



Nevada Supreme Court Access to Justice Commission

Quarterly Meeting

Date: Friday, October 9, 2009

Time: 1:00 p.m.- 5:00 p.m.



Three video-conference locations (phone will be set up in Las Vegas location):

Las Vegas AOC Conference Room, 17 th Floor Regional Justice Center 200 Lewis Ave., Las Vegas, 89101	Carson City AOC Conference Room, 2 nd Floor Supreme Court Building 201 S. Carson Street, Carson City, 89701	Reno AOC Conference Room, 2 nd Floor, #215 2 nd Judicial District Court 75 Court Street, Reno, 89501
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Conference Call info: 1-866-210-7083 1043736#

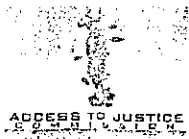
AOC Main number: 775-684-1700

AGENDA

1. **Approval of minutes 7.10.2009 (p. 2)**
2. **Rules of Order (p. 9)**
3. **Standing Committees**
 - a. Committee Projects and Roster Master (p. 19)
 - b. Committee Reports
 - i. Communications
 - ii. Legal Services Delivery
 - a. Statewide Pro Bono awards
 - b. Pro Bono Week October 26-29, 2009 (Schedule of Events attached) (p. 29)
 - iii. Development
 - iv. Executive Directors Report
4. **Nevada Law Foundation (p. 39)**
 - a. IOLTA revenue summary year-to-date
 - b. Banking interest reports
 - c. Update from the Vice-Chair
 - d. Provider distribution IOLTA funds
5. **Discussion items**
 - a. Rule Changes
 - i. Rule 217: IOLTA minimum standards. Work group final recommendation. (p 48)
 - ii. Rule 216: Report of the Commission Executive Director. (p. 55)
 - iii. RPC 6.1 (p. 58)
 - a. Working group report
 - b. Commission Executive Director report
 - iv. Rule 15: Commission Composition. Final recommendation. (p. 66)
 - v. Rule 6.5: Non Profit and Court Annexed Limited Legal Service Programs (p. 74)
 - b. Rural Services update (p. 78)
 - c. Foreclosure Services update: Legal Services programming
 - d. Self-help centers update
 - e. Strategic Planning in 2010
 - i. Statewide services delivery
 - a. Need for client stories for media and public interest
 - b. Use of outside consultant
 - ii. Commission planning: Proposal for discussion next meeting
 - f. Website Development Update (www.nevadalahelp.org)
6. **Commission Documents (p. 91)**

Updated ATJC and Committee rosters and goals; organizational chart; Rule 15
7. **Other business**
 - a. Set meetings 2010. Proposed dates attached. (p. 99)
 - b. Sample Commission By-laws (p. 101)
 - c. 2009 Justice Gap Report (p. 111)

TAB 1



Nevada Supreme Court
Access to Justice Commission
State Bar of Nevada
Quarterly meeting
Friday, July 10, 2009
1- 5 pm

Las Vegas AOC Conference Room, 17 th Floor Regional Justice Center 200 Lewis Ave., Las Vegas, 89101	Carson City AOC Conference Room, 2 nd Floor Supreme Court Building 201 S. Carson Street, Carson City, 89701	Reno AOC Conference Room, 2 nd Floor, #215 2 nd Judicial District Court 75 Court Street, Reno, 89501
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Draft MINUTES

Commission members in attendance:

Chief Justice James Hardesty Co-Chair
Justice Michael Douglas Co-Chair

Cooney	Valerie
Desmond	John
Doherty	Hon. Francis
Elcano	Paul
Ferenbach	Cam
Gonzales	Hon. Elizabeth
Johnson	AnnaMarie
Nielsen	Ernest
Steinheimer	Hon. Constance
Thronson	David
Vogel	Sheri Cane
Warden	Tom

Marzec Kristina Executive Director, Commission (Staff)

Non-voting members in attendance:

Candelaria Amber Director, Eighth Judicial District Family Law Self Help Center

Members by phone:

None

Guests:

Buckley	Barbara	Executive Director, Legal Aid Center of Southern Nevada
Eglet	Robert	Vice-Chair, Nevada Law Foundation
England	Kathleen	President, State Bar of Nevada
Etkins	Lynn	Legal Aid Center of Southern Nevada
Farmer	Kimberly	Executive Director, State Bar of Nevada
Ochoa	Vincent	Board of Governors, State Bar of Nevada
Phelps	Carly	

Members unable to attend (excused absences):

Kandt W. Brett

Approved.

