

Montana Supreme Court Access to Justice Commission

September 8, 2023 • 10:00am – 12:00pm

Zoom Video Conference

<https://us02web.zoom.us/j/87699360087?pwd=a2Y2S1gzUUhGTlo5ajZEandDbDRhQT09>

1. Call to Order
2. Approve March and June minutes (Tab 1)
3. Introduce new Commissioners and staff (Tab 2)
  - a. Commissioners: Senator Wendy McKamey and Representative Laura Smith
  - b. Becky Schupp Watson, MT Justice Foundation
4. IDRT/Family Mediation Update: Emma Schmelzer and Justice Baker- 10 min (Tab 3)
5. ATJC Standing Committee Reports
  - a. Strategic Planning Committee update: Juli Pierce – 10 min
6. JIC Update: Ellie Webster and Morgan Dake – 10 min
7. MLSA update: Alison Paul - 10 min
8. Karla Gray Award - 5 min (Tab 4)
9. Meeting Dates:
  - a. December 1, 2023
  - b. March 1, 2024
  - c. June 7, 2024
10. Public Comment

Tab 1

**Montana Supreme Court Access to Justice Commission**

**March 3, 2023**

**Zoom Video Conference**

**10:00 AM – 12:00 PM**

**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Ed Bartlett, Lillian Alvernaz, Hon. Stacie Four Star, Hon. Leslie Halligan, Kekek Stark, Katy Lovell, Alison Paul, Olivia Riutta, Margaret Weamer.

**Commissioners Absent:** Hon. David Carter, Rick Cook, Jacob Griffith, Aimee Grmoljez, Hon. John Kutzman, Juli Pierce, Rep. Katie Sullivan.

**Others Present:** Alissa Chambers, McKayla Henson, Emma Schmelzer, Grace Loveless, Megan Dishong, Franklin Runge, Patty Fain, Kim Dudik, and Krista Partridge.

**Call to Order & Introductions**

Justice Baker called the meeting to order at 10:02 a.m., and she welcomed the new State Law Librarian Franklin Runge. She also asked participants to introduce themselves.

**Approval of December Meeting Minutes**

Justice Baker asked for corrections on the December meeting minutes. There were no corrections offered and the minutes were approved without objection.

**Policy & Resources Committee Update**

Justice Baker reported that the civil legal aid bill was tabled in the Senate Judiciary Committee during the first week of the legislative session. She thanked everyone who reached out regarding the proposed legislation that would have impacted IOLTA funds. The legislation failed, but it will likely come up again in the next session and we should be prepared.

**Self-Represented Litigants Committee Update**

Grace Loveless reported that a court forms summit is scheduled for March 15 and she will send details to the group. She also said that law library staff will be doing an outreach event at the Lewis & Clark County Library on March 29. The event will include education about family law forms and the self-help law center staff will be on hand to review forms. She asked members to spread the word about this event.

**Outreach and Communications Committee Update**

Katy Lovell said that the committee had been on standby for any requests related to the civil legal aid funding bill and she had nothing additional to report.

**MLSA Update**

Alison Paul reported that while the State of Montana is now out of money for rental assistance, MLSA still has funds under our contract with the Department of Commerce and continues to process rental assistance payments and provide legal assistance for tenants facing eviction. Alison also reported that the Tribal Advocacy Incubator Program just completed its first year of training and we are now recruiting a new group of participants. This program was first funded by an LSC

grant and is now funded through a federal Tribal Civil and Criminal Assistance Program grant. MLSA is also revamping the MontanaLawHelp website through a technology grant from LSC, and we recently launched an online garnishment calculator and consumer debt tools. An online child support calculator is still under production. In addition, MLSA recently secured funding for an elder law practice that will fund a full-time attorney and legal assistant. MLSA's previous elder law grant was limited to elder victims of crime and abuse, but the new funding is not restricted to crime victims.

Alison also reported that she and MLSA's Communications Manager, Jami Campbell, and board member Sean Morrison, are scheduled to visit Montana's congressional delegation in Washington D.C. next week. They will meet with Rep. Zinke, and staffers for Sen. Tester and Sen. Daines. Rep. Rosendale's office did not respond to our request for a meeting. She added that we are tracking family law, housing, and poverty-related bills in the Montana legislature. MLSA cannot lobby, but we can respond to requests from legislators for testimony related to specific bills. One bill that we are tracking is House Bill 282 that would decrease the response time in eviction complaints from 10 to 5 days.

