

Montana Supreme Court Access to Justice Commission

March 27, 2015

Court Administrator's Office

301 S. Park, Room 328

10:00 a.m. – 12:15 p.m.

Meeting Minutes

Commissioners Present: Justice Beth Baker, Matthew Dale, Judge Kurt Krueger, Michele Snowberger, Randy Snyder (phone), Andrew King-Ries (phone), Jon Bennion (phone), Melanie Reynolds, and Judge David Carter (phone).

Commissioners Absent: Rep. Chuck Hunter, Sen. Nels Swandal, Judge David Ortley, Jennifer Brandon, Amy Blixt, Winona Tanner, Michele Robinson, Alison Paul, Aimee Grmoljez, and Andy Huff.

Others Present: Erin Farris-Olsen, Chris Manos, Janice Doggett, Kate Kuykendall, Beth McLaughlin, Jamie Iguchi, Jessica Walker-Keleher, Patty Fain, Michelle Potts, and Krista Partridge.

Call to Order: 10:05 a.m.

Justice Baker welcomed new Commission member, Judge David Carter of Billings. She then asked for comments or corrections to the December meeting minutes. Justice Baker noted two corrections: 1) On page two of the minutes under "Court Help Program Budget Update," the sentence regarding Justice for Montanans survey results should read, ". . .95% of respondents ranked the program between "8" and "10" on a scale from 1-10, with 70% rating it a "10"; and, 2) On page four of the minutes under "Action Item" Approve Gaps & Barriers Summary Sheets," Aimee Grmoljez made the motion for approval, not Amy Sings In The Timber.

Matt Dale moved that the December minutes be adopted as corrected and Melanie Reynolds seconded. The motion passed without objection.

Legislative Session and Court Help Budget Update

Beth McLaughlin reported good news on funding for the Court Help Program. The House-Senate budget subcommittee voted unanimously to approve Court Help funding at \$295,000 and 5 FTE staff for each year of the biennium, and this budget was approved by the full House. Although this amount was \$100,000 less than requested, increased funding won't be pursued in the Senate. Beth added that grant funding will help pay for the Pro Bono Coordinator, and that money will be shifted from the Court Administrator's office budget to cover the Bozeman Court Help office. Beth thanked Jon Bennion for his efforts on behalf of the Court Help funding initiative, and also noted that the Kalispell judges and Judge Dan Boucher were very helpful during the process.

Beth stated that she's very happy so far with the overall status of funding for the Court Administrator and the Water Court. She also reported on three bills that would impact pro se litigants in family law matters: one bill would allow parties in an uncontested dissolution to waive the final hearing, another would clarify statute to require that the moving party must amend the parenting plan, and the third bill would change the dollar limit for summary dissolution cases. Justice Baker thanked Beth for her great work during the session and stated that we are lucky to have her advocating on behalf of the Judicial Branch.

Remote Services to Self Represented Litigants

Lisa Mecklenberg-Jackson was unable to attend the meeting, but sent out a written report included in the meeting materials. She provided background information on a grant award from the State Justice Institute to study remote service delivery to self-represented litigants in eight states, including Montana. The study will inform the development of business and technical requirements for a full-service litigant portal. On a recent visit to Montana, consultant John Greacen met with Justice Baker and representatives from the State Law Library, Self-Help Law Centers, MLSA, the State Bar, and AAA Legal Services. A resource guide comparing different models of service delivery will be produced and should be available before the end of the year. Recommendations will likely include a shift away from the travel-intensive circuit ride model toward a phone and web-based service to guide litigants to appropriate resources.

Assessment of Legal Needs of Elders in Montana

Janice Doggett reported on the Legal Needs of Elders Assessment that was recently completed. She noted that the Gaps & Barriers Study was used as a resource and that the assessment focused on rural and tribal areas. Findings from the assessment include: a significant technology barrier exists for this group and that it's hard to develop trust as a result; the population in rural frontier counties is aging rapidly and a "tsunami" of need is imminent; and the level and intensity of exploitation of elders is significant and increasing. The assessment concluded that civil rather than criminal matters were more constructive to pursue. The top legal need identified by the assessment is for estate and disability planning; a holistic approach for wrap-around services between MLSA and the Area Agencies on Aging is recommended to meet this need. The pro bono clinic model has been successful for estate planning, serving 278 participants in 2014 and achieving a savings of over \$650,000 to participants at or below 250% of poverty. Janice noted that a CLE session on Indian Wills is coming up, and that there will be a focus on Indian Wills during the last half of 2015. Matt Dale added that the Criminal Investigation Unit at the State Department of Justice has started an Elder Abuse Special Victims Unit and that he is willing to be a contact person for referrals. He indicated that this unit will investigate cases when the County Attorneys cannot.