2. Equal Justice Conference and ATJ in other states

Several Commissioners and staff attended this year's Equal Justice Conference. Not unexpectedly, a major focus of the conference this year was on LSC and pending legislation for increased funding as well as relaxation of the attendant restrictions.

Anna Johnson attended and relayed there were some interesting ideas on how to tie into stimulus funding. Some states have done very creative tie-ins, such as with homelessness prevention, and rapid re-housing. NLS and Washoe SLP both have programming in those areas. There are also ways that are not necessarily legal representation, such as services provided by mediators who nonetheless have to be attorneys. One emphasis of the conference was rural delivery, with many of the same problems Nevada has evidenced in other states such as Montana. A trend in the mountain west is moving away from remote services towards putting physical offices in outlying areas.

Kristina Marzec noted this year strategic planning was a major focus and sessions on that topic heavily attended. Many Commissions are embarking on plans for strategic planning both for the Commission itself and state-wide services delivery, both objectives for Nevada in 2010.

Justice Douglas asked Commissioners to take note of the materials provided at page 62 of the packet regarding ABA Resource suggestions for Best Practices in ATJ to move initiatives forward. Also in the materials are programs and ideas that could be in our future. Each state has its own cultural ideologies on ATJ. Noticeably, three years after inception is the time commissions start to sit down and talk about priorities. This should be a focus for this Commission.

3. Report of the Legal Service Providers

Sugar Vogel. She has been engaging in discussions with the mayor and city managers. Fallout from the economy expected to last 3-4 years. At present, no cuts or lay offs are planned for her program. A regional application is in for funds for the senior law project, which could fund at least one part time attorney under AB 149 and one elder abuse attorney. Encouraging news.

Barbara Buckley. LACSN is swamped due to the economy. In particular the consumer unit bears the brunt of the need, but child abuse is also up. LACSN has two foreclosure grants. They have two lawyers and two full-time law clerks, averaging about 200 cases. A component of the bankruptcy program was recently added to strip second mortgages and expand to Chapter 7 filings, with the first case coming up next week. LACSN has grown to 5 1/2 attorneys, 6 paralegals, and a new attorney to run the self help center, Jim Berchtold. The Childrens' Unit is swamped, along with the domestic violence unit. All indications are that the County approved going through the normal fiscal cycle with no increases, but no decreases. She is reaching out to Judge Ritchie and Judge Steele to help with wait times in family court, which affects pro bono lawyers being able to take cases.

Anna Johnson. NLS is more like Consumer Credit Counseling. Services involve initial counseling and review of documents trying to get modifications and re-financing. Effective July 1 a grant came through (from Western Tennessee Legal Services National Center) for funding to train judges who want to be mediators. The final visit from LSC is completed. It was officially reported last week funding approved through the rest of this year. Caution noted that LSC itself is being audited by the GAO. New pro bono coordinator Steve McDonald hired effective June 1.

Anticipated funding increase pending is about 405 million under the House Bill. The Casey Amendments are proving to be a bigger obstacle than funding, largely due to unfounded political concerns over potential use of funds on sensitive hot topic issues such as abortion.

Judge Doherty commented Anna's news is demoralizing and represents the continued politicizing of poverty law. This will reflect on what we do as a state going forward. The Commission needs to hold the banner of poverty law as a basic human need. It is chilling that our national legislature is still focusing on these red herring issues rather than advocacy of poor people trying to access basic human rights. Mission should be to insure our core mission of what poverty law is.

