

Montana Supreme Court Access to Justice Commission

September 8, 2023

Zoom Video Conference

10:00 AM – 12:00 PM

Meeting Minutes

Commissioners Present: Justice Beth Baker, Hon. David Carter, Aimee Grmoljez, Juli Pierce, Lillian Alvernaz, Hon. Leslie Halligan, Ed Bartlett, Margaret Weamer, Jacob Griffith, Olivia Riutta, Alison Paul, Sen. Wendy McKamey, Katy Lovell.

Commissioners Absent: Rick Cook, Hon. John Kutzman, Rep. Katie Sullivan, Rep. Laura Smith, Hon. Stacie FourStar, Kekek Stark.

Others Present: Alissa Chambers, Becky Schupp Watson, Stuart Segrest, Ellie Webster, Emma Schmelzer, Morgan Dake, Kayre Chatellier, Patty Fain, Megan Dishong, Grace Loveless, Franklin Runge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:01 a.m. She welcomed Senator Wendy McKamey from Great Falls who was court appointed to take the place of former Senator Terry Gauthier. Senator McKamey introduced herself. She mentioned that she served in the House for 8 years and this is her first term in the Senate. She expressed her eagerness to learn and collaborate with everyone at the ATJC. Becky Schupp Watson was also introduced as a new staff member of the Montana Justice Foundation. Though absent from the meeting, Justice Baker mentioned that McKayla Hensen has started law school at the University of Vermont Law School. Justice Baker thanked McKayla for all her work over the past years at the Montana Justice Foundation. She also asked participants to introduce themselves.

Approval of March and June Meeting Minutes

Justice Baker noted that we have a quorum and asked for corrections or additions on the March and June meeting minutes. There were no corrections or additions offered for either and the minutes were approved without objection; provided, however, the June minutes shall be corrected to reflect a correction to the IDRT funding (discussed herein).

IDRT/Family Mediation Update:

Justice Baker provided an update on the Informal Domestic Relations Trial project (“IDRT”) and the Family Mediation Project. She referred to Tab 3 of the meeting materials, which contained the court’s Order formally establishing IDRT as a permanent initiative. IDRT is now a part of the uniform district court rules and will serve as the default procedure for all cases involving divorce or parenting plans, as well as orders of protection, when at least one of the litigants is self-represented. Participation is voluntary, even with legal representation. This marks a significant milestone, and it was this Commission that advocated for the court to consider this program two years ago. A pilot project was conducted with six district court judges participating. A report on the pilot program was released, which is attached to the last minutes, and can be found on the Access to Justice Commission’s website. The feedback on the pilot program was positive with no objections after public comment.

Emma Schmelzer discussed IDRT procedures, highlighting that the process is less onerous and stressful for all concerned parties. IDRT allows individuals to share their stories directly with the judge, presenting what is most important to them regarding their case. Judges can ask direct questions to clarify any overlooked points. Importantly, there is no cross-examination, which simplifies and lessens the intimidation factor. This process also enhances safety in Orders of Protection cases, as parties speak directly to the judge rather than to each other. Judges have found this program helpful in providing more control and the ability to ask necessary questions.

Emma mentioned that pilot judges in the following judicial districts have adopted this process: the fourth judicial district (Missoula County and Mineral County); the 12th district; and the first judicial district. Twenty-five cases were identified as using IDRT, but there were likely many more. One challenge during the pilot was keeping track of opt-ins and their timing. With IDRT becoming the default, collecting data will become more systematic. Emma is currently finalizing materials for judges who will start in October, including a bench guide, a new order template, participant materials, and potentially an explanatory video to clarify what the process entails.

Family Transition Project:

Emma is currently involved in the Montana Family Transition Project (“FTP”) in collaboration with MLSA. FTP accepts cases from anywhere in the state, either directly from parties or through court referrals. The rollout has been gradual to ensure that each district has the necessary infrastructure in place. As of September 1st, the list of participating counties has grown to include judges from Kalispell, Polson, Missoula, and Hamilton.

