many years ago; a statement outlining why the Anglada memo should be changed was provided to the Agency. Judge Garmon said that he would forward our request to OCALJ. AALJ noted that the Anglada memo is guidance, yet it is being applied in an inflexible manner. Judge Garmon said that this was up to the local management.

Judge Garmon advised that splitting dockets is a local management decision, allegedly made in conjunction with the overall needs of the office. He refused to address any of the particular situations brought to the attention of the LMC, as above.

10. Please have someone from OCALJ who has been participating in the discussions with ACUS and OPM regarding ALJ hiring attend the meeting to answer questions.
Agency representatives advised that they are not able to comment on this issue at this time. Judge Garmon said that this is the advice that they have been given. He refused to say why the Agency is being so secretive.

NB: Marilyn has met with OPM and OMB to find out what has been going on in the ACUS/SSA/OPM/OMB discussions. The Agency has advised OPM that they will be hiring 250 new judges in FY 2015 and the following two years. The discussions have involved making sure that there are enough names on the OPM list to satisfy the hiring needs. Also, the parties have been discussing speeding up the hiring procedures to bring judges on more quickly. It is unclear why SSA feels the need to keep these discussions from us.

11. What is agency plan to correct inaccurate focused review reports? Who is doing the focused reviews and what are their credentials? How much time do they spend doing the focused review on a particular judge? What parts of the cases are reviewed when doing the focused review? Do they listen to the recording?

Agency representatives advised that a team of OAO analysts listen to the recording of the hearing and study the case file “in great detail.” No other information was forthcoming regarding the above questions.

12. How many focused reviews have been conducted to date? How many of these are repeats of the same judges who underwent a prior focused review? How many ALJs are being “retrained” at this time? Identify the nature of the retraining including any “focused review” (names of the judges retrained, where the training was provided and the type of training provided). How many judges have their training being prepared and how many were subjected to the focused review and found not to need any training. Why were these Judges chosen for retraining? Please list the specific reason for each.

Peggy reported that she does not have the focused review data now to give to us, but will provide it later, except for the names of the Judges who have undergone a focused review.

Marilyn inquired whether the agency intends to discipline judges for high or low reversal rates. Judge Garmon advised that the agency does not conduct focused review based upon the reversal or affirmation rate. Marilyn stated that Agency representatives in the past have admitted that this is one of the criteria for selection of a judge for a focused review (“outliers”); moreover, it is clear from what we know of judges who have undergone a focused review that this is a factor.

13. Please provide the plans for training judges for use of the eBB case information summary sheet.

A VOD will be released soon.

14. Hardship details – the AALJ would like a list of all hardship details applied for since November 2014, and the reasons and description of documentation provided for each application. What reasons were given for denying hardship details? How many were granted/denied?

Peggy Coleman reported that they do not have this information.

15. Schedule of next classes of hires for the remainder of the fiscal year: what dates EOD and what dates for training? How long is the current affirmed list valid? When will the next affirmed list requests be sent out in anticipation for the hiring of the new class?
6/29/15  EOD with training to start July 20

08/10/15 EOD with training to start  8/31.

09/07/15 EOD with training to start 9/28.

Peggy will be the contact person for accommodations for these classes.

16. We have requested on a number of occasions that an agency attorney address the issues raised in the attached memo on the Bankruptcy Stay. Could whoever in the agency decided that it was OK to approve fee agreements/petitions of Binder and Binder attend the LMC to explain why the attached is incorrect? Or – address it in writing. We would like an answer.

Peggy advised that the guidance came from OGC, but the guidance did not address the specific legal arguments outlined by one of our Judges (a bankruptcy expert) who wrote the memo. It is clear that the Agency has no intention of providing us with any more rationale for its position other than “we say so” and that the processing of fee agreements is an exercise of the Agency’s regulatory authority which is an exception to the Stay order.

17. Please provide the dates of the New Judge Refresher Training sessions and the locations.

The First Session will take place November 2-6, 2015 at SSA Headquarters in Baltimore.

18. Please provide a roll out schedule to date; problems with the new laptops.

No roll out schedule was provided.

