

Montana Supreme Court Access to Justice Commission

June 4, 2021

Zoom Video Conference

10:00 AM – 11:30 AM

Meeting Minutes

Commissioners Present: Justice Beth Baker, Hon. David Carter, Dean Paul Kirgis, Katy Lovell Alison Paul, Melanie Reynolds, and Stuart Segrest.

Commissioners Absent: Ed Bartlett, Georgette Boggio, Rick Cook, Hon. Stacie FourStar, Sen. Terry Gauthier, Aimee Grmoljez, Hon. Leslie Halligan, Hon. John Kutzman, Dan McLean, Kyle Nelson, and Rep. Katie Sullivan.

Others Present: Niki Zupanic, Tara Veazey, Abigail St. Lawrence, Kaylan Minor, Christine Mandiloff, and Krista Partridge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:05 a.m. She conducted roll call and asked each person to introduce themselves. There were no additions or corrections offered on the minutes, but the minutes were not approved because there was not a quorum of members present.

Policy and Resources Legislative Update

Justice Baker provided an update on HB 632, the legislation to allocate federal pandemic relief funds. She thanked Senator Gauthier and Representatives Frank Garner and Bill Mercer for their work on the bill and directed members to Tab 3 of the meeting materials for the funding request and the bill text allocating \$944,721 to the judicial branch for remote mediation and Informal Domestic Relations Trials (IDRT). Justice Baker explained that the remote mediation program was patterned on the E-RAMP pilot and is designed to divert cases to remote mediation before they are ever filed. A goal of both programs is to compile data that demonstrates how civil legal aid saves time and money in the court system. Abby St. Lawrence said that she will send out minutes from the committee meeting in the next week and explained that the group brainstormed ways to gather and present data showing the direct and tangible cost saving benefits of civil legal aid. Abby also thanked Stuart Segrest for joining the committee. Dean Kirgis asked if the IDRTs would be remote or in-person. Justice Baker replied that it will depend on the capabilities, needs, and preferences of the particular district and that IDRT could be viable for remote proceedings.

Informal Domestic Relations Trials Update

Tara Veazey referred members to Tab 4 of the meeting materials for IDRT guidelines drafted by the working group. Following approval of the IDRT at the Commission meeting in March, several changes were made to the guidelines. The changes were made in response to additional feedback from stakeholders and are highlighted in the meeting materials. Justice Baker said that in keeping with the previous action, a formal vote is not needed to approve the revised guidelines unless members feel that the changes are substantive enough to warrant reconsideration. Tara reviewed the changes that include: a requirement that districts notify the Supreme Court if they establish an IDRT pilot; and guidelines that govern the admissibility of IDRT evidence in separate proceedings and when a trial transitions from IDRT to a formal proceeding. Justice Baker asked for questions

or comments on the proposed changes. Stuart Segrest asked how separate proceedings come about with respect to IDRT, and Tara explained that in family law cases where domestic violence is involved, there is often a concurrent criminal case and the guidelines are meant to add clarity to how evidence deemed admissible in the IDRT is not necessarily admissible in a related formal proceeding. Justice Baker added that this situation may also come up in dependency and neglect cases. Dean Kirgis asked if normal rules of discovery will apply in the IDRT. Tara said that the rules of discovery would apply unless the judge in an IDRT decides otherwise, but that discovery does not tend to be initiated in these kinds of trials because most involve self-represented litigants who voluntarily choose this process to limit the time and expense involved. Niki Zupanic said that the program is ready to launch as soon as sample forms and a toolkit are finalized. Justice Baker asked if there were any concerns about the changes made to the guidelines and none were expressed. She said that given the approval at the last meeting and the fact that these changes are relatively minor, we can move forward without a formal vote. She asked Tara and Niki to draft a summary of all the steps taken in developing the program. Justice Baker will send an email to inform the full Commission that we are moving forward with the pilot. Tara added that several judges are eager to start as soon as the program is approved. Justice Baker thanked Tara and Niki for their efforts in making this program possible.

Montana Legal Services Association Update

Alison Paul said that staff are returning to MLSA offices this month and that we expect office locations to be open to the public at the end of the month. The Montana Eviction Intervention Program is going strong, with an increase in applications expected as the end of the eviction moratorium nears. This program is funded with CARES Act money through a contract with the Department of Commerce, and private attorneys are paid at a modest means rate to provide services to tenants facing eviction. Alison added that we are also working with first year law students supervised by Klaus Sitte at the ABIII School of Law to provide telephone advice to tenants. Alison also reported that MLSA received funding from the Legal Services Corporation to start a Tribal Advocate Incubator Program modeled on the Rural Incubator Program for Lawyers (RIPL). She explained that one of the findings of MLSA's ongoing Native American Legal Needs Assessment is that there is a huge need for lay advocates in the tribal courts and a lack of capacity to recruit and train those advocates. MLSA is hiring a coordinator to run the program at 2-3 pilot locations, to develop a curriculum, and to recruit mentors and trainers in tribal advocacy skills and small business development. Alison added that the RIPL program has been a huge success and that we now have 10 participants from Libby to Ekalaka.

Alison also reported that the ABA Racial Justice Group continues its national meetings and that she, Kim Dudik and Justice Baker are participating on behalf of the Commission. Alison said that they are looking for more members, so contact her if you would like to join. She said that the ABA is revising standards for civil legal aid and she is on the drafting committee. She will send out a link to the standards when they are final. She also highlighted the recent article in the "Montana Lawyer" magazine featuring Judge Stacie FourStar. The interview on tribal court systems with Judge FourStar was conducted by MLSA Staff Attorney Kathryn Seaton, and we hope to turn this into a series that will focus in turn on each of the seven tribal court systems in Montana.

Self-Represented Litigants Committee Update

Niki Zupanic said that she would circulate a written update on the committee's activities from Ed Higgins.

Communications and Outreach Committee Update

Katy Lovell reported that the committee is working on drafting a 2-year plan with the assistance of Sam Scarrow from Voices for Civil Justice. The committee will recirculate a PowerPoint slide template and will draft a narrative version for use in outreach. They are also planning a communications effort about the pro bono report to help generate awareness and interest in providing pro bono services. Alison Paul added that Voices for Civil Justice is doing a training session on communications for MLSA and anyone is welcome to join. She will send the agenda to Niki for all who are interested.

Biannual Report

Niki Zupanic said that this report is usually done by May, but she is running a little behind this year. Justice Baker said that we can do an email vote to approve the report when it's ready.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. She said the next meeting is on September 17 and we may be able to hold it in person since most participants are in Helena. It is a joint meeting with the Justice Initiatives Committee. Dean Kirgis and Judge Carter said that Zoom option is helpful for out of town participants and should continue, at least as a hybrid option. Justice Baker said she would send out an email survey to get input on the meeting venue and added that she would look into whether a hybrid meeting is feasible. Alison Paul offered the MLSA conference room as an option since it is large and is set up with large video screen and good internet. The meeting was adjourned at 11:01 a.m.