### **Strategic Plan & Committee Assignments**

Justice Baker reviewed the standing committees and assignments, and the Strategic Plan that was circulated to the members in advance of the meeting. She said that we need to reactivate the Strategic Planning Committee. Juli Pierce has a lot of experience in strategic planning and is willing to join the committee. Alison Paul and Katy Lovell are willing to continue on the committee. Patty Fain and Alissa Chambers also volunteered to join the committee. McKayla Henson noted that Ann Goldes-Sheahan had indicated a willingness to participate, but that Judge Carter was not able to continue on the committee. Patty Fain offered to canvas members regarding the status of existing initiatives and any new initiatives so that the committee has a good starting place. A meeting of the Strategic Planning Committee will be convened in early April.

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

Justice Baker asked for public comment. There was no public comment. The 2023 meeting dates are listed on the agenda. The meeting was adjourned at 10:39 a.m.

## **Montana Supreme Court Access to Justice Commission**

**June 2, 2023**

**Zoom Video Conference**

**10:00 AM – 12:00 PM**

**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Lillian Alvernaz, Aimee Grmoljez, Hon. John Kutzman, Katy Lovell, Alison Paul, and Kekek Stark.

**Commissioners Absent:** Ed Bartlett, Hon. David Carter, Rick Cook, Hon. Stacie Four Star, Jacob Griffith, Hon. Leslie Halligan, Juli Pierce, Rep. Katie Sullivan, Olivia Riutta, and Margaret Weamer.

**Others Present:** Alissa Chambers, McKayla Henson, Emma Schmelzer, Grace Loveless, Franklin Runge, Ellie Webster, Valerie Falls Down, Patty Fain, Shane Cashin, and Krista Partridge.

### **Call to Order & Introductions**

Justice Baker called the meeting to order at 10:01 a.m., and she asked participants to introduce themselves.

### **Approval of March Meeting Minutes**

Justice Baker asked for corrections on the March meeting minutes. There were no corrections offered, but the minutes could not be approved since a quorum of members was not present.

### **Legislative Update**

Justice Baker reported that the legislature approved \$300,000 per year for the biennium to continue the family law mediation program. She said that a meeting has been scheduled for June 5 to start planning. Aimee Grmoljez thanked Justice Baker and Bruce Spencer for their work on securing this funding. Justice Baker added that the Judicial Branch received their requested funding and will be upgrading technology.

### **IDRT/Family Law Mediation Update**

Emma Schmelzer reported that IDRT pilot program was successful and referred to the report in the meeting materials. Eight informal domestic relations trials were completed during the pilot phase of the program, and the consensus from the judges is that IDRT should be the default process for pro se litigants. Some judges would also like to use IDRT even when only one litigant is unrepresented. Justice Baker said that once the pilot project judges submit their recommendations, she will bring those back to the Supreme Court. The Supreme Court will then take comments on the proposal before making a final order. Emma added that she has joined the board of the Montana Mediation Association and will be promoting the Family Transition Project (family law mediation) to the members.

### **Pro Bono Action Committee Update**

Patty Fain reported that the group has developed a priority matrix, with the highest priority initiatives being those with the greatest potential impact relative to the cost and effort involved. A pro bono portal is being built in cooperation with MLSA and the State Bar's Justice Initiatives

Committee that will connect volunteers with pro bono opportunities statewide and will include practice materials for limited scope representation. She said the technology upgrades for the judiciary will help advance this effort and she asked commission members to reach out to her to add pro bono opportunities to the portal. The group also completed a Pro Bono Handbook for judges and Justice Baker presented it at the recent Judges Conference. Patty added that she is hoping to create a similar handbook for tribal court judges. She also thanked Franklin Runge for his assistance with this project.

### **Strategic Planning Committee Update**

The committee is planning to meet later in the summer and did not have an update.

### **Self-Represented Litigants Committee Update**

There was no update from the committee.

### **Outreach and Communications Committee Update**

Franklin Runge reported that he visited the State Prison in Deer Lodge and hopes to make legal information more accessible to incarcerated people. Justice Baker asked about the Women's Prison, and Franklin noted that it has a very robust pro bono program with support from Crowley Fleck. Franklin mentioned that the members of the Blackfeet Appellate Court recently visited the State Law Library and they discussed the Indian Law Portal. Lillian Alvernaz added that the portal is going to be renamed in honor of Stacey Gordon, the former Director of the Jameson Law Library at the University of Montana and former co-director of the Summer Indian Law Program at the school. Franklin reported that Shane Cashin will be teaching an upcoming CLE event in conjunction with MLSA on updates to landlord-tenant law in the recent legislative session. Shane works with the Montana Eviction Intervention Project (MEIP) at MLSA and will also provide an overview of MEIP and common landlord-tenant issues.

