

**Agenda**  
**Montana Supreme Court Access to Justice Commission**  
**June 9, 2017**  
**Large Conference Room, Office of the Court Administrator**  
**301 S. Park, Third Floor, Helena, MT**  
**1:00 – 3:15 PM**

**Call-in: 866-433-6259**  
**Code: 79017**

- I. Call to Order and Introductions: Justice Baker (1:00 – 1:05)
  - a. Approval of 3/10/17 meeting minutes [Tab 1]
- II. Standing Committee Reports (1:05-1:35)
  - a. Self-Represented Litigants: Ann Goldes-Sheahan, Abby Brown, Nolan Harris [Tab 2]
    - i. Pilot Forms Evaluation Summary
  - b. Law School Partnerships Committee: Debbie Steigerwalt [Tab 3]
    - i. Action Item: Recognizing the Family Law Section of the State Bar
  - c. Communications and Outreach Committee: Niki Zupanic (in place of Melanie Reynolds)
- III. Legislative Update: Justice Baker (1:35-1:45)
- IV. Strategic Planning: Justice Baker and Randy Snyder (1:45-1:55)
- V. Limited License Legal Technician Update: Georgette Boggio (1:55-2:00)
- VI. Update on Order of Protection Checklist: Judge Carter (2:00-2:15)
- VII. E-RAMP update: Justice McKinnon and Patty Fain (2:15-2:25) [Tab 4]
- VIII. Discussion of Karla Gray Award Selection Procedure: Ann Goldes (2:25-2:45) [Tab 5]
  - a. Action Item: Review and select award recipient
- IX. National Meeting Reports: Matthew Dale and Patty Fain (2:45-2:55)
- X. Public Comment and Review 2017 Meeting Dates (2:55-3:15)
  - a. September 8, 2017: joint meeting with Justice Initiatives Committee
  - b. December 8, 2017

Tab 1

**Montana Supreme Court Access to Justice Commission**  
**March 10, 2017**  
**Large Conference Room, Office of the Court Administrator**  
**301 S. Park, Third Floor, Helena, MT**  
**1:00–3:15 PM**  
**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Hon. Greg Pinski (by phone), Hon. David Carter (by phone), Rick Cook (by phone), Matthew Dale, Randy Snyder (by phone), Dean Paul Kirgis (by phone), Alison Paul, Melanie Reynolds, Ed Bartlett, Georgette Boggio (by phone), and Charlie Rehbein.

**Commissioners Absent:** Rep. Kim Dudik, Sen. Nels Swandal, Hon. Kurt Krueger, Kyle Nelson, Aimee Grmoljez, and Hon. Winona Tanner.

**Others Present:** Niki Zupanic, Nolan Harris, Patty Fain (by phone), Brian Coplin, Justice Laurie McKinnon (by phone), Crystine Miller, Sarah McClain, Derrek Shepherd, Abby Brown, Ann Goldes-Sheahan, Debra Steigerwalt (by phone), and Krista Partridge.

**Call to Order:** 1:03 p.m.

Justice Baker welcomed new Commissioners Charlie Rehbein and Rick Cook, and thanked Jennifer Brandon for her service on the Commission. Justice Baker asked for comments or corrections to the December meeting minutes. There were no comments or corrections.

**Matt Dale moved that the September minutes be adopted and Alison Paul seconded. The motion passed without objection.**

**Self-Represented Litigants Committee Report**

Abby Brown reported that the committee met in February and is working on their priorities for 2017.

**Law School Partnerships Committee**

Debra Steigerwalt reported that the committee is still working on the incubator project and changes to the law student practice rule. The committee met in January and established a number of subcommittees including: Landlord Tenant, Missoula Self-Help Center, End of Life Document, Family Law, and Community Dispute Resolution. She noted that Professor Capulong's first year Theory and Practice class will no longer be taking on pro bono cases due to lack of supervisory resources, but that they are exploring other ways for first year students to become involved in pro bono. Matt Dale commented that the Office of Consumer Protection is currently updating their end of life forms and would like to work with the End of Life Document subcommittee to ensure that the office has the most up-to-date forms and information. Justice Baker added that Charlie Rehbein's program also works on end of life forms and should be included.

**Update on Resources Inventory Guide and Pilot Forms in Gallatin County**

Nolan Harris reported that the resource guide project wrapped up in February and the updated guides are being uploaded to the State website. He said that a searchable database is the next step. Alison Paul added that MLSA has submitted an application for Legal Services Corporation technology funding to develop a database using Open Referral coding. Nolan said that the family law forms pilot in Gallatin County is wrapping up and unfortunately hasn't had the desired impact. He reported that people are still printing and using the old forms rather than the new automated forms. He said that a project evaluation is underway and the results should be available by the next meeting. Nolan said that he hopes to have the forms adopted statewide by the end of the summer. Justice Baker commented that we need to explore ways to effectively publicize the resource guides and the family law forms, as well as the public forum video, and noted that the new strategic plan needs to include a robust section on outreach and communications.

### **Public Forum Series Wrap-up**

Justice Baker stated that the public forum report and video have been completed and the video is available on the Commission's web page. She thanked Patty Fain and her son Austin for their great work on the forums and the video. Justice Baker added that she sent the video to the Voices for Civil Justice group and they provided good feedback, but suggested a call to action should be added at the end of the video. She asked the Communications & Outreach Committee to make recommendations on how to move forward and use the video and report most effectively.

Matt Dale reported that the Commission received a grant from NorthWestern Energy to cover the cost of putting on the public forums, and stated that there is some money remaining from the grant. He asked if it would be appropriate to use those funds to compensate Austin for his work on the video. Niki Zupanic stated that she has discussed the best way to recognize Austin's efforts and suggested purchasing a gift of some sort, rather than just writing him a check. Patty said that she would discuss options with Justice Baker and said that Austin doesn't want to be paid, but that a thank-you gesture would be appreciated.

### **Commission Biennial Report**

Niki Zupanic thanked the group for all of the committee materials that had been produced and noted that the materials were used in the development of the biennial report. The final report is not due until early April and Niki asked for feedback on the draft, particularly for the sections on the fee waiver form and the mediation program. She added that feedback on any of the sections is welcomed and appreciated and said that the report will be recirculated only if there are substantial revisions. Justice Baker asked for any comments to be provided to Niki by March 18 and that the target date for the final report is April 1.

### **Federal Budget Issues & Legislative Agenda Update**

Justice Baker said that she participated in a conference call with Access to Justice Commissions and judges from across the country to discuss the federal budget and the possible elimination of funding for the Legal Services Corporation (LSC). She said that LSC has historically enjoyed broad bipartisan support and the ABA would like to see a pledge of support from Commissions around the country.

Justice Baker reported that House Bill 46 was tabled by the House Appropriations Committee, but there is still a good chance to revive the bill. She said that she will email a list of talking points

and asked commission members to contact members of the Committee starting next week. She added that Ed Bartlett, Aimee Grmoljez, Niki Zupanic, Jon Bennion, and Abby St. Lawrence have all done a great job of lobbying for the bill and thanked them for their efforts.

Alison Paul reported that LSC funds make up 40% of MLSA's budget and the loss of these funds would be devastating. She added that because of the strong bipartisan support for LSC, it seems unlikely that funding will be totally eliminated, but funding for LSC will probably not be included in the President's budget. Justice Baker asked for suggestions on the best role for the Commission to play. Ed Bartlett said that he supports a letter on behalf of the Commission in support of LSC and Matt Dale agreed. Melanie Reynolds asked if the letter should also be sent to the members of Montana's Congressional delegation and the group agreed that it should. Justice Baker commented that AmeriCorps funding is also targeted for elimination and that this would be a huge loss for Montana. The Court Help Program would lose much of its statewide presence if AmeriCorps funding were eliminated, and this should be included in the Commission's letter. Justice Baker stated that we do not need a formal motion, but asked if there were any objections to sending a letter. There were no objections.

Charlie Rehbein asked for clarification on the lobbying plan for House Bill 46. Justice Baker replied that Crystine Miller will send out the talking points and that she, Ed Bartlett, Aimee Grmoljez, and Niki Zupanic will all be talking with legislators in person. She asked members to please use the talking points when speaking with legislators and to contact Appropriations Committee members no matter where you reside. Matt asked Crystine to please include a link to the public forum video when sending out the talking points. Finally, Justice Baker added that Representative Dudik and Senator Swandal have been doing a great job of promoting the bill.

### **2016 Pro Bono Report**

Patty Fain stated that the pro bono report was included in the meeting packet and reminded the group that voluntary pro bono reporting is compiled in order to produce the report. One of the purposes of the report is to help guide future pro bono initiatives by analyzing the data to develop and target pro bono opportunities. She noted that reporting is down slightly from previous years and she believes that changes in the reporting platform were a factor. She pointed out that half of the reporting government attorneys have not provided any pro bono service and said that the Justice Initiatives Committee is working on implementing pro bono policies in government agencies that would make it easier for state-employee attorneys to participate. Patty referenced the recommendations on page eight of the pro bono report and specifically mentioned the need for media coverage to promote the value of pro bono service. She added that cuts to LSC would also hurt pro bono efforts. Finally she said that the Pro Bono Award at the State Bar Annual Meeting should be presented along with the other awards at the banquet so that more people would be in attendance and asked if the Commission would support this. Ann Goldes-Sheahan said that she has mentioned this issue, and she discussed the factors the Bar is considering. Ann also mentioned that the State Bar is considering moving the presentation of the Karla Gray Award to Thursday. Justice Baker responded that the Karla Gray Award is bestowed by the Access to Justice Commission and that it was not awarded last year. Justice Baker expressed her view that this cannot happen in 2017 and encouraged the group to start thinking about worthy nominees. She also said that we need to do what we can to recognize pro bono service and acknowledged that public awareness and recognition are very important. Ann suggested that a letter from the

Commission in support of the Pro Bono Award should encourage the State Bar to highlight the award by placing it in a prominent spot on the schedule. Justice Baker said that she would contact the Bar to express the Commission's support for the Pro Bono Award being a prominent part of the State Bar Annual Meeting.

#### **Update on State Bar of Montana/Law School Mediation Project**

Patty Fain reported that the group met and adopted an update to the mediator qualifications and training requirements for non-attorneys. The criteria were modeled after the Montana Mediation Association criteria. Patty asked for a motion to approve the non-attorney qualifications and training requirements. Justice Baker asked if non-attorney mediators would need to complete Montana Mediation Association training course and Patty replied that they would. Debra Steigerwalt asked if the non-attorneys would be required to go through background check screening. Patty said that the Montana Mediation Association has an extensive application process, but that she is not sure if it includes background checks. She said she would look into this issue and report back. Justice Baker added that the background check issue will arise with the potential third category of mediator conceived by the group. Patty said that she will bring this issue to the committee. Justice Baker said the Commission will hold off on approval for the criteria until the issue is resolved. Patty added that one challenge with the pilot program has been the opt-out system for domestic violence survivors and others where mediation may not be appropriate or desired. Justice McKinnon stated that the opt-out question should occur after the education process regarding the benefits of mediation, but that resources will need to be provided for domestic violence cases. Patty asked for feedback from the Commission regarding opt-out procedures, and Debra Steigerwalt offered to send the opt-out procedures developed by the 21<sup>st</sup> Judicial District.

#### **Update on Order of Protection Checklist**

Judge Carter reported that the Order of Protection Checklist is being used in Yellowstone County, but there is not yet enough data to report on its effectiveness. He said he will present results at the June meeting. Judge Carter said that thus far he has noticed that litigants are better prepared to collect and present evidence, and he hopes that the checklist has not discouraged people from showing up to hearings. He added that he has been working with the State Bar to develop a mechanism for volunteer attorneys to be available to assist petitioners on Order of Protection court days. Patty Fain said that she has heard good feedback on the checklist from advocates. Judge Carter said that the next step is to develop a way for victims to collect evidence such as 911 calls.

#### **Miscellaneous**

Justice Baker reported that a joint petition was submitted to the Supreme Court on behalf of the Access to Justice Commission, the State Bar of Montana, and the Bar's Paralegal Section to ask for the creation of a committee to study limited license legal technicians.