Pam Cox and Nancy Johnson addressed the problems with new laptops:

- Not all of the equipment is functioning properly (although some problems may be particular to a certain piece of equipment – a keyboard where the keys stick, the monitors going blank during the hearing, etc.)

Advise the HOSA of such problems. Replacement keyboards will be issued for ones that don’t work properly.

Do not put up with problems – escalate them to the Region or HQ if they are not resolved by the HOSA.

The Agency has ordered adjustable stands for monitors and the current stands will be retrofitted. We cannot use the old stands in the meantime. You can use a ream of paper to lift the monitor up until the new stands are provided.

With regard to the keyboards (which many judges consider too small for comfortable use), judges can ask for ergonomic keyboards and mice if they experience any pain. We cannot use the old keyboards because it might void the warranty (although Frank Biro disputes this reasoning; he is checking into it).

- Not able to connect to VPN at home
Have the HOSA check the configuration especially if the judge uses Dragon. The Regional Dragon Coordinator may need to be called upon.

- It takes the laptop 10 to 15 minutes to log off and shut down – which means the judge has to wait around before the laptop can be disconnected so as to take it home.

There is a fix for this.

- Logging on and off is slow.

There is a fix for this.

- Old monitors are being shipped away – why can’t we use them?

The Agency contended that there are “ethical considerations” in allowing us to use the old monitors at home; also considerations such as: does the Agency have to service the monitor? Assist the judge in transporting it home? They contended that there were a number of “insurmountable obstacles.” AALJ disputes this, but has no way to force the Agency to let us use the old monitors.

The desk top computers will be left in the Hearing Office until all judges have laptops.

- Many judges do not like having to carry the laptop back and forth to the hearing rooms several times a day.

The Agency’s response: the whole point of a single device is to carry it around. Whether the Judge needs a reasonable accommodation to have the laptop transported in some other fashion depends on the specific facts involved.

- The new horizontal screen is narrower (top to bottom). The eye does not follow the page as well since the narrower screen requires the user to move more of the page out of view in order to see the rest (bottom) of the page, and to move it more frequently.

Settings can be changed; see the HOSA.

- The default font on the horizontal screen is unnecessarily large. A viewer can only see \( \frac{1}{2} \) page at any time. The font can be reduced by clicking an icon, but the viewer must perform this activity separately and individually for every exhibit s/he wants to see. This will result in much more scrolling, clicking and lost time than before.

Settings can be changed; see the HOSA.

- On the vertical screen, the default font is very, very small. If a viewer doesn’t have eye problems, s/he soon will. The default will also increase squinting and craning of the neck and spine even more than the prior screen workstation in order to see the letters.
Both screens retain the font enlargement function, but with deficiencies. From the default position, screen fonts can be enlarged 8 times; however, on the vertical screen after 2 clicks the right side of the page is no longer visible, and the user must stop case review and move the bar at the bottom of the page to slide it back and forth to view the right edge. This renders over 75% of the font enlargement function useless, unless the user wants to stop case processing and slide the page back and forth from left to right for each page. All the clicking to enlarge or reduce the font will result in lost time and CTS issues.

The vertical screen only uses 60% of the available space.

Finally, and hopefully, this is just a “bug” that can be fixed, but there a 20 second delay when moving the mouse cursor from one screen to another.

These are serious deficiencies that will certainly result in slower case review, even if one considers only the delay in the mouse cursor.

19. A problem with VPN/Telework:
   Ensure all ALJs have access to esign, K drive and outlook folders from home;
   it is extremely time consuming to have to change a password at home. Please change the password notification to a 5 day window. Then, the judge will be notified in the office and can change the password before the judge has to telework.

Please have someone from Systems Security present to address this issue.

The Agency advised that all ALJs have access to esign, their K drive, and outlook folders through VPN. If there is a problem, the HOSA should be notified.

With regard to changing passwords, the Agency stated that there is no plan to make sure the judge is notified in the office rather than on telework of the need to change the password. It was suggested that judges calendar the date to make the change while in the office (first screen in PCOM).