Biennial Report to the Montana Supreme Court

Justice Baker asked the members if there were comments, questions, or suggested additions to the draft Biennial Report to the Montana Supreme Court that was included in the meeting materials. There were no comments from the members. She noted that since a quorum of members was not present, an email vote will be conducted in addition to the in-person vote.

Action Item: Approve Draft Report

Melanie Reynolds moved to approve the report as written and Matt Dale seconded. The motion passed without opposition. Kate Kuykendall solicited an email vote from absent members, and the following members voted in favor of the motion: Judge Ortle, Alison Paul, Michele Robinson, Amy Blixt, Jennifer Brandon, Andy Huff, and Nels Swandal.

Policy & Resources Committee Update

Matt Dale presented the Economic Impact Study Draft Report that was included in the meeting materials. He stated that the Committee is ready for the report approved as is, with annotated comments. Michelle Potts asked if there were any questions and added that the Committee has worked with the economist on all the calculations. Approval is requested so that the graphic design and printing process can move forward. Justice Baker noted that some of the comments make suggestions. Michelle responded that the suggested changes were made, but that the comments were retained so that the members could track the status of requested changes. Melanie asked if a clean copy could be provided prior to the vote. Justice Baker stated that due to the lack of a quorum, an email vote will be necessary anyway. Judge Krueger suggested that the Commission take a preliminary vote today and then conduct email voting for absent members.

Action Item: Approve Economic Impact Study Draft Report

Judge Krueger moved to approve the report with the changes as noted in the draft, voting today and then continuing the vote by email for the next 20 days. Matt Dale seconded the motion.

Justice Baker asked for discussion on the motion. Patty Fain suggested that the web voting platform be used rather than email and that a roll call vote be conducted now. Voting in favor of the motion were: Justice Baker, Judge Krueger, Matt Dale, Melanie Reynolds, Andrew King-Ries, Judge Carter, Jon Bennion, and Randy Snyder. **Kate Kuykendall solicited an email vote from the absent members, and the following members voted in favor of the motion: Judge Ortle, Alison Paul, Michele Robinson, Amy Blixt, Jennifer Brandon, Andy Huff, and Nels Swandal.**

Justice Baker noted that the report contains valuable information and we need to get the word out, adding that we will revisit this issue during the communications portion of the agenda. Justice Baker reminded the members that it was decided at the last meeting to conduct a statewide education and listening campaign to develop a 2017 funding proposal. Matt stated that

the listening sessions will be modeled on the 2008 effort and that the Committee will be asking Patty Fain to spearhead the effort once again. He added that much of what was done in 2008 worked well and will be replicated. Justice Baker stated that it will be very important for legislators to attend the sessions. She noted that lots of Montanans will be attending the upcoming Equal Justice Conference in Texas, and that she hopes to bring back good ideas for communications and state funding.

Self Represented Litigants Committee Update

Michele Snowberger stated that she recently took a new position at the Motor Vehicle Division, but will remain on the SRL Committee. Justice Baker congratulated Michele and thanked her for her continued service. Michele reported that the Committee is working on training materials for legal information vs. legal advice and is searching for the best software platform. She noted that the Department of Justice uses “Moodle” which is an open source software platform and added that the Committee has found a programmer who will donate time. She said that the family law forms project is nearing completion and that MLSA has a grant in place to put the new forms into the interactive software.