Randy Snyder reported that the volatility of the funding situation has postponed activity on the strategic plan, which will resume once we know the outcome of the Commission's legislative proposal.

#### **Public Comment and Next Meeting Dates**

Justice Baker asked for public comment. Brian Coplin commented that he has been involved in a collaboration between the City of Helena and Lewis & Clark County on a sequential mapping

process and would like the Commission to look at mapping. Melanie Reynolds stated that she's familiar with this project and it is focused on the criminal justice system and jail diversion, but that it might be of interest to the group. Melanie said that she would send the report referenced by Brian to Crystine for review and distribution to the group.

Melanie Reynolds commented that she would like the Commission to recognize Karla Gray and her tremendous contributions to access to justice in Montana. Justice Baker stated that Justice Gray was an incredible state and national leader on access to justice; the Access to Justice Commission and the Court Help program are part of her legacy. She again encouraged the group to think about nominations for the Karla Gray Award.

Charlie Rehbein distributed information on Aging Services and the schedule for upcoming End of Life Documents clinics.

All the 2017 meetings have been scheduled and are noted on the agenda. The next meeting is scheduled for June 9, 2017.

**The meeting adjourned at 2:50 PM.**

# Tab 2



# **Pilot Forms Evaluation Summary – 6/9/17**

## **Standing Committee on Self-Represented Litigants – Forms Subcommittee**

**The planned roll out of forms for statewide use in Court Help Program is September 2017.**

### **Overview**

After five months of test piloting the newly drafted family law forms, drafted by former-Forms Subcommittee members Erin Farris-Olsen and Michelle Snowberger, and current Chair Ed Higgins, the evaluative process has begun to gauge the success and needed improvements of the potential statewide forms. This summary includes the results of the first evaluations received from pro se litigants, judicial staff within Gallatin County, and legal service providers, i.e. pro bono attorneys and mediators. There are additional evaluations that will be added to the evaluation results on an ongoing basis.

One thing to note, almost all the closed cases surveyed have been joint dissolutions, so we have not had the ability to receive feedback from litigants using the pilot forms in contested cases. The lack of contested cases could also be making it difficult to retrieve feedback from mediators using the pilot forms.

### **Results**

Pro se – six evaluations returned (survey attached)

- On a scale of 1-5, the average score was 3.6 for questions measuring the ease with which litigants could use the forms.
- The statements, “I understood how to fill out the forms and attachments for my petition,” and “I understood the language used in the forms,” scored the highest for litigants with an average of 4.

Judicial staff and legal services – two evaluations returned (survey attached)

- On a scale of 1-5, the average score for measuring the success of pro se litigants filing their documents was 3.
- Feedback from the Clerk of Court highlights the need to place a greater emphasis on training and explanation of form organization as it relates to filing practices.
- Self Help Law Center staff note they have observed seeing more completed forms and answer less questions from returning center customers with the new pilot forms. The flow charts and instructions have been particularly helpful for pro se litigants.

**Feedback is collected on an ongoing basis and cataloged for future reference when edits to forms can be made.**

**Pilot Family Law Forms Evaluation Survey**  
**Access to Justice Forms Subcommittee**

Name: \_\_\_\_\_

Please complete the survey by circling the appropriate ratings.

Which forms have you seen been used in the 18<sup>th</sup> Judicial District?

**Dissolution without children**

**Joint Dissolution with children**

**Dissolution with children**

**Parenting Plan**

**Joint Dissolution without children**

**Joint Parenting Plan**

1. The pilot forms are easier to use than the current statewide forms available.

Disagree   1                      2                      3                      4                      5                      Agree

2. Pro se litigants are more successful filing on their first attempt with the pilot forms.

Disagree   1                      2                      3                      4                      5                      Agree

3. There are fewer mistakes by pro se litigants with the pilot forms.

Disagree   1                      2                      3                      4                      5                      Agree

4. The pilot forms' new format is a helpful change for pro litigants, SHLC staff, the Clerk of Court's office, and judges.

Disagree   1                      2                      3                      4                      5                      Agree

5. Comments:

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**Pilot Family Law Forms Evaluation Survey**  
**Access to Justice Forms Subcommittee**

Cause Number: \_\_\_\_\_

Please complete the survey by circling the appropriate ratings.

Which forms have you used?

**Dissolution without children**

**Joint Dissolution with children**

**Dissolution with children**

**Parenting Plan**

**Joint Dissolution without children**

**Joint Parenting Plan**

1. The pilot forms are easy to use.

Disagree   1                      2                      3                      4                      5                      Agree

2. I understood how to fill out the forms and attachments for my petition.

Disagree   1                      2                      3                      4                      5                      Agree

3. I understood how to file the forms and the extra attachments with the Clerk of Court.

Disagree   1                      2                      3                      4                      5                      Agree

4. I understood the language used in the forms.

Disagree   1                      2                      3                      4                      5                      Agree

5. Comments:

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# Tab 3

Law School Partnerships Committee (LSPC)  
June 2017 Report to ATJC

1. Current Composition. The current composition of the committee is:

Debra Steigerwalt Chair	<a href="mailto:DSteigerwalt@mt.gov">DSteigerwalt@mt.gov</a>
Hillary Wandler Alexander Blewett III School of Law	<a href="mailto:hillary.wandler@umontana.edu">hillary.wandler@umontana.edu</a>
Niki Zupanic Montana Justice Foundation	<a href="mailto:nzupanic@mtjustice.org">nzupanic@mtjustice.org</a> additional contact: Crystine Miller ( <a href="mailto:cmiller@mtjustice.org">cmiller@mtjustice.org</a> )
Hon. Kurt Krueger	<a href="mailto:kkrueger@mt.gov">kkrueger@mt.gov</a> <a href="mailto:skennedy@mt.gov">skennedy@mt.gov</a>
Randy Snyder	<a href="mailto:rsnyder@rnsnyderlaw.us">rsnyder@rnsnyderlaw.us</a>
Hon. Russ Fagg	<a href="mailto:RFagg@mt.gov">RFagg@mt.gov</a>
Patty Fain State Court Pro Bono Coordinator	<a href="mailto:PFain@mt.gov">PFain@mt.gov</a>
Kate Ellis State Bar Trustee	<a href="mailto:kate@cplawmt.com">kate@cplawmt.com</a>
Jessica Walker-Keleher Exec Dir. CDRC of Missoula County	<a href="mailto:jwalker.keleher@gmail.com">jwalker.keleher@gmail.com</a> <a href="mailto:jwalker-keleher@cdrcmissoula.org">jwalker-keleher@cdrcmissoula.org</a>
Diana Garrett Montana Legal Services	<a href="mailto:dgarrett@mtlsa.org">dgarrett@mtlsa.org</a>
Shannon Hathaway Montana Legal Justice, Member of New Lawyers Section	<a href="mailto:shannonh@montanalegaljustice.com">shannonh@montanalegaljustice.com</a>
Angie Wagenhalls Montana Legal Services	<a href="mailto:awagenha@mtlsa.org">awagenha@mtlsa.org</a>
Jessica Fehr Eastern Montana, Civil Practice	<a href="mailto:Jessica.Fehr@moultonbellingham.com">Jessica.Fehr@moultonbellingham.com</a> (volunteered to remain on committee although no longer a member of the commission)
Stefan Kolis Law Student Member	<a href="mailto:stefankolis@gmail.com">stefankolis@gmail.com</a>

2. Last Meeting. The LSPC held its last teleconference on April 12, 2017 at 10:00 a.m. As follow up from the previous meeting, Patty Fain walked LSPC members through a secure ePass file sharing system to facilitate the LSPC's work. The LSPC expressed its thanks to Patty, including for updating the LSPC website.

3. Projected Next Meeting. The next meeting of the LSPC will be a teleconference on Wednesday July 12, 2017 at 10:00 a.m.

4. Current Projects.

a. Law School Pro Bono Coordinator Project.

Growing out of Self-Help Center Subcommittee's January 18, 2017 meeting with the Missoula Self-Help Center Advisory Board and Professor Eduardo Capulong to discuss potential areas for collaboration, at the LSPC's April 12, 2017 meeting the LSPC discussed setting up a meeting with certain law school faculty and certain members of the LSPC to discuss ideas to institutionalize pro bono opportunities at the law school. LSPC members Hillary Wandler, Debra Steigerwalt and Angie Wagenhals met on April 19, 2017 to discuss the feasibility and desirability of a non-attorney pro bono coordinator position at the law school. As an outgrowth of that meeting, Professor Gross drafted a proposal for an on-site pro bono coordinator position at the law school for the 2017-2018 academic year for an Americorps volunteer, housed in the clinic wing of the law school and supervised by Professors Gross and Wandler. The project requires a \$10,500 cost share for the Americorps volunteer. The proposal has progressed, with both Dean Kirgis and Montana Legal Services anticipating that the \$10,500 will be able to be raised. Currently, the law school and Montana Legal Services are working on a draft MOU for the Americorps position. The Americorps position is being advertised now and interviews for the position are anticipated in June 2017. LSPC Members Hillary Wandler, Patty Fain, Debra Steigerwalt, and Angie Wagenhals are scheduled to conduct a planning meeting with Professor Gross on Thursday, June 8, 2017.

The Board of the Family Law Section has approved the donation of \$2,500 in the section's funds for the project. LSPC members Debra Steigerwalt and Angie Wagenhals have been in communication with John Mudd (Director of Development and Alumni Relations at the law school) to coordinate fund-raising for the project. Ann Goldes has reached out to some local bar associations with respect to the project. The LSPC welcomes assistance in locating funding for Law School Pro Bono Coordinator Project both for the 2017-2018 year and on a multi-year basis.

The LSPC has placed recognition of the Family Law Section's leadership in approving the \$2,500 contribution on the agenda for the ATJC June 9, 2017 meeting.

A draft summary of the proposal is attached.

b. Law School Incubator Project - Working Group with MTLSA and Montana State Bar. (LSPC Members: Debra, Hillary, Patty, Angie, Niki). The Law School Incubator Working Group met during teleconferences on April 14th and May 5th. Alison Paul will be on sabbatical for the summer and the Working Group will have its next meeting in September. In the interim, Professor Wandler and Chris Manos will work on the training curriculum; Alison Paul will draft a project budget; and Patty Fain will do some other tasks (probably related to marketing materials).

c. Landlord Tenant Subcommittee. (LSPC Members: Shannon (chair), Stefan, Patty, Angie). Shannon, Patty, and Angie participated in a subcommittee meeting in April. Shannon is following up with Professor Capulong about coordinating with mediation clinic students. The subcommittee also brain stormed ideas to reach rural areas.

d. Missoula Self-Help Center Subcommittee (LSPC Members: Debra, Hillary, Shannon, and Stefan). With the Law School Pro Bono Coordinator Project poised to go forward, the Subcommittee can now analyze the impact of such a position on the previously identified areas of potential collaboration (involving first year law student (IL) Volunteers at the Self-Help Law Center for regular 2-4 hour shifts for 2 semesters (either Fall-Spring or Spring-Summer), CLE offerings to facilitate practitioner involvement in Self-Help Center work and as IL mentors, identifying attorney volunteers to serve as IL pro bono mentors).

e. End of Life Document Clinic: (LSPC Member: Stefan) The End of Life Document Clinic in Missoula, for which Stefan helped recruit 10 law school volunteers, took place on April 20, 2017.

f. Family Law Clinic at Law School: (LSPC Member: Angie). The AmeriCorps Law School Pro Bono Coordinator is now expected to coordinate the clinic with respect to students, staff, faculty, and attorney mentors during Academic Year 2017-2018. Professor Gross, who will be the initial supervisor for the AmeriCorps volunteer, pioneered the clinic as part of her involvement on the Western Montana Bar Pro Bono Committee and previously recruited law students for it. Professor Wandler, who will be the AmeriCorps volunteer's supervisor during the second semester, frequently volunteers at the clinic. Montana Legal Services and the Western Montana Pro Bono Committee are expected to continue to handle client eligibility screening, confirmation, and placement at the clinic during Academic Year 2017-2018.