20. Update on status of automation initiatives.

No new updates or initiatives.
21. Please provide information on the number of requests for hearing filed since November 1, 2014, broken down by month. Please provide information on the number of initial claims filed since November 1, 2014, broken down by month. Please provide a list of total cases pending for each ODAR office.

Data will be provided to us.

22. Budget and staffing update; what is the Agency’s vision for the number of judges and locations within SSA.

Harold Atkins, OBFS reported, that the Agency plans to hire 250 ALJs in FY 2015 and the same number in the next couple of fiscal years. We have netted only 17 ALJs so far this year because attrition has been greater than anticipated; there has been a net increase of 100 staff in the hearing offices. There were 1472 ALJs as of May, with a target of 1600 by the end of FY15 and a goal of 1900 in FY18. The Agency has hiring authority for a 4:1 ratio of staff to ALJ, with a goal of 4.5:1. Overtime has been authorized for Saturday decision writing and case pulling.

The Agency is aiming to reduce processing time to 270 days by FY20.

Frank Biro noted that management meets regularly to address the issue of locating office space for newly hired judges and employees.

23. Update on the location, staffing plan and status of all proposed and approved new hearing offices and hearing sites, and any existing sites which are being enlarged, including claimant-only video sites, remote sites, and relocated offices. Status of new satellite offices such as in Florida.

Frank Biro noted that information regarding space actions has been posted to the DMR webpage. (access it with this link).

Fort Myers is close to being complete in its transformation into a regular hearing office.

The NCAC in Louisville KY should be online in August or September 2015. Writers are being hired.

The NCAC in Richmond CA should have furniture installed in June and employees occupying the space in July 2015.

Marilyn reported that there is a bad situation in Rochester NY (Reg 2) where the office is split among three locations. The current situation does not allow judges to perform efficiently or effectively. Frank reported that no one is bidding on solicitations for new space but he would make this a front- burner matter. Consideration has been given to expanding the delineated area. It was recommended that, if at all possible, the office be located in the downtown area for transportation reasons. The agency should involve the local judges in the process of finding new space.
Marilyn also asked what SSA is going about Brooklyn. Frank indicated that he would address this with the newly appointed RCALJ.

24. What new hearing room availability has occurred in the last three months?

Other than the proposed four (4) additional hearing rooms in San Diego, there are no other projects right now to build new hearing rooms. The Agency is looking at its real estate inventory to see where more bodies can be located; operations has space.

Frank Biro wants one JOV (Judge Only Video) room in each hearing office. Frank explained the considerations of creating JOVs in terms of soundproofing and lighting.

Marilyn noted that she understood that judges would not be required to use JOVs, but they could volunteer to do so.


Frank Biro reported that all of the new hearing room furniture is supposed to be on the Furniture Wizard. The Agency will not retrofit current offices until they move.

26. Please advise as to the number of non-judicial staff in the hearing offices as of 1/14 and the present. How many staff members have we lost?

These figures will be provided to us at some point.

27. Update on the status of cases involving the discipline of Judges before the MSPB: how many, what are the facts, what discipline is being proposed, what decisions have been issued since March 1, 2015.

No new actions since the last meeting.

28. Bias/Misconduct Complaints:

- How many complaints have been directly filed with DQS since February 28, 2013?

- How many complaints have been filed with other components (Not AC) since 2/28/13? How long has it taken for those complaints to get to DQS?

- How many AC referrals since 2/28/13?

- Dispositions since 2/28/13: How many substantiated, how many not substantiated?
• How many complaints have been deemed untimely?

• Examples of AC referrals to DQS since February 28, 2013. Examples of what the AC considers egregious since our last meeting in December. What explanation accompanies these referrals?

29. Status of the National Hearing Offices

(A) Changes/additions re: staffing and case assignments
(B) Names of Judges hired since May 2014 and prior employment
(C) Decisions/dismissals issued per Judge per NHC office for FY 2014, to date.
(D) Plans for additional national hearing offices

30. Please arrange for someone from the new National Office where SSA’s Reasonable Accommodation process is centralized to attend this meeting to provide us with information about reasonable accommodations for orthopedic problems, hand problems, and employees in wheelchairs. The Agency is dragging out the process of reasonable accommodation in order to avoid its responsibilities.

