

Montana Supreme Court Access to Justice Commission
September 9, 2022
Zoom Video Conference
10:00 AM – 12:00 PM
Meeting Minutes

Commissioners Present: Justice Beth Baker, Ed Bartlett, Hon. Stacie Four Star, Hon. John Kutzman, Katy Lovell, Alison Paul, and Olivia Riutta.

Commissioners Absent: Georgette Boggio, Hon. David Carter, Rick Cook, Sen. Terry Gauthier, Aimee Grmoljez, Hon. Leslie Halligan, Acting Dean Monte Mills, Jacob Griffith, Daniel McLean, Kyle Nelson, and Rep. Katherine Sullivan.

Others Present: Alissa Chambers, Kekek Stark, Lars Phillips, Erin Molsberry, Emma Schmelzer, Kaylan Minor, Valerie Falls Down, McKayla Henson, Patty Fain, Bill Bronson, Christine Mandiloff, Ann Goldes-Sheahan, Margaret Weamer, Stuart Segrest, and Krista Partridge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:04 a.m and welcomed the Justice Initiatives Committee members to the joint meeting. Justice Baker announced that Grace Loveless, a former Justice for Montanans member, has been hired as the new Court Help Director. She added that all of the Self Help Law Center AmeriCorps positions have been filled for the upcoming term. Justice Baker then introduced the new Executive Director of the Montana Justice Foundation, Alissa Chambers. Finally, she announced the new Commissioners whose terms will begin at the end of September: Professor Kekek Stark, Margaret Weamer, Lillian Alvernaz, and Juli Pierce. All the Commissioners and guests then introduced themselves. Since a quorum was not present, the approval of minutes from the June meeting was postponed until the next meeting.

ARPA Simplified Family Law Resolution Project

Emma Schmelzer provided an overview and update on the Simplified Family Law Resolution Project. She explained that the project was designed to address the backlog of family law cases in Montana courts that was exacerbated by the pandemic. The project has two components: Informal Domestic Relations Trials (IDRT) and Family Law Mediation. IDRT began in January as a pilot program in the First, Fourth, and Twelfth Judicial Districts. The idea behind the program is to allow litigants in family law cases to opt into the IDRT process which simplifies rules of evidence and procedure to make it easier for people to proceed without an attorney. Emma reported that there have been 20 IDRTs in the pilot districts so far, and the feedback from participants has been positive: litigants feel empowered and heard and judges are happy with the efficiency of the process. She added that litigants have the option to be represented by attorneys, but the attorneys play a limited role. Emma said that the challenge now is to get IDRT going outside of the pilot districts and added that the Self Help Law Centers will be a great help in spreading the word. Emma said that a handbook on IDRT is being produced and she is hopeful that additional districts will begin IDRTs this fall.

Emma then reported on the Family Law Mediation Project which is being piloted in Cascade, Yellowstone, Gallatin, and Lincoln Counties. The project is designed for litigants with parenting

plan cases who want to go through mediation. MLSA is collaborating on the project and thus far 15 mediators from around the state have been contracted to provide mediation services through the program. The mediators can provide virtual services which is helpful to avoid conflicts of interest in small communities and makes the process more accessible for the litigants who don't have to travel long distances and take time away from work to participate. As part of the program, litigants also receive advice from contract attorneys prior to the mediation. The program just launched this week and Emma said she is excited to start getting referrals from courts and is also working with the Self Help Law Centers to get pre-filing referrals. Judge Kutzman asked what he would need to do to refer cases and Emma explained that he would need to set an order and the parties would then be connected with MLSA for intake. She offered to send a template to Judge Kutzman. Justice Baker asked how follow-up will be done to get feedback from all participants. Emma explained that follow-up surveys are planned and they are looking at incorporating the instant feedback features available on Zoom. Emma also said that the mediators will follow up with the parties 1-2 months after the resolution, and she will be checking in regularly with the mediators themselves to get their feedback on how the program is going. Bill Bronson said this was the first that he has heard about this program, but he would be happy to help. Emma said she would follow up with Bill after the meeting.