## **Law School Pro Bono Coordinator Project (June 2, 2017 Draft)**

**Project Name:** Law School Pro Bono Coordinator

**Project Purpose:** An on-campus law school pro bono coordinator is intended to assist in helping to meet the Law School's Strategic Plan Goals, Access to Justice Commission objectives, and student and faculty educational needs as articulated in the ABA's Pro Bono opportunities' requirement.

**Existing Resources:** The Law School has committed to provide dedicated office space and equipment, and direct faculty supervision by Professors Jordan Gross and Hillary Wandler for a Montana Legal Services Association (MLSA) Americorps Service Member ("Service Member") for Academic Year 2017-2018. Both Professor Gross and Professor Wandler are licensed Montana attorneys who actively engage in pro bono service. MLSA will assign a Service Member as a Law School Pro Bono Coordinator for Academic Year 2017-2018. MLSA will also provide the Service Member with an initial one week orientation training and a mid-year training. The Law School Partnerships Committee (LSPC) of the Access to Justice Commission provides an existing framework that links potential equal justice partners to the Law School.

**Funds Needed:** \$10,500 in total. The Family Law Section of the MT State Bar approved funding for \$2,500. Questions? Contact Angie Wagenhals ([awagenha@mtlsa.org](mailto:awagenha@mtlsa.org))

**Project Time Frame:** Position Interviews will be conducted in June 2017 for a Service Member to serve from September 2017 until July 2018. There is potential for extension of the program or a future multi-year program, depending upon program results and feedback.

### **Draft Position Responsibilities:**

- Identify and coordinate pro bono opportunities for Law School students, alumni, staff, and faculty that serve the needs of volunteers, clients, as well as the following pro bono opportunity providers ("Providers"): private practitioners, non-profit legal and mediation organizations, pro bono programs, and self-help centers throughout Montana
- Connect Providers with Law School students, staff and faculty seeking to provide support for pro bono cases and activities
- Develop a database of pro bono activities and contacts to help develop a long term pro bono program within the Law School. Track and provide summary report of program to stakeholders.
- Serve as a point of contact for the SBA, law school administration, faculty, and outside constituents, on Law School pro bono activities, including providing assistance for trainings, presentations, and initiatives
- Organize and coordinate the monthly Western Montana Pro Bono Committee/MLSA Law School Low Income Clinic
- Administer a Law School Student Pro Bono Project for all students based on the 2L Professional Responsibility model
- Support Law School Clinic work for MLSA clients (the Veteran's Law Clinic, for example, serves MLSA clients) and coordinate with MLSA's Pro Bono Coordinator as needed regarding additional pro bono opportunities for students and faculty
- Work with students and faculty to create a culture of pro bono within the Law School



# Tab 4

**Early Resolution and Mediation Project Committee**  
**Report to Access to Justice Commission**  
**June 9, 2017**

**Narrative:**

In the last quarter, the E-RAMP Committee has focused its work on:

1. Content for initial intake and screening of E-RAMP participants;
2. Mechanism to screen potential participants and refer domestic violence survivors to appropriate resources;
3. Achieving informed consent through mediation education generally and E-RAMP orientation specifically;
4. Assessing and determining the role of the mediator in more extensive screening processes
5. Opt-out provisions; and

**Content:** Intake content and mechanism are more fully explained in the attached Memo and Intake form.

**Mechanism for DV Screening:** The Committee took considerable time in discussing and evaluating screening for domestic violence, case complexity, and issues of capacity to participate. It was determined cases involving coercive/controlling domestic violence should be screened out of E-RAMP at the intake stage with survivors offered resources and opportunities to mediate outside of the abbreviated E-RAMP styled program through a referral mechanism.

The Committee concluded that E-RAMP trained mediators are best situated to perform more extensive and ongoing screening for domestic violence related issues. Mediators have the ability to cease mediation circumstances exist impairing a party from effectively mediating.

**Screening and Consent:** The first phases of informed consent are achieved through the mandatory parent education class and E-RAMP orientation. The Committee determined that mediators should have a duty of informed participation consent as it is consistent with a mediator's ethical duties and enhances the mediation process. In addition, additional informed consent materials are part of the mediator's records and files and are therefore confidential.

**Opt-Out Provisions:** Opt-out provisions are more fully explained in the attached Memo. In addition, Patty Fain visited Kalispell (11<sup>th</sup> Judicial District), a potential pilot site for the E-RAMP launch. Included in the visits were meetings with:

- Domestic violence program directors;
- Family Court Services;
- Clerk of Court;
- Self-Help Law Center staff and Court Help Administrator;
- Northwest Bar Association;
- Private law firms and attorneys;

As emphasized in previous reports and in continued discussions, judicial districts have varying resources and nuances that require E-RAMP to be flexible in its implementation and management while still maintaining adherence to the Standards and Guidelines developed by this Committee and approved by the Access to Justice Commission.

### **Implementation of Modules**

The asterisk-marked operations on the attached Module Chart can be implemented independent of a full service E-RAMP initiative while still increasing and enhancing mediation opportunities and improving court efficiencies. For instance, the program can begin training volunteers to augment qualified mediator lists and work with District courts in creating or maintaining mediator lists.

#### **Action Items:**

- 1. Approve Intake Form and mechanism;**
- 2. Approve opt-out provision recommendations;**
- 3. Approve screening out and referral of coercive/controlling DV cases in initial intake phase;**
- 4. Approve any additional screening for DV or other capacity issues by mediators.**

# Court-Connected Mediation Modules

## Litigant Education

- Early Exposure/Education About Mediation Generally\*
- Legal Information\*
- About Court-Connected Program and Process

## Volunteer Training and Education

- Pro Bono Attorney Mediation Training\*
- Non-Attorney Mediator Training\*

## COURT-CONNECTED PROGRAM

Any One Module  
OR  
DAY-OF COURT MEDIATION PROGRAM (E-RAMP)  
Incorporating All Modules

## Courts and Judges

### Judicial Education

- Role in promoting mediation\*
- Informing Parties about mediation\*
- Education about modules and which to apply\*
- Connecting mediation into other aspects\*

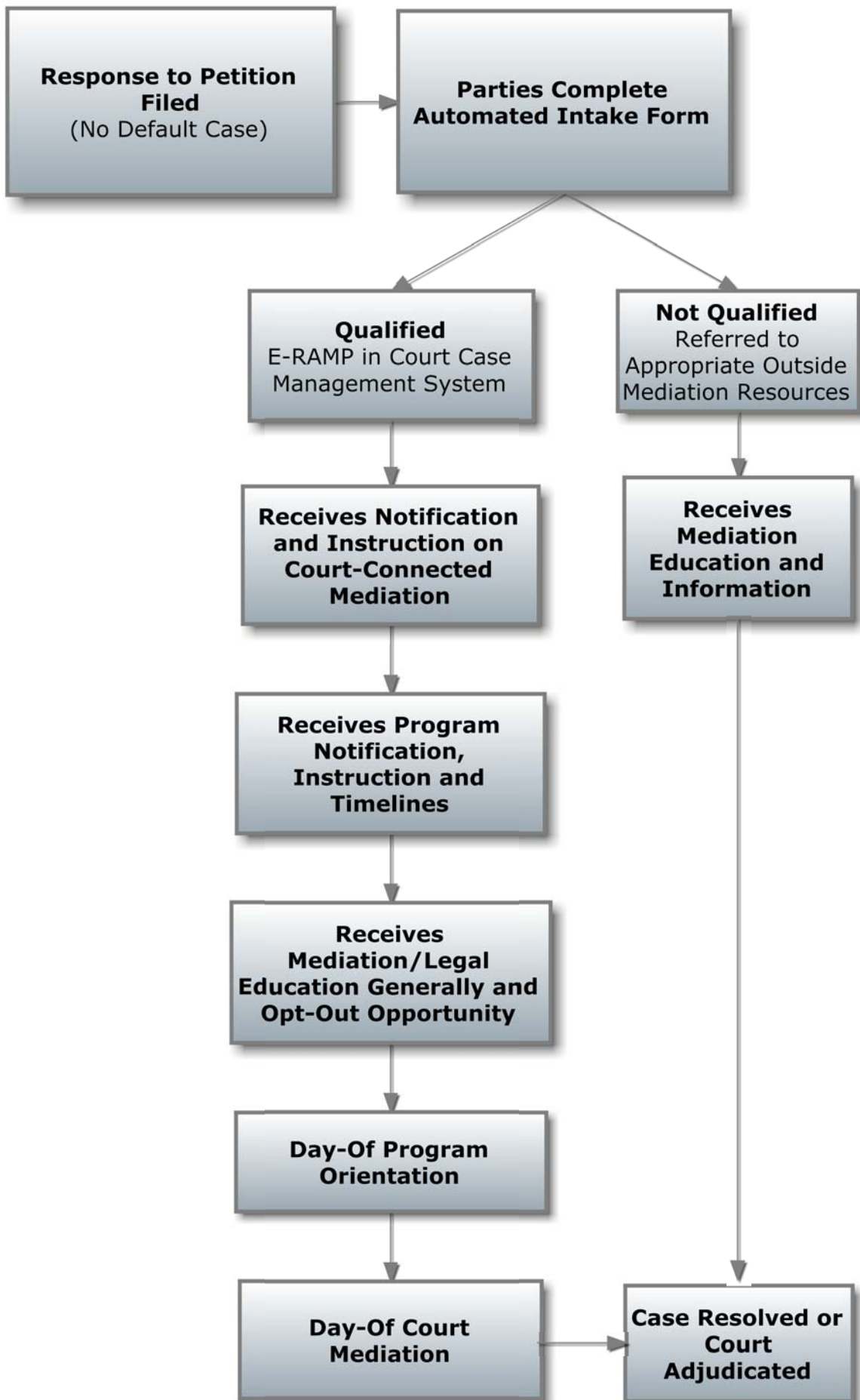
### District Specific E-RAMP Implementation

- Stakeholder support
- District processing and procedures
- Implementation: Nuts & Bolts and relevant local rules
- Program and volunteer recognition
- Program case management, statistics and success

### Access to Mediators

- Screening for appropriate court-connected mediation referrals\*
- Determining Court-Connected Mediator Qualifications\*
- Creating and Maintaining a Qualified Mediator List\*

**E-RAMP (Early Resolution and Mediation Project)** is a court-connected mediation pilot project designed to provide access to early resolution of family law cases by incorporating opportunities to mediate and considerations of a particular judicial district's case processing. The E-RAMP pilot project is guided by a Working Group with representatives from the Montana Supreme Court, district court judges, the State Bar of Montana, Montana Legal Services Association, The Alexander Blewett III School of Law, the Montana Mediation Association, private attorneys and mediators.



## Introduction

Based on your parenting plan case circumstances, you may be placed in a special court program called Early Resolution and Mediation Project (E-RAMP). In court, the judge listens to both sides of your parenting case and makes the decision for you. You must follow it, even if you think it is unfair. The court process can also be a long and drawn out. In E-RAMP, you have the opportunity to mediate your parenting plan.

Mediation is a way to mutually agree on your parenting plan with the help of a mediator. Mediators are neutral facilitators who guide the process of communication to arrive at a plan both parties can accept. E-RAMP offers you the opportunity to participate in mediation at no cost to you.

A mediator cannot force you to accept an agreement you do not like and you can still continue in court if mediation does not work out. Mediation is confidential. No one can use what you say in mediation against you in court. If you participate in the E-RAMP program, it is essential that you are able to make informed choices when you deal with the other parent. Mediators do not give legal advice to mediating parents. You should seek legal advice if you need it.

This Intake will help us determine if your case is right for the E-RAMP program. It will take just a few minutes. You should complete the Intake without the other parent present so you can provide independent answers.

The information contained in this Intake is not part of the court case file. All mediation communications are confidential, are not subject to disclosure, and shall not be used as evidence in any proceeding or made available to the other party.

