

Montana Supreme Court Access to Justice Commission
December 4, 2020
Zoom Video Conference
10:00 AM – 12:00 PM
Meeting Minutes

Commissioners Present: Justice Beth Baker, Alison Paul, Katy Lovell, Melanie Reynolds, Sen. Terry Gauthier, Aimee Grmoljez, Hon. Leslie Halligan, Rep. Katie Sullivan, Kyle Nelson, Melissa Schlichting, Dean Paul Kirgis, Daniel McLean, Hon. John Kutzman and Ed Bartlett.

Commissioners Absent: Georgette Boggio, Hon. David Carter, Rick Cook and Hon. Stacie FourStar.

Others Present: Niki Zupanic, Kiley Gage, Hon. Kaylan Minor, Akemi Nakagawa, Carin McClain, Derrek Shepherd, Abigail St. Lawrence, Ed Higgins, Katherine Feehan, Kimberly Dudik, Kay Lynn Lee, Patty Fain and Sarah McClain.

Call to Order and Introductions

Justice Baker called the meeting to order at 10:04. Justice Baker asked if there were any suggestions or corrections to the minutes from the September 18 meeting, hearing none, she deemed the minutes approved. She then recognized Commissioner Melanie Reynolds who was one of the recipients of the Helena Area Community Foundation's 2020 Spirit of Philanthropy Award.

Montana Legal Services Association Update

Alison Paul reported on the CARES Act projects that Montana Legal Services Association (MLSA) is running and referred to the project update reports included in the meeting packet. She shared that 49% of intakes since August have been legal issues related to COVID-19. MLSA received two sets of money from the CARES Act, the first from the Governor's Office (through the Office of the Court Administrator) to pay modest means attorneys to do advice calls related to COVID issues, which has helped around three hundred people so far and includes outreach to relevant social service agencies. Many of the issues are related to housing, public benefits and access to unemployment. MLSA created an informal partnership with the Department of Labor to help address cases where people are denied benefits or are waiting an inordinate amount of time to receive money after being approved. The second is the Montana Eviction Intervention Project, funded through the Department of Commerce, that provides attorneys to anyone who has been evicted. Attorneys work to see if clients are eligible under the CDC Eviction Moratorium so they can remain housed. MLSA has helped about eighty clients which also includes outreach to district court judges so they know how to refer people to programs. Alison shared that most cases are coming out of Billings and Great Falls. The project is using private attorneys. MLSA needs additional private attorneys so if anyone is interested please get in contact with Alison. They have closed eight cases and of those they were able to keep six of them housed. Justice Baker asked Alison if they had put up a call for attorneys on the State Bar website and Alison responded that they have not but are focusing on personal outreach in an effort to avoid an influx

of interest and not enough cases to assign. The current funding ends December 30 so MLSA has reached out to private foundations for funding to continue the program.

Justice Baker provided an update on the Justice for Montanans (JFM) AmeriCorps project and shared a handout provided by project coordinator Meghan Scott. Justice Baker shared that the project did not get federal funding in the last round but the state was able to step in to provide funding. The new grant cycle is starting and all the members of the Supreme Court have signed a letter of support. Alison added that the JFM project is the backbone of the Self-Help program and it would create a crisis if it lost funding. Justice Baker offered to pen a letter on behalf of the Commission and asked for a motion. Dan McLean made the motion and Melanie Reynolds seconded. Justice Baker underscored Alison's comments saying that they wouldn't be able to reach many of the folks that they currently serve without the JFM program. Katy Lovell added the Legal Services Developer program couldn't function without AmeriCorps members because they do many critical things including the intake for programs. Alison shared that for an investment of \$275,000 federal dollars JFM is able to reach 40,000 Montanans which is a good return on investment. Justice Baker asked for any other comments before hearing the motion for the Commission to send a letter on behalf of the JFM program to the congressional delegation. Alison Paul abstained from voting and asked that her name not be included in the letter. The motion passed without objection.

Self- Represented Litigants Committee Report

Ed Higgins provided the update from the Forms Subcommittee sharing they continue to make progress on updating forms and highlighted their work assisting the Eviction Intervention Program with forms written at the second-grade reading level for inclusivity. They continue to finetune the process to receive feedback on forms and are using an approach created by Bruce Spencer, former president of the State Bar. The committee has received good feedback from judges and anticipate changes to forms with the upcoming legislative session. Judge Kaylan Minor suggested that the committee reach out to the Courts of Limited Jurisdiction and see what forms those judges would find helpful.

