

**Access to Justice Commission**  
**Standing Committee on Self-Represented Litigants**  
**February 26, 2013 1:30 p.m. to 3:30 p.m.**  
**Minutes**

**In Attendance:** Judge Michelle Snowberger, Phyllis Smith, Randy Snyder, Robin Meguire, Erin Farris, Patty Fain, Ed Higgins, August Thompson, Judge David Ortley, and Kim Dumont. Also In Attendance: Kate Kuykendall, Janice Doggett, and Chris Manos. No members of the public were present.

**Call To Order:** 1:31 p.m.

Judge Snowberger discussed the purpose of the Committee and introduced the three members of the commission on the committee: Judge Snowberger, Judge Ortley, and Robin Meguire. The form of the committee is still in flux; Judge Snowberger noted that one goal for the meeting would be to think about who else should be at the table. She suggested thinking about potential members from specific communities which were identified at the committee's prior meeting. Those communities include:

- a. Judiciary, possibly retired
- b. Tribal Representative
- c. Technical Guru (State and Private)
- d. Public Librarian
- e. Member from the disability community
- f. Representative from Attorney General's office
- g. CSED
- h. Court Administrators
- i. State of Local Bar Association

There was some discussion of the addition of Judges Hegel and Harkin to the committee. Each judge has interest and experience with issues relating to access for Self-Represented Litigants.

**Chris Manos joined at 1:46.**

**TRIBAL MEMBER**

Ed Higgins suggested including someone who would have a better read on multiple tribes. Maylinn Smith would be good; she's interested and has run the Indian law clinic at the law school. They get requests for help with tribal matters. Someone else is running it now, but whoever is in that position would have a better read on a larger number of tribes than someone from an individual tribe might.

There was agreement that Maylinn would be a good addition to the committee, but someone noted that she's on sabbatical right now. If the committee asks hers, we need to be clear about the parameters of the request. It was suggested that having someone who's sensitive of tribal issues relating to what the committee is doing, and someone who could act as a liaison for specific for action items would be a benefit.

Someone asked whether Judge Not Afraid would be a good candidate for membership. Judge Snowberger said he's active within his tribe, not only as a Justice of the Peace. He might be very good.

Judge Ortleby noted that the Flathead area is in proximity to two tribes. He stressed that it would be good to have general understanding of what's going on in the tribes. He commented on the tendency in our courts to mainstream white people, and noted that it's important to make sure we're addressing the needs of tribal members as well. Whether the committee membership includes someone specific or not, he'd love to have a tribal perspective at the table, as more and more tribal members come to the courts.

Someone mentioned that the committee should be interested in achieving justice across the state, including across tribal boundaries. The question of whether the committee can support tribal initiatives to make their own systems more accessible to their own people was raised, with a comment that historically there has not been an effort to reach out toward that goal. Collaboration among tribal and non-tribal efforts to improve access to justice could be better.

Chris Manos noted that the Bar has recently received several requests about Indian wills, and that this has been a problematic area. He mentioned that another person with interest in the committee's work who might be good on the committee is Shari Martutsi, who was a recipient of the Jamison award a few years ago. Dana Jackson is another potential member. Dana and Mike Connor have done some training workshops with various tribal judiciary systems, and Dana might have insight on what would be helpful when the committee starts talking about forms.

Janice Doggett noted that Dana was interested in using the Indian law portal at the law library to disseminate briefs and forms in criminal matters. She would be interested in using state resources to augment what they are doing to assist tribal members.

Deb Dumontier posted forms for the Confederated Salish & Kootenai tribe to the Indian law portal on the law library website. That is currently the only tribe with forms available on the site, although there have been a couple of other tribes who expressed interest.

Someone suggested contacting tribes and individuals specifically to tell them what the scope of the committee's work is, and to do formal outreach for help with specific tasks as a way of getting better involvement.

Judge Snowberger recapped the discussion to this point, saying that it'd be worthwhile for the committee to have some outreach to tribal members to the folks the committee just identified to say what the committee is doing, how we might integrate each person or member with the committee's work, and see if someone really wants to be on the committee. Right now, the scope of committee work and its membership needs are amorphous. The committee needs its own goals and objectives. Judge Snowberger feels strongly about needing a different perspective on the committee.

## **LIBRARIAN**

Someone mentioned that adding a public librarian could be beneficial. Montana Legal Services Association has worked with librarians, and often finds that those who are nervous about Self-Help Law Clinics sometimes go to libraries. It could be beneficial to have a library liaison. Lisa Mecklenberg Jackson is an attorney employed at Missoula public library. She might be good person to get input from.

## **FORM DEVELOPMENT AND COMMITTEE GOALS**

Judge Snowberger explained that the work of the committee is not anticipated to be temporary. It's a standing committee of the Access to Justice Commission, with no end date. She read the charge from the Supreme Court, which includes form development.

Erin Farris provided a list of projects that Judge Snowberger stated would make a good starting point for discussing the committee's work. The list can be viewed as two-pronged, encompassing form development, and court staff training.

Training includes education for court clerks, judicial assistants, and court staff on difference between legal advice and information. Training has been going on for the last six years. Judy Meadows did a road show going across the state giving trainings.