## Party Information

**Your name exactly as it appears on Parenting Plan court documents:**

Last Name

First Name

Middle Name

**Which Party are you? (Mark the appropriate answer)**

- ☐ I am the petitioner in this case.
- ☐ I am the respondent in this case.

**Name of other parent exactly as it appears on Parenting Plan documents:**

Last Name

First Name

Middle Initial

**Parenting Plan case number (begins with DR)**

\* Are you CURRENTLY represented by an attorney for this parenting plan case?

- ☐ Yes
- ☐ No

\* Have you received an Order Waiving Fees from the Court for this parenting plan case?

- ☐ Yes
- ☐ No

**Additional Case Information**

\* Your relationship with the other parent or children could impact the ability to mediate your parenting plan.

**Mark any of the below that apply to you and the other parent**

- ☐ There is currently an order of protection against me or the other parent.
- ☐ There is currently a no-contact order against me or the other parent.
- ☐ Child Protective Services (CPS) removed the children involved in this case from the home or are investigating child abuse allegations.
- ☐ I am afraid of the other parent.
- ☐ I DO NOT think I would be able to make choices freely and decide what is best for the children in a mediation session with the other parent.
- ☐ None of the above apply.

## Mediating Outside of E-RAMP

The type of mediation used in the E-RAMP program is likely not the best method for your case. There may be other ways you can mediate outside of E-RAMP. Are you interested in mediating your parenting plan outside of E-RAMP?

- ☐ Yes, please provide information about mediation resources.
- ☐ No, I do not want to mediate.

## Contact Information

Please indicate below how we can safely contact you about mediation opportunities outside of E-RAMP.

- ☐ Contact me by phone. I have provided the number below.
- ☐ Contact me by email. I have provided the email address below.
- ☐ Contact me by regular mail. I have provided my address below.
- ☐ Please provide a phone number, email or mailing address.

## Domestic Violence Information



Many people don't think of themselves as victims of domestic violence. Domestic violence not only includes physical and sexual violence, but also threats, financial, emotional, verbal, and psychological abuse meant to control you. There are programs that are designed to assist people who may be experiencing domestic violence.

**Would you like information about local domestic violence programs?**

- ☐ Yes, I would like additional information. The program or an advocate working with the program has my permission to contact me.
- ☐ No, I do not want information.

**How Should We Contact You with Information?**

Please contact me about domestic violence resources as follows:

- ☐ Please call me. My number is below.
- ☐ Please email me. My email is below.
- ☐ Please write to me. My address is below.
- ☐ It is not safe to contact me. I prefer to visit the Self-Help Law Center for additional information.
- ☐ Phone, email, or physical address.

**Concerns?**

**E-RAMP uses a type of mediation in which both parents are in the room with the mediator at the same time. The only people in the room are you, the other parent, and the mediator(s). Do you have any concerns about mediating in the same room with the other parent?**

- ☐ No, I DO NOT have concerns about being in the same room with the other parent.
- ☐ Yes, I DO have concerns about being in the room with the other parent.

### Has the other parent ever done any of the following?

- ☐ Threatened to hurt you?
- ☐ Hit you?
- ☐ Been verbally abusive to you?
- ☐ Been sexually abusive to you?
- ☐ Done any of the above to the children?
- ☐ Used or withheld money to control you?
- ☐ Been emotionally abusive to you?
- ☐ Done similar things? Please describe below.
- ☐ None of the above apply to me.

Please describe other abuse:

### Where do you currently live?

City

State

### Where does the other parent live?

City

State

### About the Children

**How many children are involved in this parenting plan case?**

## Parenting Plan Information

### Parenting Plan Case Information (Mark the response that applies)

- ☐ This is the first time there has been a parenting plan filed for the children listed.
- ☐ This is a modification or reopening of a case previously filed about the children listed.

## About Child Support

**\* The court requires parties to a parenting plan to open a case with Child Support Enforcement Division (CSED). You should complete the child support paperwork and submit them to CSED as soon as you can. You cannot proceed with your case until you've started the child support process.**

### Has child support been determined?

- ☐ Yes, Child Support Enforcement Division (CSED) has determined child support and issued an order.
- ☐ Yes, the Court has already issued a child support order.
- ☐ We've opened a case with child support enforcement, but we don't have an order yet.
- ☐ The child support paperwork has not been completed and we haven't opened a case with CSED.
- ☐ Other (please specify)

## Acknowledgment and Electronic Signature

**Based on one or more of your responses to this Intake Form, your case is NOT the best fit for an E-RAMP mediation. You will receive additional information or instruction from the Court about your case. You should consider speaking to the other parent or an attorney about mediation options.**

**Please complete this Intake Form by providing your electronic signature and acknowledgment**

**below.**

Full Name

\* Acknowledgment (Click the circle to acknowledge):

☐

By providing my electronic signature above, I declare under penalty of perjury the foregoing is true and correct and understand my case is not currently eligible for the E-RAMP mediation program.

### Acknowledgment and Electronic Signature

**CONGRATULATIONS! Based on your responses to this Intake Form, your case is eligible for E-RAMP unless circumstances change to make you ineligible for the program. You will receive additional information or instruction from the Court about what happens next, but you should complete the court Ordered parenting education as soon as possible. We cannot schedule you for the next steps until then.**

**Please complete this Intake Form by providing your electronic signature and acknowledgment.**

Full Name

\* Acknowledgment (Click the circle to acknowledge):

☐

By providing my electronic signature above, I declare under penalty of perjury the foregoing is true and correct.

I understand my parenting case will be placed in the E-RAMP mediation program unless a change in circumstances or information results in an exclusion or I decide to opt-out in the future.

# Tab 5

# Karla M. Gray Equal Justice Award Nomination Form

**Email Nomination Form and materials no later than May 31<sup>st</sup>, 2017 to:**

Ann Goldes-Sheahan, Equal Justice Coordinator

State Bar of Montana

[agoldes@montanabar.org](mailto:agoldes@montanabar.org)

Full Name of Nominee: \_\_\_\_\_

Nominee Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

In separate attachment(s), please provide specific descriptions of significant contributions of your nominee which can include letters of support, publications and specific examples of nominee's involvements, impacts and influences for any of the criteria outlined that might apply. See nomination requirements for details. You may include your nominees biography or resume. Do not provide any confidential information.

Please mark all that apply and describe any attachments provided:

☐ Description of nominee's equal justice contributions.

Number of description pages attached: \_\_\_\_\_

☐ Letters in support of nomination.

Number of letters of support attached: \_\_\_\_\_

☐ Articles or publications concerning your nominee's contributions.

Number articles or publications attached: \_\_\_\_\_

Have you included your nominee's biography or resume?

☐ Yes ☐ No

However, I have included a portion of Judge McElyea's most recent application for Chief Water Judge as it is public information and gives the most in depth look at Judge McElyea's legal career.

Names of person/organization submitting this nomination:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**APPLICATION FOR**

**MONTANA CHIEF WATER JUDGESHIP**

**A. PERSONAL INFORMATION**

1. Full Name: William Russell McElyea
  - a. What name do you commonly go by? Russ McElyea
2. Birthdate: [REDACTED] Are you a U.S. citizen? Yes
3. Home Address: [REDACTED]  
Phone: [REDACTED]
4. Office Address: Montana Water Court, PO Box 1389, Bozeman, MT 59771-1389  
Phone: 406 586 4364
5. Length of residence in Montana: 27 years
6. Place of residence for the last five years:

<u>Dates</u>	<u>City</u>	<u>State</u>
1989 to present	Bozeman	MT

**B. EDUCATIONAL BACKGROUND**

7. List the names and location of schools attended, beginning with high school:

<u>Name</u>	<u>Location</u>	<u>Date of Degree</u>	<u>Degree</u>
Central High School	Phoenix, Arizona	Graduated 1977	
Northern Arizona University	Flagstaff, AZ	1984	Bachelors in Economics
University of Colorado	Boulder, CO	1989	Juris Doctor

8. List any scholarships, awards, honors and citations that you have received:

Voted Northern Arizona University's Outstanding Senior by university faculty, 1984  
Outstanding Economics student, 1984  
Award for outstanding scholarship, 1983  
Phi Kappa Phi honor society  
Selected by the Arizona legislature as Intern for the Arizona House of Representatives in 1983  
Selected as LBJ Intern for Congressman Bob Stump, 1983  
Offered a clerkship by the Colorado Supreme Court, 1989  
Selected by Chamber's guide to attorneys as one of the best real estate lawyers in Montana, 2006

9. Were you a member of the Law Review? If so, provide the title and citation of any article that was published and the subject area of the article.

I was on the Colorado Law Review and wrote an article about water law entitled: The Case for Private Instream Appropriations in Colorado, 89 Colo. L. Rev. 1087 (1989).

### C. PROFESSIONAL BACKGROUND AND EXPERIENCE

10. List all courts (including state and federal bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case.

<u>Court or Administrative Body</u>	<u>Date of Admission</u>
State of Montana Bar admission	1989
State of Colorado Bar admission (inactive)	1989
Montana Federal Courts	1989
United States Supreme Court	1996

11. Indicate your present employment. (List professional partners or associates, if any).

Chief Water Judge, State of Montana

12. State the name, dates and addresses of law firms with which you have been associated in practice, governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole practitioner, and other prior practice:

<u>Employer's Name</u>	<u>Position</u>	<u>Dates</u>
State of Montana	Chief Water Judge	August, 2013 to present



	Associate Water Judge	July, 2012 to July, 2013
Moonlight Basin	Chief Operating Officer	12/1/2008 to June, 2012
Moonlight Basin	General Counsel	9/2006 to 12/2008
Moore, O'Connell and Refling	Associate and Partner	6/89 to 9/2006
Holland and Hart	Intern	1988-1989
Don Cordova, P.C.	Intern	1987-1988

13. If you have not been employed continuously since completion of your formal education, describe what you were doing.

I have been employed continuously since completion of my formal education.

14. Describe the nature of your present law practice, listing the major types of law that you practice and the percentage each constitutes of your total practice.

I am presently employed as the Chief Water Judge at the Montana Water Court.

15. List other areas of law in which you have practiced, including teaching, lobbying, etc.

I taught business and contract law at the University of Colorado Business School, and water law at Montana State University. I have been a guest lecturer on water law and water policy at MSU for the departments of Geography, Agricultural Economics, and Range Science. I have testified before the Montana legislature regarding water rights bills. I have been a speaker on water and real estate matters at various seminars and have appeared before various city and county commissions regarding real estate and water rights matters. I have presented evidence and testimony to legislative interim committees regarding water legislation and water policy.

16. If you specialize in any field of law, what is your specialty?

Water law and real estate.

17. Do you regularly appear in court?

Yes, as a sitting judge, I conduct hearings and review cases.

What percentage of your appearance in the last five years was in:

Federal court	_____ %
State or local courts of record	_____ %
Administrative bodies	_____ %
Other	_____ %

I do not know exact percentages prior to becoming a judge, but most of my cases were in the Water Court, state district court, or before the DNRC. All my current cases are in the Water Court.

18. During the last five years, what percentage of your practice has been trial practice?

Less than five percent.

19. How frequently have you appeared in court? \_\_\_\_\_ times per month on average.

I am in court frequently.

20. How frequently have you appeared at administrative hearings?  
\_\_\_\_\_ times per month on average.

Prior to becoming a judge, I appeared in many hearings, primarily involving water rights matters. I cannot give you an accurate average number of times per month.

21. What percentage of your practice involving litigation has been:

Civil	99 %
Criminal	0 %
Other	1 %

22. Have you appeared before the Montana Supreme Court within the last five years? If so, state the number and types of matters handled. Include the case caption, case citation (if any), and names, addresses and phone numbers of all opposing counsel for the five most recent cases.

Yes. I filed a brief with the Montana Supreme Court on a petition for a writ of supervisory control. The case title was *In re the Crow Water Compact*, 377 Mont. 436 (2014).

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jvanatta@ppbglaw.com

23. State the number of jury trials that you have tried to conclusion in the last ten years.

None.

24. State the number of non-jury trials that you have tried in the last ten years.

None, although I have presided over trials as a judge.