### **MLSA Update**

Alison Paul reported that MLSA has been working on outreach and resource materials to educate the public on the impacts of HB 282, particularly the 5-day response time for eviction actions. She also reported that the second cohort of eight Tribal Advocacy Incubator students began their training in mid-May, while the first group continues to work on taking the tribal court bar exams and setting up their businesses. Alison said that MLSA received a technology grant from the Legal Services Corporation to set up an opt-in service for clients who have received advice or resource referrals from MLSA. The service would send texts to the client regarding the next steps they should take to address their legal matter, along with links to additional resources. The Self-Help Law Center provided a letter of support for this grant application. Emma Schmelzer added that it would be helpful for family law mediation clients to be given the option to opt in to this service and Alison agreed.

### **Equal Justice Conference**

Alissa Chambers reported that the Equal Justice Conference in May was very beneficial and added that the presentations given by MLSA staff were very well attended. Her primary focus for the conference was to attend sessions geared toward fundraising, but added that the consumer protection session that she attended included information on how helpful text reminders were for people facing debt collection actions. Most collection lawsuits are default judgements in favor of

the debt collectors because the respondents don't always receive mailed notices or realize the importance of appearing. MLSA's Pro Bono Coordinator, Ellie Webster, and Tribal Advocacy Incubator Coordinator, Valerie Falls Down, also attended and presented at the conference. Ellie reported that MLSA's bankruptcy clinic at the law school in April was very successful and will be held again in the fall. Valerie presented on Tribal Advocacy Incubator Project (TAIP) and made many valuable connections with national leaders on access to justice issues and trauma-informed practices. Valerie added that she just hosted a roundtable meeting between the first cohort of TAIP participants and the new class. She thanked Kekek Stark and Lillian Alvernaz for all their support as instructors for the program.

### **Karla Gray Award**

Justice Baker reviewed the Karla Gray Award criteria and explained that the role of the Commission is to present nominees to the State Bar for consideration. She asked members to email nominees to McKayla Henson and reminded the group that judges in any jurisdiction and at any level are eligible.

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

Justice Baker asked for public comment. There was no public comment. The next meeting is in September and will be a joint meeting with the Justice Initiatives Committee. The meeting was adjourned at 11:09am.

Tab 2





ORIGINAL

FILED

08/29/2023

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: AF 11-0765

IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 11-0765

FILED

AUG 29 2023

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

IN RE THE APPOINTMENT OF MEMBERS OF  
THE ACCESS TO JUSTICE COMMISSION

ORDER

On September 30, 2023, six of the members' terms on the Access to Justice Commission will expire. Several members have indicated their willingness to serve for a new, three-year term. The Court extends its sincere thanks to Representative Katie Sullivan and former Senator Terry Gauthier for their service on the Commission and to those Commissioners who have agreed to extend their service.

With the consent of the appointees,

IT IS HEREBY ORDERED that the following members are appointed to the Commission for a three-year term ending September 30, 2026: Representative Laura Smith and Senator Wendy McKamey.

IT IS FURTHER ORDERED that the following members are reappointed to the Commission for a three-year term ending September 30, 2026: Aimee Grmoljez, Hon. David Carter, Rick Cook, and Hon. Leslie Halligan.

The Clerk is directed to provide copies of this order to each newly appointed, current, and outgoing member of the ATJC, to the Montana Justice Foundation, and to the State Bar of Montana.

Dated this 29th day of August, 2023.

  
Chief Justice



James H. Kim

James Joseph Green  
John M. Sullivan

Jim Rieck  
Justices

Tab 3

## IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 11-0765

---

ACCESS TO JUSTICE COMMISSION:  
IN RE THE ADOPTION OF GUIDELINES  
FOR ESTABLISHING INFORMAL  
DOMESTIC RELATIONS TRIALS

---

## O R D E R

The Access to Justice Commission petitioned this Court in August 2021 to authorize a pilot project with guidelines for district courts wishing to participate in informal domestic relations trials (IDRT) within their jurisdictions during the pilot. The Court approved the petition and adopted guidelines, and several district courts opted to participate. Pursuant to the Court's August 17, 2021 Order, the participating district courts, through the Supreme Court Administrator's Simplified Family Law Project Administrator, submitted a report to the Court with comments and a recommendation that the Court establish the IDRT process as a permanent rule of court. The Project Administrator followed with an addendum to the report containing additional recommendations. The Court put the proposal out for public comment on June 30, 2023.

