

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 21st 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.