Communications & Outreach Committee Update

Matt Dale asked the group for input on the Gaps and Barriers press release that was included in the meeting materials. Justice Baker asked for discussion on the best way to increase the likelihood of the report being picked up by the media and whether it makes sense to combine it with the release of the Economic Impact Report. Janice Doggett suggested that associations are always looking for newsletter material and that might be a good avenue for spreading the word. Chris Manos suggested that we should issue the Gaps and Barriers press release, and then the subsequent Economic Impact press release should refer back to it. He added that the State Bar Communications Director can help with this and that the Montana Lawyer has been focusing on issues from the Gaps and Barriers Study. Justice Baker stated that she would like someone with experience in drafting press releases to review and make it more succinct. Melanie Reynolds said that she had her CIO review the release and the comment was that this is “old news” and this will be the challenge because the media wants to cover “new” or breaking news. Matt Dale and Chris Manos agreed to coordinate with the State Bar’s communications person to create a punchier and more succinct draft. Justice Baker said that the Commission should model our communications approach on that of “Voices for Civil Justice” and suggested that we may be able to get their assistance free of charge.

Law School Partnerships Committee Report

Jamie Iguchi reported that the Committee developed the process for voluntary pro bono reporting included in the meeting materials, and thanked Erin Farris-Olson for her great work in spearheading this effort. She asked the members for questions or comments. Justice Baker asked Jamie to elaborate on the Commission’s role in the process. The Commission’s role as described

in the voluntary reporting document will be to approve legal services organizations to receive a report of potential pro bono volunteers and to develop a process to vet agencies who contact attorneys for pro bono opportunities. Patty Fain stated that the Commission needs to discuss its role and the timing at more length. Justice Baker replied that the Commission doesn't need to give formal approval of the State Bar forms and process, but should provide support and input. Melanie Reynolds asked what the data and report will look like when it comes to the Commission so that we can ensure that relevant information is included. Patty replied that the goal will be to facilitate data mining and to make the data more useful. Justice Baker asked for a motion of support.

Action Item: Approve Voluntary Pro Bono Activity Statement Process

Matt Dale made the following motion: Resolved that the Access to Justice Commission supports the process developed by the Court Administrator and the State Bar of Montana for voluntary pro bono activity reporting. Judge Krueger seconded the motion and the motion passed without opposition. Kate Kuykendall solicited an email vote from the absent members, and the following members voted in favor of the motion: Judge Ortley, Alison Paul, Michele Robinson, Amy Blixt, Jennifer Brandon, Andy Huff, and Nels Swandal.

Next, Jamie updated the Commission on an ABA Catalyst Grant that the Montana Justice Foundation is seeking. The purpose of the grant is to support initiatives to make use of under-utilized attorneys to meet legal services needs. MJF is applying for funding to study an incubator program and the Committee recommends that the Commission support the grant application by providing a letter of support.

Action Item: Provide a Support Letter for MJF's ABA Catalyst Grant application.

Matt Dale moved that the Commission support MJF's Catalyst Grant application and provide a letter of support. Melanie Reynolds seconded the motion. The motion passed without opposition.

Justice Baker said that we need to include this motion with the other items for email voting and that a quick turn-around will be needed in order to meet the application deadline. **Kate Kuykendall solicited an email vote from the absent members, and the following members voted in favor of the motion: Judge Ortley, Alison Paul, Michele Robinson, Amy Blixt, Jennifer Brandon, Andy Huff, and Nels Swandal.**

Jamie also mentioned that preliminary results from the law student survey on incubators and limited scope representation show strong support for limited scope practice and for starting a practice in a town with fewer than 10,000 residents. Only 20% of respondents indicated that they would not consider a limited scope practice and 74% were interested in starting a practice in a

small community. Jamie thanked Hillary Wandler for heading up the survey effort and stated that the Committee will present a more detailed report at the next meeting.

Other Business & Wrap-up: 2015 Meeting Dates and Public Comment

Justice Baker reported that the State Law Library under the direction of Lisa Mecklenberg-Jackson is coordinating the drafting of the Tribal Court Interface Guide that was discussed at a prior meeting. Justice Baker stated that she will be working with Kate Kuykendall and committee chairs to set meeting dates for the remainder of the year. A list of proposed dates will be circulated. Patty Fain asked that dates in the fall of 2015 and throughout 2016 be aligned with the statewide listening sessions to facilitate participation by Commissioners.

Justice Baker opened the floor for public comments. There were no public comments.

Justice Baker adjourned the meeting at 11:42 a.m.