After considering the participating courts' recommendations and public comment on the proposal, the Court hereby adopts the Informal Domestic Relations Trial process as a new rule in the Montana Uniform District Court Rules, which will become Rule 17. Rule 17 is effective October 1, 2023. The Court further directs the Project Administrator to develop a Bench Guide to the IDRT Process for District Courts, including sample forms and instructions, and to continue developing informational materials for parties considering or participating in the process.

IT IS ORDERED that the proposed revisions as approved by the Court are ADOPTED. The Montana Uniform District Court Rules are amended to include Rule 17, which is set forth in the attachment to this Order, effective October 1, 2023.

This Order and the attached rule shall be posted on the Court's website. In addition, the Clerk is directed to provide copies of this Order and the attachment to: the State Law Library, the Office of the Court Administrator for dissemination to all District Court Judges, the Simplified Family Law Project Administrator, the members of the Access to Justice Commission, the Executive Director of the Montana Legal Services Association, the President of the University of Great Falls, the Dean of the Alexander Blewett III School of Law, Todd Everts, Shana Harrington, and Karl Kempel at Montana Legislative Services, Eric Goodemote at Thomson Reuters, Patti Glueckert and the Statute Legislation department at LexisNexis, and the State Bar of Montana with the request that it provide notice to the membership by publication in the *Montana Lawyer* magazine and through other electronic and timely means .

DATED this 30th day of August, 2023.

/S/ MIKE McGRATH

/S/ BETH BAKER

/S/ LAURIE McKINNON

/S/ JAMES JEREMIAH SHEA

/S/ DIRK M. SANDEFUR

/S/ INGRID GUSTAFSON

/S/ JIM RICE

## RULE 17 – INFORMAL DOMESTIC RELATIONS TRIALS

- (a) Unless one or both parties objects or the court orders otherwise, in every original or modification action for dissolution of marriage, parenting and visitation, child and medical support, declaration of invalidity of marriage, paternity, separation, grandparent-grandchild contact, or orders of protection brought under MCA Title 40, including interim proceedings, in which at least one party is self-represented, the issues will be resolved through an informal domestic relations trial before a judge or standing master as provided in this Rule. If both parties are represented by counsel and wish to use the informal process provided in this Rule, the court in its discretion may allow the informal proceeding upon stipulation in the record.
- (b) The court must explain the informal domestic relations trial process and advise the parties of their right not to consent. The court may include in the case scheduling order a deadline for parties to opt out of the process. A party's decision to opt out must be stated on the record or in a signed filing with the court.
- (c) The court may refuse to allow the parties to utilize the informal domestic relations trial process at any time and may direct that a case proceed in the traditional manner.
- (d) The court may allow a party to withdraw from an informal domestic relations trial election as long as the other party is not prejudiced by the withdrawal. The court will not allow a withdrawal of an election that has the effect of postponing the trial date absent a showing of good cause.
- (e) During an informal domestic relations trial, parties may present any evidence they believe is relevant. The court may admit any evidence a party offers, even if this evidence might be inadmissible under formal rules of evidence, and may determine how much weight to give any evidence. The traditional format used to question witnesses at trial does not apply. In many cases, the parties will be the only witnesses. The parties may call other witnesses in the discretion of the court. The court may question the parties and any other witnesses, and the parties may suggest additional topics or questions.
- (f) Any evidence offered during an informal domestic relations trial initiated under this Rule is not admissible in any other proceeding unless the court in the other proceeding determines the evidence meets the applicable rules of evidence.
- (g) If an informal domestic relations trial converts to a formal proceeding, the court will determine the admissibility of evidence previously offered in the

informal proceeding. The court may not rely on any evidence in a formal proceeding that is not admissible under the applicable rules of evidence.