Justice Baker provided context, explaining that FTP project began with funds from the 2021 legislature’s approval of Federal Pandemic Relief resources, aiming to address delays in family law cases due to the pandemic. Because the IDRT work had been initiated, FTP was a fitting continuation. Tara Veazey and Niki Zupanic assisted with developing the FTP. The funds, available until the end of 2024, support mediation efforts to streamline cases and reduce court backlogs, ultimately helping families.

Justice Baker noted that, while the June minutes indicated \$330k annually for the biennium, the correct amount is \$300k total for the biennium. This adjustment was discussed internally with Emma’s program and the court administrator. This funding is deemed sufficient for continuing FTP but will be closely monitored for its effectiveness and whether additional funding should be considered during the next legislative session. The primary goal is to implement FTP statewide, which could save thousands of judge hours annually. Moreover, it has a significant impact on families in crisis. When family law cases are delayed, individuals’ lives are put on hold, leading to increased reliance on public assistance, among other issues. Justice Baker expressed excitement about the progress made by Emma and the MLSA team, especially as it expands.

Emma discussed efforts to increase FTP participation, including free mediation, legal advice, and child support calculation. To date, 19 cases have been concluded: 10 reached full agreement, 5 achieved partial agreement, and 4 resulting in no agreement. Overall, even in cases with no agreement, the level of reflection and information gained through mediation and legal advisors can

be beneficial when parties eventually appear before a judge. Emma plans to reach out to other districts interested in case referrals and highlighted opportunities for community referrals, with success stories involving victim advocates, faith leaders, and various community organizations already working closely with separating couples. Emma acknowledged that while she has been the launch point for this program and IDRT, it has been a collective effort of many individuals over the years who were on the call. Justice Baker recognized Patty Fain for her work on the Early Resolution and Mediation Program with Justice McKinnon, which set the foundation for these initiatives.

Justice Baker opened the call for any questions for Emma. There were no comments or questions.

ATJC Standing Committee Reports

Strategic Planning Committee Update

Juli Pierce, chair of the Commission's Strategic Planning Committee, shared some of her background on strategic plans. She mentioned that the committee has had a few meetings to narrow the focus for the next strategic plan with the goal of making it more measurable and attainable. The committee's current strategic plan expires this year and Juli aims to present a draft plan at the next commission meeting. Justice Baker mentioned that the previous strategic plan had a lot in it because of the many important items that need to be addressed. However, with a more focused plan, goals will be easier to accomplish within a two-year block of time, while storing all other priorities, so they do not slip through the cracks.

Justice Baker opened the call for any questions for Juli. There were no comments or questions. She encouraged folks to reach out to her, Juli, or Alissa Chambers with any questions. The commission is working on filing a biennial report with the court, which informs them of the Commission's work during the previous two years, and this report can help inform the Strategic Planning process. A draft report is planned for the December ATJC meeting. Justice Baker and Alissa will reach out to standing committee chairs to compile thoughts on what's been accomplished over the last two years to be included in the report.

Justice Initiatives Committee (JIC) Update

Morgan Dake started by introducing herself and Ellie Webster as the new co-chairs to the Justice Initiatives Committee ("JIC"). Morgan shared her background and why she joined JIC. She explained their goals, including increasing pro bono involvement among State Bar members, raising awareness of available resources, and implementing pro bono policies for law firms. JIC would like to publish a regular blurb in the Montana Lawyer featuring pro bono opportunities and attorney stories. JIC would like to revisit the 2013 Pro Bono policy toolkit and engage law firms in their communities to do more pro bono work. JIC will continue regular meetings as they work on their next goals and projects.

Ellie Webster added that another way to effectively execute some action items is to provide paralegals, or first points of contact for pro bono inquiries, a quick referral sheet, such as a script, to better screen cold calls and handle pro bono inquiries effectively.

Stuart Segrest expressed his gratitude to Morgan and Ellie for getting JIC off the ground. Since he will be the State Bar president this year, he will submit a monthly President's note which he could potentially coordinate with the "Pro Bono Chronicles."

