

Montana Supreme Court Access to Justice Commission

March 4, 2022

Zoom Video Conference

10:00 AM – 12:00 PM

Meeting Minutes

Commissioners Present: Justice Beth Baker, Ed Bartlett, Acting Dean Monte Mills, Hon. John Kutzman, Katy Lovell, Daniel McLean, Alison Paul, and Olivia Riutta.

Commissioners Absent: Georgette Boggio, Hon. David Carter, Rick Cook, Hon. Stacie Four Star, Sen. Terry Gauthier, Aimee Grmoljez, Hon. Leslie Halligan, Kyle Nelson, and Rep. Katherine Sullivan.

Others Present: Niki Zupanic, Rachel Fox, McKayla Henson, Ellie Webster, Patty Fain, Angie Wagenhals, Abigail St. Lawrence, Kim Dudik, Alex Kramer, Christine Mandiloff, Hon. Kaylan Minor, Kelsi Steele, Sarah McClain, Emma Schmelzer, and Krista Partridge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:02 a.m. Justice Baker welcomed new Commissioner, Professor Monte Mills, Acting Co-Dean of the Alexander Blewett III School of Law. Professor Mills thanked Justice Baker, introduced himself, and said he was happy to join the group. All the Commissioners and guests then introduced themselves. Since a quorum was not present, the approval of minutes from the December meeting was postponed until the next meeting.

ARPA Simplified Family Law Resolution Project

Emma Schmelzer reported that there are four pilot counties for the mediation component of the project: Yellowstone, Gallatin, Cascade, and Lincoln. She said there have been very productive meetings with those counties, and that they plan to offer virtual and in-person mediation for self-represented litigants with children. Dissolutions and parenting plan cases will be supported. Angie Wagenhals added that she has been working closely with Emma and that they are contracting with private attorneys and mediators to participate in the program. The private attorneys will provide advice in advance of the mediation. Angie explained that MLSA will do the screening and scheduling of clients and they are currently working on the first two cases that will be placed in Lincoln County. Angie thanked Patty Fain for the groundwork that was established through ERAMP and said that those resources have been invaluable. Emma added that they are paying a lot of attention to data collection so that the benefits of the program for litigants and the court system can be demonstrated. Angie said that they are working with the Montana Mediation Association to recruit mediators. Emma said that sustainability of the program is a key consideration and they are planning on building a mentorship program using the first cadre of mediators as mentors.

Emma reported that the 1st Judicial District (Lewis & Clark and Broadwater Counties), the 4th Judicial District (Missoula and Mineral Counties), and the 12th Judicial District (Hill, Chouteau and Liberty Counties) are the pilot districts for the Informal Domestic Relations Trials (IDRT). She said that forms and informational materials have been completed and that an option for a verbal opt-in has been added to help reduce barriers to participation. Emma said that an

informational video is planned to help people understand what to expect from an IDRT. She added that the first IDRT has been scheduled. Justice Baker asked if the Self-Help Law Centers are notifying people of the IDRT option, and Alex Kramer replied that the centers are collaborating on messaging for the program to ensure that litigants outside of the pilot districts aren't misinformed. Emma added that the Missoula SHLC is distributing information on IDRT.

MLSA Update

Alison Paul introduced MLSA's Pro Bono Coordinator, Ellie Webster, and said that she is doing a great job. Alison said that MLSA still has vacant AmeriCorps positions and that housing costs and the tight labor market have made it very difficult to recruit members for this term. She said that MLSA is already recruiting for the next term and plans to add summer slots at both MLSA and the Self-Help Law Centers. The summer slots will help with continuity and will provide options for those who cannot commit to a full 11-month term. Justice Baker said that Alex Kramer and Sarah McClain have been working very hard with MLSA to fill the SHLC slots, but still have filled only two of seven positions. This has a big impact on the Centers at a very difficult time. She added that Sarah has been traveling weekly to help provide coverage at the Bozeman SHLC.

Alison reported that MLSA filed a Petition for a Writ of Mandamus after the Yellowstone County Sheriff refused to conduct service of process without a \$75 per respondent fee for a self-represented litigant who had been granted a filing fee waiver by the court. MLSA had tried to work with the County Attorney before filing the petition, but was unsuccessful. After the petition was filed, the service of process was provided free of charge. Alison also reported on a new Court Improvement Program pilot project that MLSA is participating in through the University of MT Center for Children, Families and Workforce Development. As part of the Pre-Filing Pilot Project, MLSA will handle ancillary civil legal issues (not the dependency and neglect case) when families are being investigated by Child Protective Services. This model has been successful in other states, and the project will test whether more supports, including civil legal services, can reduce the termination rate in Montana.

Rachel Fox, MLSA's Coordinator for the Montana Eviction Intervention Project (MEIP), provided an update on the project with the Department of Commerce that began in the fall of 2020. MLSA contracts with private attorneys to provide legal advice and representation in eviction cases at a modest means rate of \$75 per hour. MLSA provides malpractice coverage for the work and is still recruiting attorneys to participate. Under a new agreement with the Department of Commerce, MLSA has added the processing of rental assistance payments to landlords and tenants in active eviction cases. Additional staff to conduct intake and compliance activities are being hired to support the program. MLSA can expedite the payment process and hopefully avert more court-ordered evictions. Rachel added that another new component of MEIP is a diversion process to pause eviction proceedings and offer free mediation and rental payment assistance to parties that agree to diversion. She said MLSA is doing outreach and seeking input from the courts regarding diversion and how the process would work best. Alison said that we are still looking for more contract attorneys statewide, so please refer anyone who might be interested. Finally, Alison said that MLSA has asked the Montana Supreme Court to allow MLSA to distribute rental assistance payments under the Rules of Professional Conduct. Justice Baker added that the request would be considered at the Court's upcoming public meeting.

UM Access to Justice Programs Update

Kelsi Steele gave the Commission an overview and update of the Law School's pro bono program. She explained that the law student pro bono program engages students at an early stage so that they are more likely to continue pro bono service throughout their legal careers. The program also serves to help students understand the difference between community service and pro bono service, offers a way for students to gain hands-on experience, and provides more low-income clients with opportunities to receive supervised legal advice. Current law school pro bono initiatives include: the Montana Afghan Project to provide CLE training for attorneys who want to help Afghan refugees with immigration matters and other civil legal issues; an estate-planning clinic with the Legal Services Developer Program; and a family law clinic with MLSA. Kelsi noted that law students have contributed over 10,000 hours of pro bono service over the last few years and she estimated that 60% of law students participate in pro bono. Justice Baker noted that the Access to Justice Commission's Law School Partnership Committee was the genesis of this program and it grew into the staff position through the leadership of former Dean Paul Kirgis. Justice Baker and others thanked Kelsi for the presentation and for doing such a great job of getting law students engaged in pro bono service.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. She noted that the rest of the 2022 meeting dates are listed on the agenda. The meeting was adjourned at 11:03 a.m.