MLSA Update

Alison Paul introduced MLSA Program Coordinator Valerie Falls Down to discuss MLSA's Tribal Advocacy Incubator Program (TAIP) which was modeled on MLSA's successful Rural Incubator Program for Lawyers. Valerie explained that the TAIP began in 2021 as a way address the shortage of attorneys and lay advocates who are barred in the tribal courts by providing the training and tools for advocates to set up small businesses to provide legal services in their communities. MLSA has MOUs with all the tribes and tribal courts in Montana and the first cohort of participants just completed a 12-week training course. They should be ready to accept referrals in December after participating in shadowing and mock-trial training.

Alison then reported that MLSA received one of eight Elder Justice Innovation grants awarded nationwide by the Administration for Community Living, part of the federal Department of Health and Human Services. This is a 3-year grant for an attorney and paralegal to establish an elder law practice. The scope of services is much broader than MLSA's current Elder Justice Fellowship grant which serves elder victims of crime or abuse. Alison also said that MLSA has applied for disaster funding from the Legal Services Corporation to do outreach and provide legal assistance in the Yellowstone flood disaster area. Stuart Segrest recommended that Alison reach out to Mike Fanning at the Office of Consumer Protection to coordinate regarding the elder justice grant.

Policy & Resources Committee Update

Justice Baker reported that Aimee Grmoljez has taken on the leadership of the Policy & Resources Committee in the absence of Abigail St. Lawrence. She said we are moving forward with the legislative funding proposal using the same bill that was drafted but not introduced in the last session. The bill draft is LC66 and will be sponsored by Senator Gauthier.

Self-Represented Litigants Committee Update

Ann Goldes-Sheahan reported that the committee is still looking for new members and she is very grateful for the involvement of Christine Mandiloff on the Resource Subcommittee and Ed Higgins

on the Forms Subcommittee. Christine added that anyone interested in joining the committee should reach out to her.

Outreach and Communications Committee Update

Katy Lovell reported that the committee has been hard at work on the communications plan and she will send out a meeting notice next week. She noted that outgoing Commissioners Dan McLean and Georgette Boggio had been members of the committee and Justice Baker said that she would reach out to the incoming Commissioners to make assignments. Olivia Riutta expressed interest in joining the Outreach and Communications Committee. Justice Baker thanked Olivia and said that other committee assignments will be reviewed by her, Alissa Chambers, and McKayla Henson.

Pro Bono Working Group Update

Patty Fain presented the 2022 Pro Bono Report for activity in 2021. This data has been collected since 2001, and she reported that the hours are trending back up after a decline during the pandemic. She also said that we are seeing a big increase in pro bono hours reported for landlord-tenant cases and estate planning. Patty also reported on the activities of the Pro Bono Action Committee. The committee conducted a series of focus groups to respond to the widening gap in the availability of pro bono services and solicit suggestions from Montana attorneys on ways to expand access and opportunities for service and conduct more effective outreach. A draft report was produced to capture the major themes, and recommendations from the Commission will be sought and incorporated into the final report. Justice Baker thanked Patty for her efforts and those of the working group and emphasized that expanding and improving outreach to the bar regarding pro bono involvement should be a primary focus of coordination between the Access to Justice Commission and the Justice Initiatives Committee. Stuart Segrest said that he would talk to local bar members at the upcoming State Bar Annual Meeting. He added that the Justice Initiatives Committee had been waiting for the focus group results and said that they will use the report to identify where they can help.

Karla Gray Equal Justice Award Update

Justice Baker congratulated Judge Stacie Four Star who is the first Tribal Court Judge to win the Karla Gray Equal Justice Award. The award will be presented at the State Bar Annual Banquet on September 22 in Helena. Also receiving State Bar awards this year are MLSA Tribal Law Supervising Attorney Kathryn Seaton, and former MLSA Executive Director Klaus Sitte.

Justice Initiatives Committee Update

Ann Goldes-Sheahan provided the committee update since Lindsey Simon was unable to attend the meeting. Ann said that Lindsey has done a great job leading the committee and is trying to find new projects or other ways for JIC to support the efforts of the Commission. Lars Phillips added that the committee is seeking new members. Alison Paul said that a good project for JIC might be helping to develop forms for pro bono attorneys and MLSA could help the group get started. She also said that MLSA does not have a Pro Bono Litigation Fund and it would be very helpful to be able to support some of the litigation expenses that volunteers currently absorb.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. She noted that the final meeting of the year will take place on December 2, 2022, with the primary topic being the legislative funding request. The 2023 meeting dates are listed on the agenda. The meeting was adjourned at 11:19 a.m.