Valerie Cooney. VARN funding received under recovery act grants will enable hiring of another staff intake person, probably someone with a background in domestic violence. A new attorney was hired to run the pro bono program and hopes to broaden the scope of services, including community outreach and attorney outreach in rural areas. Funding also received to open a shared office in Fernley (with the DV office) and hope to expand that to include family-law related matters in the future. She is currently in discussions with Anna to enter an MOU to serve as an arm of NLS in the rurals whereby VARN can use its relationships and contacts at least in the broad category of family law issues. VARN has already set out to find locations in Elko, Fallon, and Yerington and will also meet with the statewide CASA director to express interest in providing training to volunteers in rurals. Recent grant from the State Bar will provide for updating VARN's website, with a view in future towards developing a virtual self-help center.

Ernie Nielsen. For the Washoe Senior Law Project the problem is a lack of services more than a loss of jobs. Clients are mostly in states of transition. WSLP did enter an agreement with NLS and the county for homelessness prevention. As noted before, there is still a concern about tobacco funds used to fund guardianship cases. Preparing to apply for round 3 of foreclosure prevention funding. Clinics have been in place for the past 6 months. The program is retooling to adjust for those significant numbers expected in the next few months; should be a very robust program. Right now not nearly enough funding on wards and homelessness advocacy in particular, trying to find ways to increase that programming.

Paul Elcano. WLS is business as usual, financials are okay, no losses, program filled its last vacancy in child advocacy with a great attorney. Grants come and go but WLS is growing and stable. Two big issues on horizon are IOLTA and the increase in filing fees (i.e. will that increase result in less cases being filed and thus a net loss). Judge Doherty noted she is also concerned about the filing fee issue which has presented some challenges in the rurals. The Court will receive a full report by the end of the year with successes and failures.

Self-help. Judge Gonzales reported the RJC self-help center begins construction in two weeks. They are still finalizing the contract with LACSN for the ground floor. Amber Candelaria noted the Family Law Self-Help Center is doing well and very busy. The HotDocs contract is still with the County but she is confident it will be approved.

Executive Directors' Report. Chair Paul Elcano gave the Executive Director Committee Report. The group met a few weeks prior and discussed four key issues. The group supports the rule change discussions with regard to SCR 217 (IOLTA benchmarks). There were continued discussions on a stipulated formula for block granting among the providers, which is proceeding well. Concessions were made for different people. A few issues need to be explored with the Nevada Law Foundation before the group can make any recommendations regarding a potential rule establishing dues add-on or dues set-off. The NLF proposal on jury fees, while certainly worth exploring, is not ripe for recommendation yet. That proposal needs to be vetted. Also discussed was statewide reporting, which is difficult given the different data systems and various requirements for grants among the providers. Justice Douglas noted if we are going to be successful in seeking funds that information is worthwhile to gather. To seek funding we all need to be telling one story. The Executive Directors agreed to report back by the next Commission meeting or sooner with uniform reporting. Their next meeting is September 15.

4. Pro Bono week

A review of pro bono week planning was provided. Events are planned Monday through Thursday, with VARN doing a legal fair the prior Saturday. Each provider is putting on at least one event, there will be a kick-off cocktail reception Monday night attended by the co-chairs at *Lionel Sawyer*, and there are a number of CLEs planned including a CLE breakfast in Reno. The State Bar's website and *Nevadalahelp.org* will be updated as plans progress, along with articles in the various bar journals and on-line resources. Bank of Nevada has been a significant supporter both financially and by putting on an

over that week. Marketing will begin in early October.