The other focus is on form development. That's where Montana is focusing right now. There has been a lot of feedback suggesting that the dissolution forms need to be re-done. Form development is not static; once they're created (which happened about 10 years ago in 2004), certainly the laws have changed (statute and case law), and they're due to be looked at for revision.

Erin Farris described the current focus of the Court Help Program's work on forms. Forms are currently being compiled in a shared drive at state law library. Versions of the forms we could find are being located there in "rfp" format so they're more compatible with a variety of computer formats. All available forms are being compiled. Then we can start making changes to those forms. If the role of the committee is similar to that of the previous commission, it'll act in supervisory capacity. The committee will look at and mark up our drafts, give them back for editing, and give final approval. We get a lot of feedback on our forms; we need help from the committee saying what can and should be changed. Many different versions of dissolution forms exist; we need to figure out what's feasible and realistic.

Judge Snowberger read off tasks given to the committee by the Commission's creation order, adding that limited jurisdiction rules should also be reviewed. The charge is pretty broad regarding what we should focus on. Form revision is a good place to start, but if there are other suggestions about what the committee needs to focus on, now would be an excellent time to talk about it.

Someone suggested identifying the most pressing needs and starting to develop committee goals from there. Forms revision seems to be a pressing need. Maybe the thing to do is solicit some information from the people who are most impacted by Self-Represented Litigants so we can quantify where we spend our effort. Patty Fain suggested distributing an online survey of people in each demographic through Survey Monkey, with one or two simple questions designed to identify the most pending or immediate needs. The survey would be distributed to anybody dealing with the justice system.

Someone noted that the former Commission on Self-Represented Litigants had a process for approving forms, which could be a good starting point for developing an approval process.

Randy Snyder identified a lack of uniformity in how cases are handled between judicial districts in Montana as a hurdle for the committee's form development efforts to overcome. Standardizing documents will be difficult; however, the forms we have can be updated to comply with current law.

Several people noted that even the notion that necessary statutory updates are clear is just an assumption.

There was an extended discussion of the problem of differing local rules and customs. Even mandatory forms often have local variations that will pose problems for people trying to access the courts using just a form they get from a help center or the internet.

Chris Manos noted that the committee currently has an opportunity to get in touch with several new judges. In addition, many forms with local variants could be made available on district court websites for lawyers and the public to use. His view is that the more you can make the forms you want to be used available in whatever location, the better. District courts have own websites by county. Many courts post their forms on these sites. He noted that a survey is good idea, but that the Court Help Program has good idea of what problems are out there. Litigants showing up looking for help are where we find that kind of information.

Someone noted that this is a timely discussion, since the court is updating its website. The committee could encourage linking to forms, and find out where people access them. If there's someone who knows who does revisions in each county, we can keep track of that.

The committee discussed generally the reasons leading to the lack of uniformity between districts. It was generally agreed that some level of understanding of which courts require particular information would be beneficial. Courts have authority to use or not use forms as they see fit; having people turned away because a form doesn't look right is not a good result. Someone suggested this might be a good time to take forms to the Supreme Court for recommendation.

The discussion moved on to the process for form revision. Judge Snowberger suggested having 3 or 4 people sit down before the next committee meeting to talk about a survey and a process for form development. This group would then submit to the committee a more formal view on how these actions might best take place.

Someone asked whether the committee would meet once each quarter. Judge Snowberger explained that the committee hasn't decided yet. The former commission met quarterly; this committee may need to meet more frequently until we have a structure in place.

Judge Snowberger noted that two things have come from the discussion so far that make sense. The first is to get some input from a cross-section of Montana on where they see the need as related to Self-Represented Litigants. The second is to come up with a process regarding forms, what will be best course of action for making forms usable for the most people across the state, and how to incorporate local usage of forms or ways of filing which may vary from court to court to make knowledge of that usage available to the public.

Erin Farris noted that the form review process will be a learning experience. It's daunting to think about, but sometimes people just don't understand how to use the forms rather than the problem resting with the forms themselves. It's important to not be overly daunted by process of revision, and to just start and see how it goes by re-evaluating as you go.

Judge Snowberger asked for volunteers to serve on the small working group tasked with identifying ways to gather perceptions of the most pressing problems.

Patty Fain volunteered.

Judge Ortley said he'd be interested to the extent that he can develop a survey to quantify data.

Judge Snowberger suggested that Erin Farris serve on the small working group tasked with suggesting a process for form revision. Erin agreed.

There was some discussion about presenting to at the judicial and clerks of court conferences. It was generally agreed that having a specific topic to discuss would be most useful.

There was discussion of forms being developed that relate to limited scope representation. There has been work on these forms, but nothing has been finalized. There is some overlap and collaboration that needs to happen in that area. Judge Snowberger suggested finding a liaison from the task force that worked on these. There should be a draft of "best practices" available somewhere.

Chris Manos noted that the State Bar is trying to push a series of webinars on limited scope representation. Mars Scott and MLSA have committed to speaking. Betsy at the State Bar agreed to address rules.

#### **NEXT MEETING**

Judge Snowberger suggested April 23 at 1:30pm for the next meeting. She will send out a meeting request.

**Meeting Adjourned:** 3:36 p.m.