Sarah McClain reported that the Education and Outreach Subcommittee is energized by new members and have been focusing their work on the items identified in the strategic plan. One of which is to create a referral flow chart and have been discussing what that might look like. Sarah shared they are considering creating a catalog, modeled after one created by their counterparts in Alaska. They are also working on improving explainers to see where additional resources may be needed. Sarah shared they have identified informal probate as a topic that would benefit from additional materials. Dan McLean commented that he thought that the existing forms available on the Supreme Court website are in good shape and that he appreciates the work of the subcommittee. Patty Fain shared that some state's websites have a disclaimer that explains the basics of the process before the form is available.

Policy and Resources Committee Report

Abby St. Lawrence shared that the bill draft was put in by Senator Ellsworth (LC 353) and that when available shared with the Commission. She commented that many members of the committee including Justice Baker have been engaging with members of both parties to get feedback since last session. Abby shared that there will be a much clearer picture of how the

session will operate given the pandemic after a meeting the following next week. This will make a lot of difference on how the bill is moved forward. She recognized the Communications and Outreach Committee for their good work on revising and preparing additional materials focusing on legal needs stemming from the pandemic.

Justice Baker asked for input from Senator Gauthier who agreed with Abby's assessment that a lot more will be known about what the session will look like after the Rules Committee meeting the following week.

Communications and Outreach Committee Report

Melanie Reynolds provided the committee update sharing they have met several times since the last Commission meeting. Melanie said that they are working on updating the Access to Justice Commission website along with Sarah McClain and will include videos on legal aid. Dan McLean and Katy Lovell were on the show Aging Horizons talking about the Commission's work on issues that impact seniors. Melanie reported on the work being done to support the Policy and Resources Committee, creating materials to advocate and explain the bill. She shared that Emma O'Neil with MLSA has helped them draft a social media plan on how to get out the word about issues that the Commission focuses on. A draft plan is ready but logistics of executing the plan continue to be something the committee is working on. Melanie shared they are also working on letters to the editor and other materials that will enhance the work of the Commission.

Strategic Planning Committee Report

Niki Zupanic shared that they submitted a proposal to the National Center for State Courts (NCSC), seeking another round of funding for the Justice for All project to support some of things identified in the strategic planning process. This includes work on the Informal Domestic Relations Trial model and creating judicial toolkits for working with self-represented litigants. The committee has received good feedback from the NCSC and have benefited from working with independent consultant Tara Veazey. Niki was notified that they had been approved for \$24,500 of funding nearly all of what was requested, but she hasn't received the formal letter yet.

Informal Domestic Relations Trials (IDRT)

Niki shared that IDRTs are an informal process that can be used by judges, most typically in family law cases, to make the process more accessible and easier to navigate, especially for self-represented litigants. Through the strategic planning process IDRTs rose to the top as a priority focus so an IDRT working group was created. Niki explained that the working group is tasked with educating about IDRTs and incorporating feedback from a judicial panel. She noted that the working group will draft the formal recommendation that will be made to the Commission in the early spring. The group has been meeting since August and reaching out to lots of family law stakeholders to get feedback and input. Niki shared that Family Law and DV advocates have said that an IDRT process would likely increase Pro Bono representation because the limited scope makes it easier for attorneys to come in and do a defined amount of Pro Bono work. There is a smaller working group that is tasked with drafting actual language for the proposed rule for consideration by the larger group. Niki shared that they are still on track to have a recommendation to the Commission in early spring.

Justice Baker added that they have benefited from the involvement of district court judges, representing a variety of districts, which will help make it a realistic and successful program for Montana if it moves forward. She added that simplifying court processes has a lot of appeal with legislators as well. Justice Baker thanked Niki and Tara Veazey for all the work done on this project.

2020 Pro Bono Report

Patty Fain shared that the overall reporting for 2020 was down about 18% which is understandable given the reporting deadline coincided with the first lockdown. Even with this decrease Montana attorneys provided more than 119,000 hours which has a value of about \$21 million. Patty highlighted some more findings of the report (which was included in the meeting packet) including the changes in attorney population which she argued is particularly important for commissioners to be aware of since it impacts access to justice efforts. She reported that the attorney population has only increased seven attorneys in the last five years even though the need for legal services continues to increase exponentially. There was a discussion about how to do outreach and Justice Baker suggested that targeting attorneys that were admitted by motion may be a good idea because they may not otherwise be aware of Pro Bono opportunities. Alison Paul shared that Montana was number one in the country for Pro Bono cases per capita according to a recent Legal Services Corporation report, an accomplishment made in large part thanks to the work of Patty Fain and Angie Wagenhals with MLSA.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. She reviewed the meeting schedule, which is noted on the agenda. The meeting was adjourned at 11:26 a.m.