5. Foreclosure Mediation Program

Chief Justice Hardesty reported the programming is up and running. There are rules, a coordinator, a director, and as of now, 104 attorney in the first phase of mediation. The Court has received proposals for mediation training and is monitoring daily notices of default to get a feel for volume. There was an anticipated dip in filing on the 1st as people tried to avoid the consequences of AB 149. The average is about 100 per day in Clark County and 35 per day in Washoe (commercial and residential). Every single department in the Court was involved in getting this program to fruition. The Justice is confident mediation will likely proceed in the first week or two of August and then proceed daily from there. Unsuccessful mediation and claims for bad faith will have to go to district court, and there are some challenges there which are being worked through next. He is working with Judge Ritchie on rule making in that respect. There will be a rulemaking committee (which will not set parameters on sanctions). There needs to be some consistency in rulings so it will evolve up to the Supreme Court. The Court will put on two CLE training programs for judges (one with training as mediators will get, the other related to sanctions). The Justice has been talking with chief justices from New Mexico and Connecticut and likes their programs.

Justice Hardesty stated his pride in all the people involved in helping with this program. There was tremendous effort on the part of every Justice and every staffer.

6. Nevada Law Foundation Report

Robert Eglet presenting. There has not been much progress on the IOLTA campaign since the last Commission meeting due to distractions the last three months. The Foundation is again requesting a rule change on increasing its board. This is required to expand boots on the ground. The NLF needs active committees for going to law firms (phone calls are good, but to get them to change, it takes face to face meetings with representatives of one of our preferred interest bank partners).

Silver Ball attendance was up this year and the program was better. The net income out of it however is nowhere near as good as possible, and the Board is looking to completely revamp the program and make it just as nice without the cost. Colleague pledges are mostly collected, some are on payment programs, and the total amount is significantly higher than past years.

IOTLA good news is that revenue for the first five months is up. This is due to a combination of things, especially IOLTA going mandatory and efforts regarding the preferred interest program. Wells Fargo and Bank of America are not giving us a break. The NLF has spoken to many banks in the last several months (both those that said yes and no) and the consensus is until someone tells banks they have to do this in order to keep trust accounts, they are not going to do it. It took a lot of effort plus conversion to mandatory to increase funding by a quarter million. It would be helpful on the road ahead if the NLF could say there is a rule change coming in the next 6-8 months.

Barbara commented it is important to have a rule supported by the State Bar. We need a campaign to win the hearts of the bar membership and should be talking about how to allay fears, which we believe unfounded, about the proposal. Everyone reacts negatively to the concept of anything mandatory in nature. We have to do a rule otherwise we are wasting precious time. There should be a long range effective date to allow for education. This rule is not about inconvenience to lawyers: it's a legal aid crisis and a way to help without breaking a sweat. Cam opined the model that comes to mind is the prejudgment interest rate set by the commissioner of banks every 6 months. Paul took a different point of view, noting renegotiation and monitoring of the rates will be very important. Caution is urged with a formulaic approach. Rate has to be good for a year.

Justice Hardesty opined the rate should be in the rule because frankly, it forces to court to look at it every year as it should be. Some of our current challenges arise from matters not being properly reviewed with the necessary attention.

There followed lengthy discussion on the merits of the rule proposal draft for Rule 217 as provided in the agenda. The rule must take into consideration the rurals, review, reporting, oversight, and should give banks the benefit of notice before the eventual effective date. The economy is so unpredictable now review in a year is definitely advantageous. The issue of pending litigation related to comparability was revisited. The Commission's research is that there is no pending litigation at this time in the country. There was some concern voiced something might be pending in Arizona. The Chief Justice will follow up on that.

Motions on Rule Changes

- **Amendments to SCR 217.** Moved and approved to form working group.

Moved and approved to form a working group comprised of Chief Justice Hardesty, Justice Douglas, Cam Ferenbach, Barbara Buckley, and Paul Elcano to discuss and tweak the rule draft and get back with the full Commission with a recommendation. Kristina to provide staff support and work with Justice Hardesty to schedule the first conference call within the next few weeks.

- **Increasing the NLF Board to a total of 21:** Moved and approved, one opposed.

Justice Douglas noted the plan was to put these people in action to hit the ground running for fundraising. The other component was the State Bar asked the NLF to form a managing/operational group to run governance of the foundation as an ongoing process, which the NLF has pledged to do.