Lillian Alvernaz asked if section chairs could be included on the quick referral sheet. As the Indian Law Section Chair, Lillian often has clients who need improved access to representation for serious issues in tribal courts. Morgan and Ellie will coordinate with Lillian when a draft is ready to make sure she has the correct input on where to direct specific calls.

Alison Paul noted that MLSA has attorneys licensed in every tribal court and they also have a new advocate incubator program, where the first class is becoming licensed and setting up business. Even though they are new advocates, they have MLSA's help. If a person qualifies for legal aid, MLSA will always try to help. Megan Dishong provided the tribal advocacy project link in the Zoom chat: <https://www.mtlsa.org/tribal-advocate-incubator-project/>

Patty Fain thanked Morgan, Ellie, and the previous chair, Lindsay, for their leadership.

MLSA Update

Alison reported that the Department of Commerce is extending the MLSA's housing project and housing assistance fund with ARPA funds for another year. MLSA will be the sole recipient of the emergency rental assistance payments for at least another year.

The State Bar has discovered pro bono funds, donated in the early 2000s, to support Gallatin County and Yellowstone County. These funds will primarily aid pro bono attorneys in those counties. Ellie is coordinating efforts to best utilize these funds, which currently amount to about \$19k for Gallatin County and \$11,662 for Yellowstone County, which is the result of compounding interest for 20 years. Justice Baker plans to discuss this funding with the Gallatin County Bar Association in September.

MLSA has open attorney and non-attorney positions, including opportunities to work in a medical legal partnership. Details can be found on the MLSA website.

A new AmeriCorps class started, with some court positions still available. Sixteen have been sworn in, with the possibility of 4 more by January. They may not all be placed in the court help centers but it would be 4 to make the team complete. Recruitment for January positions is underway. Grace Loveless mentioned that AmeriCorps members are currently serving in Bozeman, Missoula, and the Law Library for Lewis and Clark County, but Great Falls and Billings are short-staffed. All the self-help positions were filled early this summer, but then all the Great Falls and Billings members backed out right before August once recruiting had wrapped up. Housing affordability is a challenge for AmeriCorps members, and efforts are being made to address this issue.

Justice Baker received an email from Bill Bronson, of the Cascade County Law Clinic and a member of JIC, announcing the implementation of a new program they're calling the Self Represented Litigants Assistance Program. The program was started due to an influx of individuals seeking to handle their own family law issues in court, but who realize, once they

receive their forms from the self-help clinic, they need guidance from an attorney. The program provides limited scope representation that can range from simply reviewing forms in an uncontested divorce to guiding people through property transactions. Since last summer through June 2023, the program has assisted over 120 individuals. This is a great feature that the clinic is doing, and they've ramped up their efforts, in part, because there are no AmeriCorps members serving that center on a regular basis. The Great Falls Bar has also stepped up in helping this initiative.

Alison wrapped up by adding that MLSA is very thankful to the courts for the Family Mediation Program and the IDRT program mentioned by Emma.

Justice Baker opened the meeting to any questions, of which there were none.

Karla M. Gray Equal Justice Award

Justice Baker mentioned that the ATJC submitted two nominees to the State Bar for the Past President's Committee award selection. This year, the committee chose Judge Mike Moses, who has been actively involved in the Yellowstone County pro bono project since his days as a lawyer. Throughout his time on the bench, he always displayed enthusiasm when advocating for access to justice. He is set to receive the award at the upcoming Bar convention in Billings, which will be a fitting retirement send-off.

Alison also mentioned that Morgan Dake was selected as this year's Neil Haight Pro Bono award winner.

Justice Baker asked if Alissa Chambers would like to add anything about the Bar meeting next week. Alissa spoke about the Art for Justice Auction and provided the link in the Zoom chat: <https://givebutter.com/c/KdLXhO/auction>.

Next Meeting Dates

The next meeting will be held on December 1, 2023. Before this meeting, committee chairs should reach out to either Justice Baker or Alissa with thoughts about what can be added to the biennial report. The first meeting of next year will be March 1, 2024, and then June 7, 2024.

Public Comment

Justice Baker asked for public comment. There was no public comment.

The meeting was adjourned at 11:09am.