- (h) The court will allow each party an opportunity to file any objections or motions on the admissibility or use of any evidence offered in an informal domestic relations trial before relying on that evidence in a formal proceeding.
- (i) An informal domestic relations trial will proceed as follows:
  - (1) At the beginning of an informal domestic relations trial, the court will ask the parties to affirm that they understand the rules and procedures of the informal domestic relations trial process, they are consenting to this process freely and voluntarily, and they have not been threatened or promised anything for agreeing to the informal domestic relations trial.
  - (2) The court may ask the parties or their lawyers for a brief summary of the issues.
  - (3) The court will allow the moving party to speak to the court under oath concerning all issues in dispute. The party is not questioned by the other party or any lawyers, but the court may question the party to develop evidence required by any statute or rule or necessary in the court's discretion to address the matters at issue.
  - (4) The parties will not be subject to cross-examination. However, the court will ask the nonmoving party or their lawyer whether there are any other areas the party wishes the court to inquire about. The court will inquire into these areas if requested and if relevant to an issue to be decided by the court.
  - (5) The process in subsections (i)(3) and (i)(4) is then repeated for the other party.
  - (6) Expert reports will be received as exhibits. Upon the request of the court or either party, the expert will be sworn in and subjected to questioning by the parties, their lawyers, or the court.
  - (7) The court may receive any exhibits offered by the parties which are capable of being made a part of the record of the case. The court will determine the materiality, relevance, and what weight, if any, to give each exhibit. The court may order the record to be supplemented.

- (8) The court will allow the parties or their lawyers to respond briefly to the statements of the other party.
  - (9) The court will offer each party or the party's lawyer the opportunity to make a closing statement.
  - (10) At the conclusion of the case, the court will render judgment. The court may take the matter under advisement, but it will make its best efforts to issue prompt judgments.
  - (11) The court may modify these procedures as justice and fundamental fairness requires.
- 
- (j) A case proceeding as an informal domestic relations trial will be subject to the same pretrial procedures and orders of the court that apply to traditional cases. Parties seeking a dissolution proceeding under informal domestic relations trials are subject to the mandatory disclosure requirements of MCA § 40-4-252.
  - (k) The court's final judgment will have the same force and effect as if entered after a traditional trial and may be appealed or objected to on any grounds that do not rely on the rules of evidence.



Tab 4



STATE BAR OF  
MONTANA

33 S. Last Chance Gulch  
Suite 1B Helena, MT 59601  
406-442-7660

August 15, 2023

Honorable Michael G. Moses  
Thirteenth Judicial District Court  
P.O. Box 35028  
Billings, MT 59107

Re: Karla M. Gray Equal Justice Award

Dear Judge Moses,

On behalf of the State Bar of Montana, it is my pleasure to formally notify that, upon nomination by the Montana Supreme Court's Access to Justice Commission, you have been chosen by the Past Presidents Committee as this year's recipient of the Karla M. Gray Equal Justice Award. The Karla M. Gray Equal Justice Award honors a judge from any court who has demonstrated dedication and significant efforts to improving access to the Montana justice system.

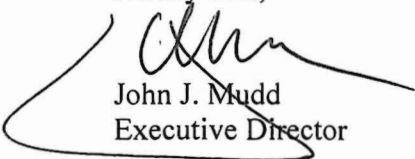
The award will be presented on **Thursday, September 14, 2023**, during the State Bar's Annual Meeting Awards Banquet and Benefit for the Montana Justice Foundation. The event begins at 6:00 p.m. at the Northern Hotel in Billings immediately following the President's Reception at 5:00 p.m., which you are also invited to attend.

If you will be present to receive the award, we will provide a complimentary ticket for you and a guest to the evening's event(s). Additionally, and as part of our recognition of your achievement, we are extending to you a complimentary full registration for the 2023 Annual Meeting.

For purposes of name badges, meal counts, etc., if you would please contact Jeannie Etchart at (406) 431-5868 or [etchartevents@gmail.com](mailto:etchartevents@gmail.com) to let her know if you will be present to receive the award, if you will be bringing any guests to the reception and dinner and if you plan on attending the Annual Meeting, that would be most helpful.

Judge, again, congratulations on this honor. We look forward to hearing from you and I hope that you will be able to join us so that we can celebrate this achievement with you.

All my best,



John J. Mudd  
Executive Director

JM/jd

cc: Honorable Beth Baker, Chair, Access to Justice Commission  
Morgan Dake and Elle Webster, Co-Chairs, Justice Initiatives Committee  
Ann Goldes-Sheahan, Equal Justice Coordinator, State Bar of Montana