Confirmed that the Rule recommendation will come from the Commission directly to the Court under the open ADKT for Commission issues generally.

- **Change to Rule 216(1)(a). Change "major portion" to "significant majority".** No Motion.

Consensus is both terms are ambiguous. This rule needs significant discussion and vetting on a number of issues related to the IOLTA discussions generally and is not ripe for amendment at this time.

Robert noted the NLF was successful this year in fundraising to cover all overhead and estimates 1.4 million or more in IOLTA this year. The reserve is for providers only. If fundraising is successful enough the NLF can go to 100%, but 90% is a minimum. The intent was to strengthen the rule so other boards are clear on program's intention. Sugar asked if the senior programs are considered part of the core provider group of six. Robert noted as far as the NLF is concerned, yes they are. Barbara noted this came up in the Executive Director Committee discussions and a review of the language of rule 217 leaves open to interpretation whether government entities are intended. However, this discussion was not intended to cut out seniors as the group recognizes the value of the senior programs. The group would like to recommend their inclusion in a way that makes sense and there have been amicable talks to that end. Cam noted the problem for years has been the providers need to have a reliable income stream. One option would be to have the rule affirmatively recognize the six providers by name, and then go ahead and put in the 90% minimum. Justice Hardesty noted we can postpone this section but it needs to be resolved soon.

On a related point, the Executive Directors agreed to resolve the block grant formula issue by the next Commission meeting, if not sooner.

- **Jury Fees (NRS 38).** No Motion. Matter referred to Development Committee.

After extensive discussion of this proposal, it was agreed that while the idea is intriguing, it needs significantly more vetting, particularly for constitutionality. Also a concern about the impression of taxation on jury demands, and, the burden on the everyman plaintiff that might have a chilling effect. Noted the equal protection issue goes beyond initial poverty. Chief Justice Hardesty noted a question is can the Court impose a fee and then designate the recipient. There has to be a clear nexus. A better option might be forfeiture funds, however that is not a stable revenue source. Judge Gonzales offered to pull jury demand statistics from 2007 through 2009.

- **Rule 13. Commission composition.** moved and approved with changes. Final rule to come back to Commission.

Rework to make sure it's clear the Executive Director is not a voting member. Add three at-large positions. There is an ebb and flow of at-large positions, which allow for flexibility depending on the evolving goals and priorities of the Commission over time. This will also allow for keeping on valued founding members that no longer fill a specific rule slot.

- **Rule 6.1.** Moved and approved to have Legal Services Delivery and the designated working group further review and report back to Commission.

7. Adjourned at 5:45.

TAB 2



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rules of Order

Justice Douglas will be leading discussion on the Rules of Order for Commission meetings. Up to this point, Commission meetings have been somewhat informal in nature.

As we continue to grow and evolve, this is a good point to stop and evaluate the efficacy of our process and look to the best practices as we move forward.

For background and refresher purposes only, I have provided below the top 20 questions posed to Robert's Rules of Order and the answers thereto.

These questions were derived from *Robert's Rules of Order Newly Revised In Brief*.

1. Is it true that the president can vote only to break a tie?
2. Can ex-officio members vote, and are they counted in determining whether a quorum is present?
3. Is it true that, once a quorum has been established, it continues to exist no matter how many members leave during the course of the meeting?
4. In determining the result of a vote, what constitutes a majority?
5. Can we round to the nearest number in computing the result of a vote?
6. Do abstention votes count?
7. What is a vote of no confidence?
8. How do you deal with a "friendly amendment"?
9. Isn't it true that a member who has a conflict of interest with respect to a motion cannot vote on the motion?
10. Should proxy votes be counted?
11. Must debate on a motion stop immediately as soon as any member calls the question?
12. Isn't it always in order to move to table a motion to the next meeting?

