

**Montana Supreme Court Access to Justice Commission**  
**November 25, 2013**  
**State Capitol, Room 152**  
**1:00 p.m. – 3:30 p.m.**  
**Meeting Minutes**

**Commissioners Present:** Matthew Dale, Rep. Chuck Hunter, Justice Baker, Judge Krueger, Judge Ortley (phone), Judge Snowberger, Jennifer Brandon, Alison Paul, Hillary Wandler, Jon Bennion, Melanie Reynolds, Andy Huff, Jackie Schara, and Michelle Robinson.

**Commissioners Absent:** Sen. Rick Ripley, Judge Jackson, and Randy Snyder.

**Others Present:** John Tull, Patty Fain, Sarah Garcia, Lisa Mecklenberg-Jackson, Karla Grey, Kate Kuykendall, Amy Sings In The Timber, Mary Beall, and Krista Partridge.

**Call to Order:** 1:05 p.m.

The Commission members present introduced themselves. Justice Baker introduced new members Jackie Schara and Michelle Robinson, and Hillary Wandler who will replace Andrew King-Ries for the next year.

Justice Baker asked if there were any comments on the June or September meeting minutes. Melanie Reynolds requested a correction to the June minutes. Melanie was present for the June meeting, but was listed as both present and absent in the minutes.

**Justice Baker moved that the September minutes be adopted and the June minutes be adopted as corrected. The motion passed without objection.**

**Gaps and Barriers Study Update**

Jennifer Brandon reported that 216 interviews with low-income people, 35 interviews with community partners, and 5 listening sessions have been completed. Interviews on the Blackfeet Reservation are currently on hold due to funding concerns. Jennifer explained that we are \$6,700 short of funds necessary to pay for the work already completed, and it is estimated that an additional \$10,000-\$15,000 will be needed to produce a final report.

Alison Paul added that the bulk of the interviews were done by Montana Legal Services staff and AmeriCorps members and it would be very demoralizing for them if the project were not completed. The value of labor and expenses contributed by MLSA for interviews was approximately \$8,500.

Justice Baker expressed confidence that the study will be completed and said that further conversation should be included in the strategic plan discussion.

**Action Item: Approve Pro Bono Admission Requirement Recommendation**

Justice Baker noted that the recommendation and report on a pro bono requirement was provided to Commissioners in advance of the meeting. If approved by the Commission, the recommendation will be submitted to the Court and published for public comment.

The Committee found that requiring new Bar applicants to fulfill a certain number of pro bono hours would not further the goal of increased volunteerism and access to justice. The Committee's final recommendation includes: a determination that the professional obligation for pro bono begins in law school with a recommended minimum of 50 hours of pro bono service during the three-year period prior to Bar admission; a requirement for mandatory reporting of pro bono law-related services for new Bar applicants beginning no later than the July 2017 bar examination; inclusion of pro bono reporting in the Character and Fitness review process; development of a Law School Signature Program to facilitate pro bono opportunities; and establishment of a standing committee of the Access to Justice Commission to work with the law school, State Bar, and other stakeholders to develop and implement the pro bono admission program.

Judge Snowberger questioned whether the Character and Fitness Commission would look negatively upon applicants with low reported pro bono hours. Justice Baker said that the consensus was that pro bono reporting was consistent with the purview and mission of the Character and Fitness Commission, but that it should probably be made clear that low pro bono hours don't disqualify Bar candidates.

Judge Ortley added that along with provision of services to those unable to pay, the definition of pro bono should include services that promote the public good. Justice Baker noted that the language in the recommendation is almost identical to Rule 6.1, and is consistent with an expansive definition of pro bono service.

**Justice Baker called for a vote on the seconded motion from the Committee to approve the Pro Bono Admission Requirement Report and Recommendation. The motion passed unanimously.**

**Strategic Planning**

Consultant John Tull asked for input on the Initial Strategic Planning Report provided in advance of the meeting. Throughout the entire strategic planning discussion, John made edits and logged comments in the Initial Strategic Planning document as suggested by the Commission.

There was discussion as to whether the pro bono admission recommendation warranted a separate objective and it was decided that it fit well under the Coordination and Facilitation of Networking objective.

Concern was expressed regarding timelines and resources available to pursue the extensive list of strategies under the Self-represented Litigants access category. Justice Baker pointed out that the committee will need to work to prioritize and pare down the strategies. Discussion focused on the need for results from the Gaps and Barriers study to better inform the strategies pursued, and there were comments about the need for strategies to be action-oriented. Alison noted that we should be specific about developing recommendations based on results of any study-oriented strategies. Rep. Hunter commented that symposia and conferences are still important to facilitate outreach, education and fund-raising efforts. John reminded Commission members to look carefully at strategies that are being pursued around the country to help guide the decision-making process.

In addition to the existing Self-represented Litigants and new Law School Partnerships standing committees, proposed new standing committees were a Policy and Resources Committee, and a Communications and Outreach Committee. Possible special committees may include a Gaps and Barriers Planning and Follow-up Committee, and a committee to focus on access issues not related to self-represented litigants. Judge Krueger suggested that the special committees should be left as options for the future. John Tull reminded the Commission that the various committees should decide what will be done, but aren't necessarily then tasked with implementation of strategies.

Matt Dale commented that the Commission needs a concrete plan to complete the Gaps and Barriers Study, and Justice Baker stated that it should be assigned to the Policy and Resources Committee. The Commission then asked Amy Sings In The Timber to comment on the status of the study.

Amy reiterated the shortfall in resources reported by Jennifer earlier in the meeting. She noted that she has reached out to the ABA, State Bar law sections, community partners and local groups to ask for funding. She stated that she will work with the Policy and Resources Committee to secure the funds necessary to complete the project.

Judge Snowberger asked about the original contract for the study and whether there was a fundraising shortfall, or whether the contract had been exceeded. Amy replied that the contract was for \$33,000 and that the hours have been exceeded. Rep. Hunter asked if all the funds pledged had been received. Jennifer Brandon responded that the study was started without all the funding in place in order to take advantage of designated funds that would have expired. Jennifer reported that \$27,000 in funding has been secured thus far. Amy stated that until sufficient funds

are raised, the Montana Justice Foundation would cover the payment due to Kelly Carmody for work already performed.

Discussion returned to the proposed committee structure under the strategic plan. Alison commented that the Communications and Outreach Committee will need to work closely with the Policy and Resources Committee to ensure that their goals are aligned, and that some mechanism needs to be in place to coordinate the two committees. Justice Baker stated that the next step is to assign members and strategies to each committee. Commissioners should email Kate Kuykendall to volunteer for a committee. In lieu of volunteers, members will be assigned to committees. Janice Doggett will help to assign strategies to committees, and John Tull will work with Matt to balance the workload of the committees.

### **Wrap-up and Public Comment**

Justice Baker opened the floor for public comments.

There were no public comments.

Justice Baker suggested that the next Commission meeting should be in late February or early March in order to give the committees time to meet and discuss strategic plan issues. Rep. Hunter suggested that we may need to meet earlier regarding the Gaps and Barriers Study. The tentative date for the next meeting was set for Friday, February 28, 2014.

Judge Snowberger asked when we will receive the Gaps and Barriers report. The report is expected in late January assuming that funding is available to complete it.

**Justice Baker adjourned the meeting at 3:25 p.m.**