

January 12, 2007

MINUTES OF THE MEETING OF THE SUPREME COURT ACCESS TO JUSTICE COMMISSION

The second regular meeting of the Supreme Court Access to Justice Commission was convened on January 12, 2007 at the Reno office of the State Bar of Nevada.

The following members were in attendance:

Hon. Michael Douglas
Hon. Andrew Puccinelli
Hon. Connie Steinheimer
Kimberly Abbott
Wayne Pressel
Valerie Cooney
Ernest Nielsen
Paul Elcano
Rew Goodenow
John Desmond
Lynn Etkins, Executive Director

The following members participated by telephone:

Hon. Richard Glasson
Hon. Nancy Becker
Hon. Elizabeth Gonzalez
Hon. William Voy
Hon. Stephen Dahl
Sheri Vogel

The following sub-committee members participated:

Terry Bratton—in person
Suzy Baucum (Ryan Creel)—by telephone
Nancy Becker—by telephone

The following members were unable to participate:

Hon. Frances Doherty
Brett Kandt
Annette Appell

The following persons appeared as guests of the Commission:

William McGrath, President, Washoe County Access to Justice Foundation

1. CALL TO ORDER

The meeting was called to order by the Justice Michael Douglas, Chair at 10:15 a.m.

2. APPROVAL OF MINUTES

A motion was duly made and seconded approving the minutes from the September 22, 2006 meeting.

3. REPORT FROM CHAIR

a) Appointment of 2007 Chair

The Supreme Court has not yet decided who will chair this Commission. They will meet in February and will make the appointment at that time.

b) Community Members

The Commission allows for two community members. Tom Warden is interested depending on the time commitment. He is President and General Manager of Hughes Corporation. Harrah's cannot make any commitment now because of the merger. Rew Goodenow has not yet contacted Jerry Hall, but will do so.

It was moved and seconded to invite Tom Warden to be a permanent community member of this Commission.

c) Executive Director Duties

The Chair provided the Commission with duties for the position of Executive Director. After a full discussion, it was moved and seconded to table this matter until the next meeting. The concern is the ultimate reporting of the Executive Director and whether it is to the Supreme Court or to the State Bar. Rew Goodenow, Lynn Etkins, Justice Douglas and the new State Bar Executive Director, Kimberly Farmer will discuss this before the next Commission meeting.

d) Organizational Interrelationship

The Commission discussed the Access to Justice Section, the Eighth Judicial Pro Bono Foundation and the Washoe County Access to Justice Foundation. The Commission and the Section should work together, not independently. Justice Douglas said that the Supreme Court has done some of its own reorganization and has dissolved both the Library Commission and the Pro Se Council.

The Commission asked Lynn Etkins to provide all members with the minutes and research done for each sub-committee at future Commission meetings. A packet will be prepared and mailed to the Commission members with the requested materials.

Judge Steinheimer said that the Section should be run by lawyers and increase pro bono involvement through the State Bar. The Section should benefit lawyers. Judge Dahl asked what the Section did since he paid his dues and was not notified of any meetings or invited to the awards luncheon. Judge Steinheimer said that the Section gives out annual statewide pro bono awards with the Supreme Court. Justice Douglas said maybe the Section needs to recruit lawyers to provide services to those with unmet legal needs.

Judge Steinheimer said that the Section grew out of the State Bar Committee. The purpose of the statewide awards was to recruit lawyers to do pro bono work. The ATJ Section has sponsored statewide summits, CLE's at the State Bar, produced video tapes at Bridging the Gap and recruited lawyers to do pro bono work at the last two Annual Meetings.

The Commission needs to look at restructuring the Foundations which have been raising money. The Commission needs the energy of the Foundations and cannot tell them to disband without an order from the Supreme Court. Although there is a lot of energy in the Foundations, there is no productivity. What is each organization doing?

The Section should recruit lawyers to do pro bono work. What was the approved language of the Section when it first came into being and how does it fit with what the Section is doing? Judge Steinheimer said that the Section was created to get lawyers involved in pro bono and the purpose of the Foundations was to promote former Rule 191. The Section was to assist statewide efforts in pro bono recruiting after the Supreme Court order.

Nancy Becker said that the Foundations were set up to deal with an ethics opinion that said judges cannot direct sanction money to legal service organizations. All of the same people are doing the same things on each organization and nothing gets done. Could the Section recruit and provide services for lawyers doing pro bono work? Could the Section have as its members all lawyers who take pro bono cases and get help from the Section if it needs it?

The ATJ Section is different than other substantive sections. What do we need other organizations to do? They should implement programs this Commission wants done. What is the problem we are trying to address? Who is going to do it and what is the cost? Where do the Foundations and Sections fit into this? Paul Elcano said that we shouldn't only focus on pro bono.

Judge Dahl said that the Commission needs to pick a goal and each sub-committee needs to choose a project to help meet that goal. Both Foundations and the Section need to advise the Commission of what they are doing.

Justice Douglas said that Organizational Interrelationship needs to have legal serviced included in it. All legal service organizations need to be added to the list of organizations. The court's order defines what the Commission is doing. There is a large funding issue.

The Chair sent this matter back to the sub-committee for further discussion and recommendation at the next full Commission meeting.

4. REPORT FROM LYNN ETKINS

a) Increase sub-committee membership

Please forward Lynn Etkins the names of anyone you believe would want to be on a sub-committee. Sub-committee members do not need to be lawyers, but should be able to help the Commission reach its goals. Lynn Etkins will formally invite them to be members of the sub-committees.

b) Mandatory Reporting

Lynn Etkins provided a copy of the report of the results of the 2005 Mandatory Reporting and asked the Commission if they thought this report should be published on the State Bar's website. The Commission suggested that Lynn Etkins draft and Executive Summary of the results and post that on the website offering to anyone the chance to read the entire report if they wish.

Kimberly Abbott was concerned about the collection of data and the form of the report. Lynn Etkins advised that the State Bar was not going to use the company again and that all reports were going to be generated in-house. The pro bono participation rate is based on the forms that were returned, not on the actual number of people who should turn forms in. Lynn Etkins will review the way the statistics are created for the 2006 report. There was some discussion about creating an Access to Justice web page and placing the pro bono results there, but if the results are not on the first page of the website, most people will not see them. Maybe we should place this information on the State Bar E-Newsletter and advise people to go to the website to review the results?

c) State Bar Annual Meeting

The Commission wants to have time set aside for a meeting at the Annual Meeting. The Access to Justice Section will also meet, but at a separate time. Lynn Etkins has been working with Chris Boadt on the ATJ CLE.

d) Equal Justice Conference

It was moved and seconded that the Commission pay registration fees for 3 members to attend the ABA/NLADA Equal Justice Conference in March. The Commission members can register as a team and receive a 20% discount. Judge Steinheimer, Valerie Cooney and Ernie Nielsen asked for the Commission to pay their registration fees.

e) Sub-Committee goals

The sub-committees should choose one or two projects to work on as well as increase membership.

OTHER BUSINESS

Wayne Pressel asked to be heard about funding and the state of legal services. Lynn Etkins handed out two documents: 1) State of Legal Services which describes all of the legal service agencies and what they do, and, 2) Funding for Legal Services which describes where legal service agencies currently get their funding. Wayne Pressel thinks it would be more helpful to have the legal service agencies describe how much money they get and what they do with that money. Wayne Pressel believes more information is more helpful and that legal service agencies need transparency. Rew Goodnow thinks it is a good idea in theory, but doesn't want to add an additional reporting requirement to the agencies. Sugar Vogel does not think it is a good idea because you cannot compare money and services or compare productivity that way. Justice Douglas believes it is helpful if we are able as a state to apply for grants. We will do better asking for money as a whole and show that we all work together. Wayne Pressel also discussed statewide training for legal services. Paul Elcano said that his Board of Directors will not release specific funding numbers. We need to look at gaps in services and see what needs addressing. Justice Douglas then created a Legal Services Provider Sub-Committee and Paul Elcano agreed to chair it.

The Legal Services sub-committee includes Paul Elcano, Wayne Pressel, Barbara Buckley, Sugar Vogel, Ernie Nielsen and Valerie Cooney.

5. SUB-COMMITTEE REPORTS

a) Community Awareness

Lynn Etkins gave the report. This sub-committee met once and is looking at ways to create a cost/benefit analysis of access to justice.

b) Funding

Ernie Nielsen, Chair gave the report. The Commission still needs to figure out who would be a proposed grant applicant. The Commission or the agencies?

The sub-committee is looking at whether or not the Commission needs to pay for a needs assessment study or if we can create our own. Judge Steinheimer said that we could probably find more to do with \$100,000 than a needs assessment. Much of the information has already been compiled by social service agencies and school districts. It is just a matter of locating it and re-compiling it. Justice Douglas suggested that if we look at the needs assessments done of Utah, Washington and Legal Services Corporation along with statewide statistics, maybe we can come up with our own assessment. Justice Duoglas set up a committee to look at the various reports including Lynn Etkins, Nancy Becker, Terry Bratton and Suzy Baucum. UNLV and UNR might be able to assist in putting this information together.

Paul Elcano said that the United Way does not give enough money to legal services and he would like the Commission to look into this. He also discussed raising money to hire someone to assist pro se individuals with self-help forms at the courthouse. He thinks that by raising the marriage license fee, we could raise enough money to hire someone. The Commission thought that hiring one person in Washoe County would not be enough, but is willing to look at this issue further. The courts have already established forms for pro se individuals to use.

Lynn Etkins advised that the State Bar will have figures for the actual number of IOLTA participants this Spring.

c) Lawyer Participation

John Desmond, Chair gave the report. The main focus of the sub-committee has been reviewing recruitment efforts that have not worked in the past, reasons why they have not worked and try to find better ways to address lawyer participation. The sub-committee wants to go to law firms and specialty bars to ask for help. Public lawyers are more difficult to recruit for direct representation and need something else to do. The Commission might need to meet with the heads of the government agencies and managing partners at large law firms. There are so many new law firms in Nevada that they are an untapped resource. Maybe the Commission should send a welcome letter and set up meetings? The sub-committee wants to meet with the new Attorney General see what her agenda is for her term. Should the ATJ Section do this project?

d) Provider Promotion

Wayne Pressel gave the report. The sub-committee is looking at staff recruitment and retention, salaries and benefits, medical insurance with the County and PERS. There is no state issue precluding legal service organizations from joining PERS, but the IRS and ERISA will pull the non-profit status from them if they join PERS. Terry Bratton has already looked into this issue and has information for the sub-committee. The CCBA

is looking into a loan forgiveness program with the law school. Will it make a difference?

6. NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 1:15 p.m. The next meeting will be April 20, 2007 from 10:00-1:00. The location will be determined at a later date. The Chair hopes that all members will participate in their own locality via video teleconference.

By: Lynn Etkins
Executive Director
Supreme Court Access to Justice Commission