13. Can something be defeated by adopting a motion to table it?
14. How can I get an item on the agenda for a meeting?
15. Isn't it necessary to summarize matters discussed at a meeting in the minutes of that meeting in order for the minutes to be complete?
16. If minutes of a previous meeting are corrected, are the corrections entered in the minutes of the meeting at which the corrections were made?
17. Can votes be taken in an executive session?
18. Is it possible to withdraw a resignation after it has been submitted?
19. Can we hold our board meetings by conference telephone call?
20. How can we get rid of officers we don't like before their term is up?

Question 1:

Is it true that the president can vote only to break a tie?

Answer:

No, it is not true that the president can vote only to break a tie. If the president is a member of the assembly, he or she has exactly the same rights and privileges as all other members have, including the right to make motions, speak in debate and to vote on all questions. However, the impartiality required of the presiding officer of an assembly (especially a large one) precludes exercising the right to make motions or debate while presiding, and also requires refraining from voting except (i) when the vote is by ballot, or (ii) whenever his or her vote will affect the result.

When will the chair's vote affect the result? On a vote which is not by ballot, if a majority vote is required and there is a tie, he or she may vote in the affirmative to cause the motion to prevail. If there is one more in the affirmative than in the negative, he or she can create a tie by voting in the negative to cause the motion to fail. Similarly, if a two-thirds vote is required, he or she may vote either to cause, or to block, attainment of the necessary two thirds. [RONR (10th ed.), p. 392-93; see also Table A, p.190 of *RONR In Brief*.]

Question 2:

Can ex-officio members vote, and are they counted in determining whether a quorum is present?

Answer:

"Ex officio" is a Latin term meaning "by virtue of office or position." Ex-officio members of boards and committees, therefore, are persons who are members by virtue of some other office or position that they hold. For example, if the bylaws of an organization provide for a Committee on Finance consisting of the treasurer and three other members appointed by the president, the treasurer is said to be an ex-officio member of the finance committee, since he or she is automatically a member of that committee by virtue of the fact that he or she holds the office of treasurer.

Without exception, ex-officio members of boards and committees have exactly the same rights and privileges as do all other members, including, of course, the right to vote. There are,

however, two instances in which ex-officio members are not counted in determining the number required for a quorum or in determining whether or not a quorum is present. These two instances are:

1. In the case of the president, whenever the bylaws provide that the president shall be an ex-officio member of all committees (except the nominating committee); and
2. If the ex-officio member is not a member, officer, or employee of the society (for example, when the governor of a state is made ex officio a member of a private college board).

Again, however, it should be emphasized that in these instances the ex-officio member still has all of the rights and privileges of membership, including the right to vote. [RONR (10th ed.), p. 466-67; p. 480, l. 18-27.]

Question 3:

Is it true that, once a quorum has been established, it continues to exist no matter how many members leave during the course of the meeting?

Answer:

No. Once a quorum at a meeting has been established, the continued presence of a quorum is presumed to exist only until the chair or any other member notices that a quorum is no longer present. If the chair notices the absence of a quorum, he or she should declare this fact, at least before taking any vote or stating the question on any new motion. Any member noticing the apparent absence of a quorum can and should make a *Point of Order* to that effect whenever another person is not speaking. It is dangerous to allow the transaction of substantive business to continue in the absence of a quorum. Although a Point of Order relating to the absence of a quorum is generally not permitted to affect prior action, if there is clear and convincing proof no quorum was present when business was transacted, the presiding officer can rule that business invalid (subject to appeal). [RONR (10th ed.), p. 337-38; see also p. 12-13 of RONR In Brief.]

Question 4:

In determining the result of a vote, what constitutes a majority?

Answer:

The word "majority" in this context means, simply, *more than half*. The use of any other definition, such as 50 percent plus one, is apt to cause problems. Suppose in voting on a motion 17 votes are cast, 9 in favor and 8 opposed. Fifty percent of the votes cast is $8\frac{1}{2}$, so that 50 percent plus one would be $9\frac{1}{2}$. