

Montana Supreme Court Access to Justice Commission

December 4, 2015

Office of the Court Administrator

301 S. Park, Third Floor, Helena MT

12:30 p.m. – 3:00 p.m.

Meeting Minutes

Commissioners Present: Matthew Dale, Rep. Kim Dudik, Justice Beth Baker, Hon. Kurt Krueger, Hon. David Carter, Michele Robinson, Alison Paul, Randy Snyder, Aimee Grmoljez, Melanie Reynolds, and Andy Huff.

Commissioners Absent: Sen. Nels Swandal, Hon. Greg Pinski, Jennifer Brandon, Winona Tanner, Paul Kirgis, and Ed Bartlett.

Others Present: Patty Fain, Justice James Shea, Kate Kuykendall, Andrew Martinez, Jim Taflan, Hillary Wandler, Rep. Ellie Hill, Ann Goldes-Sheahan, Kay Pace, Marijo MacDonald, Angie Wagenhals, Michele Snowberger, Robin Turner, Brandi Ries, Kayre Chatellier, Stuart Segrest, John McCrea, Katy Lovell, Niki Zupanic, Chris Manos, and Krista Partridge.

Call to Order: 12:35 p.m.

Justice Baker thanked Michele Snowberger and Kate Kuykendall for their service to the Commission and she wished them well in their new endeavors. Justice Baker delivered a thank you card to Michele from the Supreme Court for her service over the past decade and circulated a card for Kate. She then asked for comments or corrections to the September meeting minutes.

Randy Snyder moved that the September minutes be adopted and Matt Dale seconded. The motion passed without objection.

Overview of Commission Work to Date and Upcoming Priorities

Justice Baker reviewed the Commission's accomplishments including: the Cy Pres Rule, the recent Supreme Court Order on voluntary pro bono reporting, pro se forms developed or under development by the SRL Committee, the Gaps and Barriers Study, and the report on the Economic Impact of Civil Legal Aid in Montana. She suggested that the Commission should now revisit the Strategic Plan document to reassess priorities and chart a way forward for 2016 and beyond.

JIC Update and Upcoming Priorities

Brandi Ries provided an update on the JIC's activities and reported that the committee had undergone a significant turnover in membership over the last several months. She said that the Mediation Subcommittee is currently working to either develop or locate an existing list of

statewide pro bono mediators. Robin Turner reported that the Domestic Violence (DV) Subcommittee is working on education and outreach to publicize the need for pro bono assistance for DV survivors, and stated that the group is developing a DV CLE specifically for pro bono attorneys. Angie Wagenhals reported that the Rural Pro Bono Subcommittee used the Gaps and Barriers Study to target the areas of greatest need and will create a rural pro bono pilot project with the assistance of existing and new pro bono programs. Angie said that the group put on a Mentoring CLE after identifying the need for a more formal mentoring process. A mentoring resource guide was developed and the CLE is available by video on the State Law Library website. She added that working with pro bono attorneys as a mentor qualifies for pro bono credit. Patty Fain said that a resource guide for pro bono attorneys is currently under development and that a draft of the guide will be available for comment in March or April 2016. A step-by-step process will also be developed to explain how the guide was created and how to keep it updated. All the materials and resources will be made available on probono.mt.gov. Justice Baker asked the group to inform Patty and Lisa Mecklenberg Jackson if links are broken or if there are other problems with the website.

Public Forum Update

Matt Dale reported that the first two public forums have taken place in Kalispell and Great Falls, and the next forum is scheduled for March 16, 2016 in Billings. The forums are being recorded and a DVD will be produced at the conclusion of the series using footage from all forums. NorthWestern Energy provided a grant of \$3,500 for the series to help defray costs of renting the meeting rooms and other costs associated with hosting the forums. Matt noted that Commission members have attended both sessions and have offered great support. He asked for feedback from the Commission members and others who have attended. Rep. Ellie Hill said that she was impressed by the amount of media coverage generated by the forums. Justice Shea said he thought the Kalispell forum went well and was impressed by the speakers, but noted that time constraints limited the opportunity for public comment. Patty Fain replied that striking the right balance of speakers and public comment time is challenging and they will continue to work on the finding the best mix. Justice Baker commented that we need to have a back-up PR plan in place for occasions when the media doesn't pick up the story, as seemed to occur in Great Falls. John McCrea offered placement for publicizing the forums on the statewide TV spots that he produces for senior audiences. Justice Baker also noted that Commission members Ed Bartlett, Aimee Grmoljez, Rep. Dudik, and Sen. Swandal, sent letters to area legislators in advance and will continue to do so for upcoming forums. Aimee said that their goal is to get the letters out a month in advance of the next forum and offered to make the letter available for distribution to local public officials in each area. Justice Baker thanked the group for their feedback on the forums thus far.

Self Represented Litigants Committee Report

Michele Snowberger thanked the Commission and Justice Baker for their support of her work on the SRL Committee. She reported that the SRL Committee is moving forward with the Strategic Plan, but is focusing on the goals that can be accomplished within the next year. Recent committee accomplishments include: completion of a judge/court personnel survey and increased awareness of the need to provide assistance to self-represented litigants; near completion of the new family law dissolution and parenting plan forms, most of which have been submitted to MLSA for automation; and completion of updates to the guardianship forms packet to reflect changes made during the legislature. Michele said that Gallatin County has offered to test the new family law forms, and pledged that she will remain on the forms subcommittee until the automation is done. Justice Baker pointed out that the Commission needs to come up with a better way to move forward with SRL forms, and that staff resources will need to be dedicated rather than relying completely on volunteers.