25. State the names, addresses and telephone numbers of adversary counsel against whom you have litigated your primary cases over the last two years. Include the caption, dates of trial, and the name and

telephone number of the presiding judge. If your practice does not involve litigation, provide the same information regarding opposing counsel and the nature of the matter.

I have not litigated any cases in the last two years.

26. Summarize your experience in adversary proceedings before administrative boards or commissions during the last five years.

None.

27. If you have published any legal books or articles, other than Law Review articles, list them, giving citations, dates, and topics involved. If you lectured on legal issues at continuing legal education seminars or otherwise, state the topic, date, and group to which you spoke.

McElyea and Weisz, The Montana Water Rights Adjudication, The Water Report, Issue 134, April 15, 2015.

The Public Trust Doctrine in Montana, presented to the State Bar of Montana, CLE Seminar, 1993

The Impact of the Adjudication Process on Real Estate Transactions, State Bar of Montana CLE. 1994.

Hosted or co-hosted several water rights CLE's in the 1990s.

Since becoming a judge, I have spoken at several seminars and to numerous groups about water rights and adjudication topics.

#### **D. PROFESSIONAL AND PUBLIC SERVICE**

28. List all bar associations and legal professional societies of which you are a member. Provide the titles and dates of any office that you have held in such groups and committees to which you belong. These activities are limited to matters related to the legal profession. List the dates of your involvement.

I am a member of the Montana and Colorado Bar Associations. I served on the board of directors of the Gallatin County Bar Association in the late 1990s, and was president of that association.

29. List organizations and clubs, other than bar associations and professional societies, of which you have been a member during the last five years. State the title and date of any office that you have held in each organization. If you held any offices, describe briefly your activities in the organization.

Gallatin Sporting Clays, Manhattan Wildlife Association, National Rifle Association, National Sporting Clays Association, American Motorcycle Association. I have not held office in any of these associations in the last five years.

30. Have you ever run for or held public office? If so, provide the details.

No.

31. Explain your philosophy of public involvement and practice of giving your time to community service.

Community service is part of our obligation as citizens and lawyers. My philosophy has been to pick service opportunities where needs are clear, where I have skills to meet those needs, and where I can find personal satisfaction.

#### **E. PROFESSIONAL CONDUCT AND ETHICS**

32. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, provide the details.

No.

33. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, provide the details.

No.

34. Have you ever been arrested or convicted of a violation of any federal law, state law, or county or municipal law, regulation or ordinance? If so, provide the details. Do not include traffic violations unless they also included a jail sentence.

No.

35. Have you ever been found guilty or liable in any civil or criminal proceedings with conduct alleged to have involved moral turpitude, dishonesty and/or unethical conduct? If so, provide the details.

No.

36. Is there any circumstance or event in your personal or professional life that would, if brought to the attention of the Commission or Montana Supreme Court, affect adversely your qualifications to serve on the court for which you have applied? If so, provide the details.

No.

#### **F. BUSINESS AND FINANCIAL INFORMATION**

37. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, provide the details, including dates.

Yes. From 2008 to 2012, I was Chief Operating Officer of Moonlight Basin Resort. My responsibilities included operation of a private water and sewer utility company, a ski resort, a golf course, restaurants and bars, a lodging company, real estate development, construction and real estate sales companies, and various homeowner's associations. I supervised a staff of approximately 400 in the winter and about 60 in the summer. I was responsible for all aspects of

these businesses, including accounting, marketing, sales, finance, daily operations, human resources, intellectual property, risk management, entitlements, permitting, regulatory compliance, contracting and construction, and ultimately, each operation's economic success.

38. If you are an officer, director, or otherwise engaged in the management of any business, provide the name of the business, its nature, and the nature of your duties. If appointed as chief water judge, state whether you intend to resign such position immediately upon your appointment.

My wife and I own and manage two limited liability companies that own real estate. I do not intend to resign from those companies or divest my ownership interest in them.

39. State whether during the last five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise or organization. If so, identify the source and the approximate percentage of your total income it constituted over the last five years.

I received compensation from the two limited liability companies identified in response to question 38 above. Net compensation has been less than 10% of our total income.

40. Do you have any personal relationships, financial interests, investments or retainers that might conflict with the performance of your judicial duties or that in any manner or for any reason might embarrass you? If so, please explain.

No.

41. If appointed by the Chief Justice, are you prepared to disclose the information required under 2-2-106, MCA (i.e., the name, address and type of your business; any present or past employer from which you currently receive benefits; any business or professional entity or trust in which you hold an interest; any entity in which you are an officer or director; and any real property, other than a personal residence, in which you hold an interest)?

Yes.

42. Have you filed appropriate tax returns as required by federal, state, local and other government authorities?

Yes.

43. Do you have any liens or claims outstanding against you by the Internal Revenue Service (IRS)?

No.

44. Have you ever been found by the IRS to have willfully failed to disclose properly your income during the last five years? If so, provide the details.

No.

## **G. WRITING SKILLS**

45. In the last five years, explain the extent to which you have researched legal issues and drafted briefs. State if associates or others have generally performed your research and the writing of briefs.

I research and write numerous orders. Some of this work is performed by court staff.

46. If you have engaged in any other types of legal writing in the last five years, such as drafting documents, etc., explain the type and extent of writing that you have done.

I am currently writing a book on water law.

47. Attach a writing sample of no more than ten pages that you have written yourself. A portion of a brief or memorandum is acceptable.

48. What percentage of your practice for the last five years has involved research and legal writing?

Most of my work is research and writing.

49. Are you competent in the use of Westlaw and/or Lexis?

Yes.

## **H. MISCELLANEOUS**

50. Briefly describe your hobbies and other interests and activities.

Hunting, hiking, travel, being married to a wonderful person, being a father, reading, learning of all kinds, motorcycles, and friends.

51. Describe the jobs that you have held during your lifetime.

I've been a logger, miner, equipment operator, editor, consultant, carpenter, ski instructor, teacher and lawyer. I've hauled grain in eastern Montana, and guided kids on their first big game hunts. I believe a person acquires wisdom, common sense, and appreciation for others from having a diverse work history.

52. Identify the nature and extent of any pro bono work that you have personally performed during the last five years.

None

53. In the space provided, explain how and why any event or person has influenced the way that you view our system of justice.

No single event has influenced my thinking, but I was fortunate to have a mentor who did. That person was Jim Moore, who hired me to work for his law firm in 1989.

Jim grew up on a ranch in central Montana, served in the state legislature, and became a lawyer by reading the law, rather than going to law school. He was honest, gracious to everyone, smart as a whip, and skilled with written and spoken word.

Despite completing law school, I really didn't know what being a lawyer meant. Jim took me under his wing and finished what school started. He taught me the thrill of being in court, and the stress it placed on clients. He taught me that water cases often have deep underlying issues unrelated to water, and that finding the real problem could get cases solved without a fight. He taught me what it meant to be an officer of the court, and that truth and fidelity to the bench was more important than winning. He taught me that law practiced well could be an honorable calling. Jim showed me what water meant to those who depend on it to make a living. He taught me that good lawyers listened more than they spoke, and knew when to sheath a sword, and when to use it.

Jim helped a green kid grow up and see the law as something beautiful, complex, and sometimes confounding. He was and is a great person and I owe him much for shaping me as a lawyer.

54. In the space provided, explain the qualities that you believe to be most important in a good chief water judge.

A good water judge needs experience representing clients with diverse needs. To obtain this experience, a water judge should have represented wealthy and poor clients, agricultural and industrial clients, clients with recreational and wildlife interests, governmental entities, and nonprofit groups. This representation should have occurred in multiple courts and forums.

The Chief Water Judge needs passion for water law and water policy, and should have experience writing, teaching, and developing legislation to make our water rights system better. The Chief Water Judge also needs to understand the history of the adjudication process, the forces that shaped it, and the reasons for the public policy choices embodied in it.

The Chief Judge should establish clear expectations for those in his court, and enforce them evenly. The Chief Judge should display courtesy toward litigants, attorneys, and staff, and understand that people deliver their best in an atmosphere of respect.

The Water Court is a large enterprise with a significant work force. Ideally, a water judge should have management experience.

Finally, a good judge needs life and work experience outside the law, so that he or she has common sense and knowledge of people.

55. In the space provided, explain how a court should reach the appropriate balance between establishment of a body of precedent and necessary flexibility in the law.

Balancing precedent with the need for flexibility is an important part of a judge's responsibility.



Water law is complex, and balances many conflicting tensions. It establishes private property interests, allocates a limited resource, and distributes the burden of this allocation among water users, government agencies, and courts. Although much water rights case law is old, many water statutes are new. Demand for water is constantly shifting by type of use, location, and amount. In addition, societies' view of the best uses for water changes with time.

Reliance on precedent is important because it establishes predictability. Predictability makes our legal system more efficient, decreases conflict, and reduces cost. It also protects property rights. At the same time, precedent can impede the natural evolution of the law, and rigid adherence to it can produce undesirable outcomes.

In some instances, the law becomes outdated because it no longer reflects how people behave or think, or because it stops providing solutions to problems. When this occurs, it is the judge's obligation to craft decisions that allow the law to evolve sensibly and fairly.

The beauty of water law is that it has deep historic roots reflecting our growth as a nation and culture. Within this historic context, water law is constantly developing based on changing public and private needs. A good water judge must combine respect for precedent with a practical recognition of the need for the law to grow, and for courts to provide predictable and sensible guidance to the system's many stakeholders.

56. In the space provided, state the reasons why you are seeking office as chief water judge.

The Chief Water Judge has many responsibilities. These include deciding cases, overseeing a large staff, managing budgets, and working with the legislature and the DNRC. One of the Chief Judge's greatest responsibilities is coordinating the statewide adjudication process to produce accurate, enforceable decrees of water rights within a reasonable time, and for a reasonable cost. Balancing these objectives requires focus, creativity, and perseverance.

I have the experience to perform these tasks. I also have a passion for water law, and a strong interest in leading the adjudication toward a successful conclusion.

57. What items or events in your career have distinguished you or of which you are most proud?

I'm happy to have a diverse work history. Prior to law school, I moved between white and blue collar jobs, and these experiences helped when practicing law. Since starting my legal career, I've practiced and taught water law, and have had a wide variety of cases and clients who provided many rich professional and life lessons.

Beginning in 2008, I had the honor of leading an amazing team of people at Moonlight Basin in a challenging business, during challenging times. This experience gave me a unique opportunity to develop leadership and business skills.

I am also proud of serving as the Associate Water Judge and Chief Water Judge. The staff at the Water Court is committed to the adjudication process and possesses deep knowledge of the law and its history.

I am honored to be part of that group.

58. Provide any pertinent information reflecting positively or adversely on you that you believe should be disclosed to the Judicial Nomination Commission.

I have provided you with significant information about my qualifications to serve as Chief Water Judge.

On the adverse side, there have been occasions in my career where it's been difficult to maintain good relationships with opposing parties or counsel. Sometimes these strained relations have been attributable to the cases or personalities involved, or simply the natural product of making tough but necessary decisions. At times, they have also been a result of my desire to get results. My peers and friends have told me that my strengths and weaknesses are sometimes the same. Looking back, there were times I could have avoided or minimized adversarial relationships by using more tact, compassion, and patience.

59. Is there any comment that you would like to make that might differentiate you from other applicants or that is unique to you that would make you the best chief water judge applicant?

I have had a full career in water law and possess solid technical skills, but several important factors set me apart.

First, I have served as Associate Water Judge and Chief Water Judge and have valuable perspective on operation of the Water Court. This experience has given me a broad view of the adjudication process, and the need for anticipating consequences when deciding water cases.

I also have significant business experience, which has been an asset at the Court. Leadership and decision making ability are necessary attributes for the position of Chief Water Judge. I have these attributes.

### I. CERTIFICATE OF APPLICANT

I understand that the submission of this application expresses my willingness to accept appointment as Chief Water Judge for the State of Montana, if tendered by the Chief Justice, and further, my willingness to abide by the rules of the Judicial Nomination Commission with respect to my application and the Montana Code of Judicial Conduct, if appointed.

4/16/2017  
(Date)

  
(Signature of Applicant)

**Jennifer L. Farve, Esq.**  
1276 N. 15<sup>th</sup> Ave  
Ste. 104  
Bozeman, MT 59715  
(406) 219-0073  
jennifer@farvebrownlaw.com



**Abigail R. Brown, Esq.**  
7 W. 6<sup>th</sup> Ave  
Ste. 4B  
Helena, MT 59601  
(406) 457-5494  
abby@farvebrownlaw.com

May 29, 2017

*Via Email Only: [agoldes@montanabar.org](mailto:agoldes@montanabar.org)*

Montana Supreme Court Access to Justice Commission  
c/o Ann Goldes-Sheahan, Equal Justice Coordinator  
State Bar of Montana  
P.O. Box 577  
Helena, MT 59624

**Re: Karla M. Gray Equal Justice Award  
Nomination of Chief Water Judge Russ McElyea**

Dear Commission Members:

This letter provides a description of Chief Water Judge Russ McElyea's equal justice contributions in support of his nomination for the Karla M. Gray Equal Justice Award. Also enclosed with this nomination packet are two letters of support and, in lieu of a resume, an excerpt of his recent application for chief water judge, which is publically available in entirety on the Judicial Nomination Committee website.

To appreciate Judge McElyea's equal justice contributions, it is necessary to understand the purpose of the Montana Water Court and the litigants served. The Water Court is a specialized state court that oversees the statewide litigation of water rights. Everyone who has a water right in Montana must, at some point, appear in the Water Court to have the elements of his or her water right(s) determined; participation is mandatory and the legislatively-set timetables are short.<sup>1</sup> While the number of self-represented litigants ("SRLs") is rising rapidly in all of Montana's state courts, the Water Court is uniquely positioned in that Water Court litigants are brought into court by the State of Montana, not another private party. Therefore, the Water Court oftentimes must educate the SRLs as to *why* they must appear and defend their water rights before it can begin its primary job of adjudicating those water rights.

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<sup>1</sup> See Water Policy Interim Committee, *A Short History of the Water Court* ([http://leg.mt.gov/content/Committees/Interim/2015-2016/Water-Policy/Meetings/Sept-2015/WaterCourt\\_history.pdf](http://leg.mt.gov/content/Committees/Interim/2015-2016/Water-Policy/Meetings/Sept-2015/WaterCourt_history.pdf)) (Sept. 2015) for further discussion of the Water Court.

With such a large number of SRLs defending their water rights in the Water Court, and legislatively-imposed timetables and deadlines to complete the adjudication over 218,000 filed water rights by 2028<sup>2</sup>, access to, and an understanding of, the judicial system is a critical component of the success of the Water Court.

As Chief Water Judge, McElyea has been instrumental in ensuring that all water right users have access to, and an understanding of, the Water Court's processes and purpose regardless of the litigants' income, geographic location in the State, or ability to access legal resources such as a law library, self-help center, or a local water attorney. Specific examples of McElyea's efforts at the Water Court to increase access to, and understanding of, the Water Court by SRLs statewide include:

- A robust, easy-to-use, plain language website with critical information for self-represented litigants (<http://courts.mt.gov/water>) that has links to:
  - A *Representing Yourself* section that includes “how-to” guides, general information about Montana water law, and generic forms with explanations regarding use;
  - Relevant court statutes and rules, including Water Court-specific adjudication rules, claims examination rules, Rules of Civil Procedure, and Rules of Evidence, and Uniform District Court Rules;
  - A *Significant Case Search* function that is regularly updated and provides plain language searches of Water Court decisions without having to use Lexis or Westlaw or visit a law library;
  - A *Frequently Requested Orders* page that highlights noteworthy Water Court cases or those of statewide importance;
  - Information on water rights in Montana;
  - Relevant Department of Natural Resources pages; and
  - An online Court calendar and up-to-date objection period calendars.
- Training of the Water Masters and Water Court staff on legal information and legal advice to ensure SRLs receive appropriate procedural information and assistance to adequately represent themselves or, alternatively, to understand at what point the SRLs may need to obtain legal counsel.
- Holding public meetings, both in-person and telephonic, in communities where decrees are issued to explain the adjudication process and provide education to the communities. Most

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<sup>2</sup> See UM Law School's Land Use and Natural Resources Clinic's Report to the Supreme Court, *Water Rights in Montana* ([http://courts.mt.gov/portals/113/water/UM\\_WaterRightsStudy.pdf](http://courts.mt.gov/portals/113/water/UM_WaterRightsStudy.pdf)) (Spring 2014).

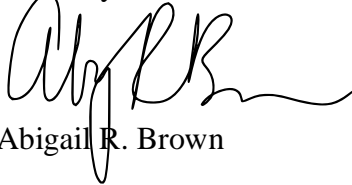
of these meetings are held by Water Masters in the evenings to reach the most number of people.<sup>3</sup>

While the adjudication of water rights is the Water Court's primary objective and directive, the Water Court also assists state district courts and court-appointed water commissioners in water enforcement cases.<sup>4</sup> Often, these enforcement cases involve multiple parties, many of whom may be self-represented, a district court judge whose expertise is not often in water law, and an expedited set of deadlines because the issue to be resolved is availability of water during the immediate irrigation season. In response to a need for additional support to district courts and water users in these enforcement cases, Judge McElyea appoints his Water Masters to assist district court judges and water users by providing education, tools, and expertise to effectively and timely administer water rights. For those cases in which no Water Master is appointed, the Water Court's website (<http://courts.mt.gov/water/enforcement>) provides water users and district court judges information on options for resolving water disputes, lists of water commissioners, maps of enforcement areas, and guides for enforcement proceedings.

In sum, under Judge McElyea's leadership, the Water Court has created or improved numerous publically available education tools to help SRLs navigate the Water Court adjudication, trained Water Masters regarding issues that impact SRLs, and appointed Water Masters to assist SRLs and state district courts on various water-related issues.

Please do not hesitate to contact me with any questions or concerns you may have.

Sincerely,



Abigail R. Brown

Enclosures      As Stated

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<sup>3</sup> E.g., Basin 43D public meetings are on 8/8/17 at 12:30pm by Phone and 8/10/17 at 7pm in Joliet Community Center (<http://courts.mt.gov/water/activedecrees> and the specific times are found on the Court's online calendar (<https://app.mt.gov/cal/html/event/WaterCourt>).

<sup>4</sup> See UM Law School's Land Use and Natural Resources Clinic's Report to the Supreme Court, *Water Rights in Montana*, supra.

May 18, 2017

To the Equal Justice Award Committee,

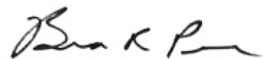
We are writing in support of the nomination of the Chief Water Judge Russ McElyea for the Karla M. Gray Equal Justice Award. Since becoming the Chief Water Judge at the Montana Water Court, Judge McElyea has made significant efforts to improve access to the Water Court.

As former Water Masters under Judge McElyea, we saw firsthand that Judge McElyea encourages Water Masters and Water Court staff to find ways to make court processes understandable for self-represented litigants. Water Masters are trained on the difference between providing legal information to self-represented parties and giving legal advice. During court conferences, Water Masters assist self-represented litigants by explaining court processes.

Additionally, Judge McElyea has coordinated with district court judges on water distribution and enforcement matters by appointing Water Masters to provide support to judges and assistance to parties in resolving water distribution controversies.

Judge McElyea finds the balance of providing appropriate assistance to self-represented parties while upholding the rule of law and adherence to process. We strongly support his nomination for the Karla M. Gray Equal Justice Award.

Sincerely,



Bina R. Peters



Dana Elias Pepper



**Professor Michelle Bryan**  
Natural Resources & Environmental Law Program  
32 Campus Drive  
Missoula, MT 59812-6552  
(406) 243-6753  
michelle.bryan@umontana.edu

May 24, 2017

Montana Supreme Court Access to Justice Commission  
c/o Ann Goldes-Sheahan, Equal Justice Coordinator  
State Bar of Montana  
P.O. Box 577  
Helena, MT 59624

**RE: Karla M. Gray Equal Justice Award – Nomination of Chief Judge Russ McElyea**

Dear Commission Members:

This letter supports the nomination of Chief Judge Russ McElyea for the Karla M. Gray Equal Justice Award. There are two individuals who influenced my decision to enter the legal profession more than any others. The first was former Chief Justice Karla Gray, who had just joined the Montana Supreme Court and spoke to a delegation of high school girls participating in Girls State. She was a true ambassador for the court system and how it helped the people of Montana.

Chief Judge Russ McElyea was the second. During his time in private practice, he gave me the opportunity to work as his law clerk and discover the incredible world of water law. More than any other lawyer I have observed in practice, I saw Russ McElyea connect with people on a personal level to ensure they felt understood and well represented. This long abiding ethic of service has continued under his leadership as Chief Judge of the Water Court, where he works toward and improves the court system for all Montanans.

As Chief Judge, Russ McElyea has overseen the largest water rights adjudication of any state in the American West. The Montana Legislature has provided tight timetables and specific processes for the adjudication that place additional pressures and expectations on the Water Court. Despite these rigorous demands, the adjudication process has successfully moved forward under the Chief Judge's leadership. Moreover, the state as a whole has benefitted from the Water Court's increased accessibility and its work toward an improved water rights system.

To highlight a few examples, the Chief Judge has begun a program where water masters assist other state judges when complex water rights issues arise in the district court setting. These water masters also provide educational sessions in water basins around the state, teaching local water users about the adjudication process and the rules governing the delivery and sharing of water.

These statewide efforts help reduce the frustration water users may experience when they have cases before both the district court and the Water Court. Perhaps more importantly, these efforts can help diffuse potential future disputes over water distribution. District court judges can also better move forward on water rights matters in their courts, benefitting the other litigants on their dockets. I can think of few other settings where a judge has taken such a leadership role in assisting other courts and helping communities understand how the law impacts their lives.

Beyond this public outreach and judicial support, Chief Judge McElyea has dedicated himself to improving the larger legal processes that affect Montana's water rights holders. In 2013, I worked alongside the Water Court and the DNRC on a study that examined how our state's adjudication, permitting, and enforcement processes can function more effectively, efficiently, and accessibly for all Montanans. During this study, the Chief Judge critically examined the performance of the Water Court and offered innovative suggestions for its improvement. He also exemplified the spirit of collaboration by working to build bridges between the Water Court, DNRC, and the district courts – bridges that benefit all of Montana's water users. The results of that effort can be viewed at [http://courts.mt.gov/portals/113/water/UM\\_WaterRightsStudy.pdf](http://courts.mt.gov/portals/113/water/UM_WaterRightsStudy.pdf). Since that time, the Chief Judge has worked with the judiciary and the state legislature to implement ideas for improvement.

The touchstone of all Chief Judge McElyea's work has been his value of service to Montanans and our legal system. He is thus a very worthy recipient of the Karla M. Gray Equal Justice Award. If I can be of further assistance to the Commission, please do not hesitate to contact me at (406)243-6753.

Yours Very Truly,



Michelle Bryan  
Professor, Natural Resources & Environmental Law Program



# Karla M. Gray Equal Justice Award Nomination Form

Email Nomination Form and materials no later than May 31<sup>st</sup>, 2017 to:

Ann Goldes-Sheahan, Equal Justice Coordinator

State Bar of Montana

[agoldes@montanabar.org](mailto:agoldes@montanabar.org)

Full Name of Nominee: Karen S. Townsend

Nominee Address: Fourth Judicial District Court, 200 West Broadway

City/State/Zip: Missoula, MT 59802

Telephone: 406.258.4774 Email: ktownsend@mt.gov

In separate attachment(s), please provide specific descriptions of significant contributions of your nominee which can include letters of support, publications and specific examples of nominee's involvements, impacts and influences for any of the criteria outlined that might apply. See nomination requirements for details. You may include your nominees biography or resume. Do not provide any confidential information.