The Center for Disability Services is the central point now for policy and procedure regarding the reasonable accommodation process. This office is under DCHR Office of Personnel. Lori Karl and Doug France addressed the group. There are two avenues to obtain specialized equipment: ergonomic equipment can be requested without establishing a disability; reasonable accommodation is available for those with a disability.

• Dragon Naturally Speaking (DNS) is available for anyone who wants to use it. If one of our business applications is not accessible to DNS, send the problem to Doug France who will work with Pam Cox at ODAR. The Employees with Disability version is configured for the hard drive. A contractor will provide comprehensive training – up to 10 days – at your work station in the office; there is also a help desk accessible.
• Specialized keyboards and a mouse are available.
• There is also a “sub-process” of requesting an ergonomic keyboard even if the judge does not have a disability or does not have grounds for a reasonable accommodation. ODAR has these keyboards available upon request.
• Pointing devices are available as reasonable accommodations (mice, tripods).
• A personal assistant may be provided if the technology cannot perform the task and the disability is significant.
• Navigation devices (such as a wheelchair) can be obtained as a reasonable accommodation.
• Adjustable work desks, chairs, and judges’ benches are considered reasonable accommodations.
31. Complaints against representatives: Please provide updated information on the complaints filed against representatives since October 1, 2013: how many filed, a description of the circumstances, and the outcomes. (OGC)

No new complaints have been filed since our last meeting.

The procedure for filing a complaint against a representative is as follows:

- The Judge should initiate the complaint with the HOCAIJ by providing the specifics of the representative’s actions in writing.
- The HOCAIJ will provide this to the RCALJ, who will send it to OCALJ and then to OGC.

Marilyn asked why the Judge could not just send the complaint to OGC with a copy to the managers noted above, but the Agency representatives said the Agency does not want Judges to communicate directly with OGC.

32. How many judges have retired so far this calendar year?

Forty six have retired so far; 14 more retirements are currently pending.

33. Please provide the grant rate for each DDS physician and for each Appeals Judge.

Marilyn asked how many cases do they approve or deny. Judge Park-Saunders does not know how DDS keeps statistics on Doctors, but will check. With regard to Appeals Judges, Marilyn wants to know rates remand case as opposed to dismissing the appeal.

34. Scheduling future meetings.

September 16-17, 2015
December 9-10, 2015 (By Technology)
March 9-10, 2016
June 7-8, 2016

Submitted:
Dale Glendening
Marilyn Zahm
**JUDGE KENNETH SCHEER**

Judge Kenneth Scheer passed away on May 22, 2016. Judge Scheer was a strong supporter of the AALJ during his tenure with SSA. He attended every AALJ Judicial Education conference since his appointment in 1997. His wife Bonny usually accompanied him. Prior to his appointment as an administrative law judge, he served as an Assistant Attorney General for the State of New York. Judge Scheer will not only be missed by his family and friends but also by his colleagues at ODAR.

**MORAL AND PERFORMANCE**

Although not yet public, information from reliable sources reveal that the results of the recently conducted OPM survey show that employee morale in ODAR is lower than in any other SSA component. For those of us who have been around for the past five or six years, this drastic decline in morale is no surprise. We have lived it and we experience it daily. In large part, low morale has been a primary reason for the decline in productivity at ODAR. In my view, this decline will continue until the sweatshop culture changes. The production line mentality of the Agency bureaucrats has minimized professionalism and created counterproductive conflict among staff. Fifteen years ago, the Hearing Office staff worked efficiently and effectively as a professional team. Today, there is no teamwork; but rather, finger pointing among team members. The separation of staff from the Hearing Office has further dampened morale. The Hearing Office teams are quickly disappearing and replaced by production line workers in different cities across the U.S.A. At the same time, the American people suffer as lower production translates into fewer decisions. When will it end?

Have a great week. You may reach me at fryely@aol.com or 704-860-8457.

Randy Frye

AALJ President