Randy Snyder asked Michele if she has encountered difficulty with competing forms in different jurisdictions. Michele replied that there are problems with different forms and preferences of judges in various jurisdictions, but she hopes that the new forms will help increase consistency across the state. Justice Baker asked if any judges sit on the forms subcommittee and if the committee had reached out to judges for feedback. Michele stated that Judge Ortleby is on the committee. Randy responded that the problem is much more serious and immediate, with many competing forms and some judges who will reject pleadings, even from licensed attorneys, if they are not submitted in the preferred format. He stated that the Access to Justice Commission should petition the Supreme Court to mandate statewide forms. Justice Baker asked for thoughts from Justice Shea and Judge Krueger. Judge Krueger asked Michele when the new family law forms would be available; she replied that she's not certain when the forms will be made public, but offered to send the forms to Judge Krueger for review. Judge Krueger added that he agreed with many of Randy's concerns and suggested a presentation at one of the semi-annual judicial conferences to discuss the forms issue. Justice Baker pointed out that Rules of Civil Procedure don't allow clerks to reject forms, but many in the group said that this happens anyway. Chris Manos stated that we need to better publicize what forms are available and what forms are under development, and added that some sections of the Bar are also trying to create forms. Michele replied that the Supreme Court officially charged the SRL Committee with form development and that the SRL Committee must approve any SRL form before it is posted. Justice Baker said that she would try to get the issue on the next judicial conference agenda.

Law School Partnerships Committee Report

Hillary Wandler reported that the committee is moving forward with voluntary pro bono reporting. She also stated that the law school incubator survey is complete. There was a 60% response rate among the three classes and 30% of 3Ls are "strongly interested" in the concept, with 74% reporting interest in a rural practice. Barriers reported by survey participants are debt and the unknown aspects of living in a rural area with limited opportunities for spouses or other

family members. She said the committee is working on setting up focus groups, and that Judge Fagg is looking at a student practice rule to facilitate pro bono projects.

Montana Indian Wills Project and Legal Clinics for Seniors

John McCrea, Legal Services Developer at the DPHHS Aging Services Bureau, reported on his agency's efforts to provide legal advice and advocacy for seniors using a wrap-around services approach, as well as the Indian Wills CLE and onsite clinics offered throughout the state. John said that his group worked with MLSA to ensure that services were not duplicated and to make the process as seamless as possible for seniors. He stated that a key part of their strategy is to develop relationships between the entire network of groups and social services agencies that provide services to seniors and pointed out that no single group or agency can be the sole provider of help due to the broad array of needs faced by seniors. John said that advanced directive/wills documents clinics are offered statewide through onsite clinics, phone clinics and remote "kiosk" clinics. He stated that his agency also sponsored an Indian Wills CLE to train pro bono attorneys and offered estate planning training for 3L students who work under the supervision of licensed attorneys at clinics. John gave several examples of people who have been served through this program, and distributed additional information for the Commission's information. [Copies are attached to the original minutes and available on the Commission's website.]

Commission Self-Assessment Checklist

Justice Baker reported that a couple of themes emerged from the self-assessments completed by Commission members: 1) We've accomplished a great deal in gathering information, but we have too many tasks on our plate to make real progress; and 2) Most people are not aware of what we're doing and we're not always even aware of what each other are doing. Justice Baker asked the group for ideas on how best to move Commission initiatives forward. Justice Baker offered that the ABA Access to Justice Resource Center has invited the Commission to participate in the group's new grant-funded capacity-building initiatives for Access to Justice Commissions. Matt Dale said we need to make sure we have people who will participate before we commit to initiatives and that we should revisit our strategic plan to gain a renewed focus. Alison Paul stated that the public forums and upcoming legislative effort are going to require significant effort from the entire Commission. Aimee Grmoljez said that being part of a national group that provides resources would be very helpful so that we're not constantly re-inventing the wheel. She noted that the Governor's Office will submit a budget in the summer of 2016 and we need to be ready with our funding request. Justice Baker responded that the March meeting will include a formal vote on whether to proceed with a funding request, and a decision on what form the funding request will take will be voted on at the June meeting. Rep. Kim Dudik offered to help with communications and messaging prior to the March meeting. Melanie Reynolds also volunteered to help with the ABA communications and messaging group. Alison stated that we might be able get assistance from Voices for Civil Justice. She also noted that Michelle Potts can

help Niki Zupanic, the new Executive Director of the Montana Justice Foundation, to participate in the ABA's working group on funding efforts. Ann Goldes-Sheahan offered to help, and Aimee said she would see if other lawyer lobbyists were interested in helping with the Commission's legislative initiative.

Justice Baker stated that her sense is that the Commission is interested in engaging with the ABA Access to Justice Resource Center and that there are sufficient volunteers to make it work. She said that she will follow up with the volunteers and the larger group with more details following the meeting. Randy expressed the importance of making progress on concrete goals and offered to serve on an ad hoc committee to revisit the strategic plan.

Action Item: Randy Snyder moved to appoint an ad hoc Strategic Planning Update Committee and offered to serve on the committee to set concrete 12-18 month goals. Matt Dale seconded the motion. Justice Baker asked for volunteers to sit on the committee in addition to Randy. Alison Paul, Andy Huff, Kim Dudik, Ann Goldes-Sheahan, and Kay Pace volunteered. The motion carried without opposition.

Other Business & Wrap-up

Justice Baker opened the floor for public comments. There were no public comments. She asked Commission members to mark their calendars for the following meeting dates in 2016: March 4, June 3, and September 9.

Justice Baker adjourned the meeting at 2:49 p.m.