Please mark all that apply and describe any attachments provided:

☒ Description of nominee's equal justice contributions, *as set forth in letters of support.*

Number of description pages attached: \_\_\_\_\_

☒ Letters in support of nomination.

Number of letters of support attached: *5 attached; several more to follow.*

☐ Articles or publications concerning your nominee's contributions.

Number articles or publications attached: \_\_\_\_\_

Have you included your nominee's biography or resume?

☒ Yes

☐ No

Names of person/organization submitting this nomination:

Name: Leslie Halligan

Address: Fourth Judicial District Court, 200 West Broadway

City/State/Zip: Missoula, MT 59802

Phone: 406.258.4771 Email: lhalligan@mt.gov

STATE OF MONTANA  
FOURTH JUDICIAL DISTRICT  
DEPARTMENT 1  
lhalligan@mt.gov



LESLIE HALLIGAN  
DISTRICT COURT JUDGE

MISSOULA COUNTY COURTHOUSE  
200 WEST BROADWAY  
MISSOULA, MT 59802-4292  
(406) 258-4771

May 30, 2017

To: Access to Justice Commission  
Attn: Ann Goldes-Sheahan  
Equal Justice Coordinator  
State Bar of Montana  
[agoldes@montanabar.org](mailto:agoldes@montanabar.org)

Re: Nomination of Hon. Karen S. Townsend for the Karla M. Gray Equal Justice Award

Dear Commission Members,

It is my honor to nominate Karen S. Townsend, District Court Judge in the Fourth Judicial District, for the Karla M. Gray Equal Justice Award. Judge Townsend has distinguished herself by her leadership and commitment to ensuring that all of Montana's citizens have access to justice. For more than forty years, Judge Townsend has demonstrated her commitment by improving programs that provide services to indigent and underserved individuals, protecting the rights of victims of serious crimes; encouraging attorneys to serve the underserved, volunteering to provide legal representation to indigent litigants, and mentoring others to improve access to justice.

In her capacity as a District Court Judge, she has worked to ensure the viability of Missoula County Self-Help Center both as coordinator and through her leadership on the center's board of advisors. Equally important, she has consistently worked to support and coordinate programs established through Montana Legal Services and the Western Montana Bar Association that provide legal services to low income and underserved individuals. This includes annual requests to local attorneys to volunteer legal services either to the Missoula County Self Help Center or through Montana Legal Services, and letters of recognition to those attorneys who have served in these areas.

Judge Townsend devotes significant attention to the many self-represented litigants that appear in court. She is patient and instructive to the litigants and thoroughly assesses the legal issues that are presented. She works tirelessly, often presiding over more than 80 cases on her regular law and motion days. In addition to her work in the courtroom, Judge Townsend finds time to mentor attorneys, encourage their commitment to equal justice issues, and support the development of emerging trial attorneys. She is eager to educate law students and instill in them the need to ensure equal justice and access to the legal system. Her energy and enthusiasm to streamline procedures and support innovative programs has benefitted both the underserved and the general legal community.

Judge Townsend contributes her leadership to the Montana Judge's Association, serving on the education committee, to ensure that other judges receive appropriate training to improve access to justice for self-represented and underserved litigants, and to provide comprehensive education to Montana judges. While busy with her own caseload, she often reaches out to her colleagues to share



information, discuss developments in the law and lend her expertise when presented with a legal or procedural issue. Her welcoming smile and keen intellect is a beacon of light to many.

As the chief criminal prosecutor for Missoula County, Judge Townsend became an excellent trial attorney, devoting much of her time to the prosecution of homicides, and sexual and other violent crimes. Despite the complexity of these cases, she worked to protect the rights of victims, especially those involved in cases of sexual and domestic abuse. After retiring from her work as a prosecutor and prior to her election, Judge Townsend volunteered to serve indigent clients, again demonstrating her commitment to helping others seek justice.

From approximately 2007 through 2011, Judge Townsend willingly accepted referrals for clients involved in domestic violence situations. In addition to her personal contributions to individuals needing legal representation, she has contributed her leadership to other organizations who assist in supporting indigent and underserved litigants. Judge Townsend has served on the boards of Missoula's YWCA, which provides services to victims of domestic violence, and its Planet Kids program, which provides for supervised parenting for children involved in domestic violence and high conflict situations. These are only a few of the many community organizations that receive her support. Even early in her career, she demonstrated a commitment to human rights, serving for four years on the Montana Human Rights Commission, and two years as its chair.

Throughout her more than forty-year career, Judge Townsend has demonstrated compassion, leadership and mentorship to attorneys and judges, and has devoted countless hours to many programs working to improve access to justice. Her demonstrated commitment to providing equal justice to all fulfills the criteria expressed in the Karla M. Gray Equal Justice Award, but her steadfast leadership and commitment to individuals in the justice and legal systems to improve access to justice, regardless of status, position or practice of law, distinguishes her from many other worthy candidates for this award.

Sincerely,



Leslie Halligan  
District Court Judge  
Fourth Judicial District Court

STATE OF MONTANA  
FOURTH JUDICIAL DISTRICT COURT  
DEPARTMENTS 1 & 4  
arubin@mt.gov



MISSOULA COUNTY COURTHOUSE  
200 WEST BROADWAY  
MISSOULA, MT 59802-4292  
(406) 258-4778

AMY S. RUBIN  
STANDING MASTER

May 19, 2017

TO: Access to Justice Commission  
Attn: Ann Goldes-Sheahan, Equal Justice Coordinator  
State Bar of Montana

RE: Nomination of Hon. Karen S. Townsend for Karla M. Gray Equal  
Justice Award

Dear Commission Members:

It is with great pleasure that I write this letter in support of the nomination of Judge Karen Townsend for the Karla Gray award. I have been involved with Judge Townsend on the Self-Help Advisory Board. As the head of that board, Judge Townsend has provided leadership on the Self-Help Center Advisory Board, and has guided the Center and members of the Advisory Board towards the goal of meeting the needs of pro se litigants to allow better access to the court system.

In addition, Judge Townsend has also served both on the YWCA Board of Directors, as well as currently serving on the advisory board of Planet Kids (a supervised visitation center). Prior to taking the bench, Judge Townsend has advocated for domestic violence survivors and children who have been exposed to violence, including service on the YWCA Board of Directors. In my role as Standing Master, I have the opportunity to discuss cases with Judge Townsend. She consistently expresses concern and commitment to meeting access to justice issues for pro se litigants. For example: recently Judge Townsend had a pro se individual appearing in a parenting case with complex jurisdictional issues. The party was not going to be able to address these issues without assistance from an attorney. The judge personally recruited a pro bono attorney with expertise in multi-state jurisdictional issues to assist this low-income pro se individual.

The Judge has been a strong supporter of pro bono programs. Prior to assuming my current position, I volunteered as a pro bono settlement master from time-to-



time. It was always gratifying after volunteering to receive a personal "Thank You" note from Judge Townsend following those settlement conferences. This is not a standard practice among judges. Judge Townsend was a thoughtful and effective speaker at the Montana Justice Foundation luncheon, and also encourages others to participate in the Western Montana Pro Bono Program.

However, not only does Judge Townsend provide leadership and vision in meeting the needs of pro se litigants from her position as a judge—she also stepped up and provided pro bono representation prior to becoming a judge. Although she was officially "retired" prior to being elected to the bench, she volunteered her time to provide representation in difficult cases. In one instance, a new lawyer working under a Violence Against Women Act grant for a non-profit was going to try her first case. The new lawyer's supervising attorney was not going to be available to accompany the new lawyer to the trial. When I asked Karen Townsend if she would work with this attorney to prepare for trial and to attend the trial as "second chair," she accepted without hesitation. This was pro bono work for a domestic violence survivor; and an opportunity to mentor a new attorney working for a non-profit agency.

In another situation, Karen Townsend accepted pro bono representation of a client that was referred to her for full representation in a difficult family law case. Although she was "retired" at the time, Karen Townsend worked long hours in her role as a pro bono attorney. I personally was aware of how dedicated she was to providing service to her client, because I served as Guardian ad Litem in the case.

I have observed first-hand her dedication to providing access to the court system for those people who cannot afford representation by an attorney. I am impressed with her unrelenting energy and stamina in all of her work, but especially in her work to assist those who are overlooked and underserved in our court system.

I cannot think of anyone more deserving than Judge Townsend of the honor of the Karla Gray Equal Justice Award. Thank you for your time and consideration of this worthy nominee.

Sincerely,

A handwritten signature in blue ink, appearing to read "ASR", with a long horizontal flourish extending to the right.

Amy S. Rubin

HON. JAMES A. HAYNES  
DISTRICT COURT JUDGE, DEPT. TWO  
BECKY KNUTSON  
ADMINISTRATIVE ASSISTANT



STATE OF MONTANA  
TWENTY-FIRST JUDICIAL DISTRICT  
RAVALLI COUNTY

RAVALLI COUNTY COURTHOUSE  
205 BEDFORD STREET, SUITE B  
HAMILTON, MONTANA 59840  
PHONE: (406) 375-6790  
FAX: (406) 375-6785

May 22, 2017

RE: Letter in Support of Judge Townsend

To whom it may concern:

My name is Debra Steigerwalt. I am writing this letter because I strongly support the nomination of the Hon. Karen Townsend for the 2017 Karla M. Gray Equal Justice Award.

Since August 2010 I have been the law clerk for the Hon. James Haynes, 21st Judicial District Court Judge. In that capacity, I have served as a liaison for our court to the Western Montana Bar Association ("WMBA") Pro Bono Committee and to the Advisory Board of the Missoula Family Law Self-Help Law Center ("Center"). I have also participated as a member of and currently chair the Law School Partnerships Committee ("LSPC") of the Access to Justice Commission. Through this work, I am familiar with Judge Townsend's dedication and significant efforts to improve access to the Montana justice system. Judge Townsend is the Chair of the Advisory Board of the Center and, although not a member, has been instrumental in promoting the goals and activities of both the WMBA Pro Bono Committee and the LSPC.

Judge Townsend meets the criteria to receive the 2017 Karla M. Gray Equal Justice Award, under all of subsections of Nomination Requirement 3 of the 2017 application instructions.

**First, with regard to requirement 3(a), Judge Townsend has personally done considerable work to improve all individuals' access, regardless of income, to the Montana Court system.**

For example, in January 2016, the Advisory Board to the Center learned that Center staff had (1) identified possible errors in the Fourth Judicial District Court's family law form packets (designed to assist self-represented litigants), (2) that the Center's staff was not authorized to make changes in the forms to remedy any problems, and (3) that Missoula County's recent

website update had made some of the packets inaccessible. The inability to conveniently access correct forms is a considerable barrier to access to justice for self-represented litigants in domestic relations cases. Judge Townsend led the Advisory Board to a speedy resolution of this problem through her example of personal involvement. Prior to the Advisory Board's meeting on February 19, 2016, Judge Townsend informed the Advisory Board of a preliminary plan to update the packets and to have them posted on the website. Then, at the Advisory Board's meeting, the Advisory Board parsed out packet editing assignments, with Judge Townsend volunteering to revise two of the packets. The two packets consisted of 19 forms and comprehensive instructions geared to self-represented litigants. In less than a week (by February 24, 2016), Judge Townsend had revised the two packets. The Advisory Board then used those packets as the model to successfully and expeditiously revise the other packets and place them on the website.

Similarly, in February 2016, the Advisory Board to the Center learned that the Center could no longer perform child support calculations because of a concern that the Center was providing legal advice. This was an important access to justice issue because, in the absence of a program to calculate child support, indigent parents may need to wait an extra four to six months to have support issues resolved. Judge Townsend was personally involved in developing and implementing a solution to this problem - creating a separate pro bono referral mechanism within the Fourth Judicial District Court for parents for whom a judge had approved an *Affidavit of Inability to Pay Fees*. In addition of enlisting the help of her fellow 4th Judicial District Judges and a commitment of staff support for coordination, Judge Townsend personally contacted Fourth Judicial Attorneys family law attorneys through email and encouraged them to add their names to a list of volunteer attorneys.

**Next, under requirement 3(b), Judge Townsend has been instrumental in local access to justice efforts, including program development and cooperative efforts between programs.**

In addition to developing the above described child support calculation program, Judge Townsend has worked to ensue cooperative efforts between programs.

For example, under Judge Townsend's leadership, the Advisory Board of the Center agreed to host University of Montana School of Law Professor Capulong and LSPC members (including Professor Wandler, and Angie Wagenhals) to discuss ways that the Center may be able to partner with the law school. The hope was to involve law students in hands-on access to justice efforts that also further the goals of the Center and its users. At the January 18, 2016 meeting, Judge Townsend presided over a candid brain storming session of possible points of collaboration, during which the participants also identified barriers to obtaining such collaboration. In my opinion, this meeting was one of the primary catalysts that has led to the development of a project to place an AmeriCorps volunteer on site in the law school as a pro bono coordinator for the 2017-2018 academic year.

**Moreover, Judge Townsend's key role in spearheading cooperative efforts between programs has involved not just her own active support of existing pro bono programs (requirement 3(c)) and attorney involvement within them (requirement 3(d)), but also the**

**development of a unified message of support among her judicial colleagues.**

A recent example illustrates this key role. In March 2017, the WMBA Pro Bono Committee identified a need to develop an updated attorney volunteer list and wished to ask the Fourth Judicial District Judges to send out an email to attorneys encouraging participation in the WMBA Pro Bono Program. At the April 19, 2017 Advisory Board meeting for the Center, I updated the Advisory Board with respect to the WMBA Pro Bono Program. The Advisory Board raised the issue of the need for a single vehicle for attorneys to be able to indicate their pro bono preferences among the WMBA's Pro Bono Program, the Fourth Judicial District Court's settlement master and child support calculation programs, and the Center. Judge Townsend stated at the meeting that she believed that direct outreach from the Fourth Judicial District Court judges would increase attorney participation and agreed to arrange for the judges to consider the issue of a judicial letter and coordination survey at their May 1, 2017 meeting. At the May 1, 2017 meeting, Judge Townsend facilitated dialog among stakeholders in the court's programs, the Center, the WMBA Pro Bono Program, and the Fourth Judicial District Court judges. As a result, the judges unanimously agreed to send an email to attorneys encouraging their continued participation in the WMBA Pro Bono Program and requesting that the attorneys complete an attached participation form to indicate their pro bono opportunity preferences across both court and WMBA Pro Bono programs.

**Finally, although the above examples are recent ones, Judge Townsend's commitment to improving access to the judicial system has also been both substantial and a long-term. (See requirement 3(e)).**

For example, in addition to the current letter to attorneys in support of the WMBA Pro Bono Program, Judge Townsend, along with her judicial colleagues, previously signed letters of support of the program in both 2011 and 2013. She has spoken at or presided over the award of the Montana Law Student Pro Bono Service Award repeatedly, including in both 2013 and 2015. She has also been a frequent speaker at local and state bar events. Judge Townsend's reputation as a jurist who is personally and substantially involved in improving access to the Montana judicial has been well known throughout the western Montana's access to justice community for many years.

Sincerely,



Debra A. Steigerwalt  
Sr. Law Clerk to Judge Haynes



**AMY LORD**  
**LORD LAW OFFICE, P.C.**

**CYNTHIA K. THIEL**  
**BOONE KARLBERG P.C.**

MAY 24, 2017

KARLA M. GRAY AWARD  
Attn: Ann Goldes-Sheahan  
Equal Justice Coordinator  
State Bar of Montana  
P.O. Box 577  
Helena, MT 59624

Re: Letter of recommendation for Karen  
Townsend as a nominee for the Karla Gray  
Award

We write this letter in support of Judge Karen S. Townsend's nomination for the 2017 State Bar of Montana Karla M. Gray Equal Justice Award.

Upon her retirement from the Missoula County Attorney's Office at the end of 2006, Karen Townsend served as a pro bono attorney for several indigent family law clients. Her concern for those individuals unable or less able to pay for legal services continued when she was sworn in as Missoula County District Judge in January 2011. Her initial efforts centered around the court's role in serving pro se litigants. She quickly turned to encouraging attorneys to step up to meet the needs of such litigants—from direct representation of clients, to volunteering in the Missoula Self-Help Center, and ultimately to serving as Guardians ad Litem, pro bono settlement masters, and appointment as special masters to run child support calculations for indigent parties.

Judge Townsend later began serving in an advisory capacity for the Missoula Self-Help Center and in late 2014 or early 2015 took over supervising the Center's Coordinator as well as chairing the Center's Board of Advisors. In her various roles, Judge Townsend coordinates with the four Missoula County District Court Judges, the Missoula County Clerk of Court's Office, the Montana Supreme Court, the Advisory Board, the Self-Help Center staff, the Western Montana Bar Association Pro Bono Committee, and private attorneys. Clearly Judge Townsends supports the Self-Help Center to ensure that access to justice is available to all citizens of Western Montana, regardless of financial ability or familiarity with the court system.

In her leadership role for the Missoula Self-Help Center and in our community Judge Townsend has worked to engage other available pro bono programs in the region so litigants in need are matched with attorney volunteers able to meet those needs or empowered to navigate the process as a pro se litigant with the support of services available to provide information or advice. Through her efforts, the legal system better serves the public, the court, the clerk's office, and the legal profession.

Having served on the Advisory Board for the Missoula Self-Help Center and as attorneys in the private family law practice in Missoula, we have personally observed Karen Townsend in action and firmly believe she epitomizes the qualities recognized by the Karla Gray Award.

Sincerely,



Amy Lord



Cynthia K. Thiel

MONTANA FOURTH JUDICIAL DISTRICT COURT



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STATE OF MONTANA

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May 24, 2017

TO: Access to Justice Commission  
Attn: Ann Goldes-Sheahan, Equal Justice Coordinator  
State Bar of Montana

RE: Nomination of Hon. Karen S. Townsend for Karla M. Gray Equal Justice Award

Dear Commission Members:

I write in support of the nomination of Karen S. Townsend for the 2017 Karla M. Gray Equal Justice Award. Judge Townsend is an outstanding example of how a district court judge can ensure that access to justice is not just an aspiration but is made real.

Anyone who knows Judge Townsend knows that she has a long-standing commitment to community service, including personal and financial support of many community programs and organizations, attorney education and personal pro bono work. I have known Judge Townsend for many years, starting in the early 1980's, when she worked at the Missoula County Attorney's Office and I worked as a public defender and then joined the County Attorney's Office in 1990. I have worked as Judge Townsend's law clerk for the last 2 years. During the last 2 years, I have observed Judge Townsend's tireless attention to the demands of her office. At the same time, she has also provided critical oversight, supervision and support for Missoula's Family Law Self Help Center.

In particular, she has devoted considerable time and energy to sorting out and resolving challenging staffing matters, which are tasks that are time consuming, time sensitive, unglamorous and utterly necessary for program continuity.

I cannot think of a better candidate for this award.

Sincerely,



Martha E. McClain  
Senior Law Clerk  
Fourth Judicial District Court

Karen S. Townsend  
District Court Judge 4<sup>th</sup> Judicial District  
200 West Broadway  
Missoula, MT 59802  
406-258-4774  
[ktownsend@mt.gov](mailto:ktownsend@mt.gov)

**Education:**

Ohio Wesleyan University: BA (Psychology) 1964

University of California: MA (Counseling Psychology) 1965

University of Montana School of Law: JD with honors 1976

**Non-Legal Employment:**

High School Teacher and Counselor Farrington High School, Honolulu HI  
1966-1971

High School Teacher Bozeman Senior High School, Bozeman, MT 1972-  
73.

**Legal Employment:**

Deputy County Attorney, Missoula County Attorney's Office: 1976-1980

Chief Staff Attorney, County Prosecutor's Services Bureau, Montana Dept.  
of Justice, 1980-1981

Senior Deputy County Attorney, Missoula County Attorney's Office 1982-  
1988

Director of Training, National College of District Attorneys, 1988-1990

Senior Deputy County Attorney, Missoula County Attorney's Office, 1990-  
1998

Chief Deputy County Attorney Missoula County Attorney's Office, 1998-  
2006

Special Assistant United States Attorney, 1994-1988, 1990-2006

District Court Judge, 2011-present

**Teaching Experience:**

National College of District Attorneys—Trial Advocacy Programs

National Advocacy Center---Trial Advocacy Programs

Montana County Attorney's Association---Search and Seizure

Montana Commission on Courts of Limited Jurisdiction---Search and Seizure

Federal Law Enforcement Training Center---Arson Prosecution

Faculty member/Director Advanced Trial Advocacy Program at the University of Montana School of Law

Co-coach of the Trial Competition Team for the University of Montana School of Law

**Public Service:**

Member, Montana Supreme Court Commission on Criminal Jury Instructions

Board of Directors: Western Montana Bar Association

Board of Directors: Big Brothers and Sisters

Community Ministry Broad: St. Patrick Hospital

Board of Directors: YWCA Missoula

Member/Chair: Montana Human Rights Commission

**Honors/Awards**

Fellow, American College of Trial Lawyers 2000, 1<sup>st</sup> woman from Montana elected to Fellowship

YWCA's Salute to Excellence Award for Public Service 1996

Western Montana Bar Association's Outstanding Lawyer 1994

Distinguished Faculty Member National College of District Attorneys 2006

Delegate to the US-Canadian Legal Exchange sponsored by the American College of Trial Lawyers, 2007



May 31, 2017

Karla Gray Award  
c/o Erin Farris-Olson  
State Bar of Montana  
P.O. Box 577  
Helena, MT 59624

RE: Karla Gray Equal Justice Award

Dear Erin:

I have been asked to write a letter in support of Judge Townsend's nomination for the Karla Gray Equal Justice Award---and I am happy to do so.

Having tried cases before District Court judges all over Montana, I believe that one of Judge Townsend's noteworthy contributions is the atmosphere she creates in her courtroom and the way that all participants are treated. She has been able to accomplish that important balance of making it clear that she is in charge of the courtroom but does so in a manner that is welcoming and respectful. That is no easy task!

Another important qualification she brings to the Court is the fact that she had a long and illustrious career as a prosecutor in the Missoula County Attorney's Office. Some judges, because of their area of practice before they go on the Bench, have little, if any, criminal law experience. Judge Townsend's contributions in that respect are impressive.

Another thing that has been impressive in her Court is the thoroughness, and the reasonableness, in which she handles complex litigation. The Montana Supreme Court's opinion in the Mountain Water case was complimentary in that respect. That is important because we want equal access to everyone who goes to Court regardless of who they are or what positions they are taking, and I think Judge Townsend has consistently demonstrated her ability to do that.

Since Judge Townsend has been on the bench she has appointed me on several occasions to serve as a Guardian ad Litem. Some of those have been cases where the parties were represented by counsel and in some of them the parties were pro se. In all of them I have been impressed with Judge Townsend's recognition that with her busy schedule, and the time consuming complexity of some of

Erin Farris-Olson  
RE: Karla Gray Equal Justice Award  
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the issues involving young people in those cases, she was willing to reach out to practicing attorneys and solicit their opinions and points of view as she worked on coming up with the right decision.

Finally, over the past five years I have taught a six-week course for adult learners at the University of Montana through the MOLLI Program. One of those 90-minute classes involves my inviting a district court judge and a justice court judge, who after they are introduced, are opened up to 90 minutes of freelance questioning by the 60 or 70 adult learners who typically attend the class. It is really a pleasure to see interested adults in our community have that kind of unfettered access to a judge and the students have always come away impressed. Also impressive, is that this past spring Judge Townsend took on the very considerable task of organizing the Regional Trial Competition for the American College of Trial Lawyers. It is a huge undertaking and the evaluations received this spring were uniformly glowing. And, I might mention in passing, before she went on the Bench Judge Townsend was a member of the American College of Trial Lawyers which is by invitation only and restricted to one percent of the trial lawyers in the United States and Canada.

All and all, Judge Townsend knows what she is doing, does it well and does it fairly and respectfully which speaks volumes for our court system.

Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP



Larry E. Riley

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LER:pjc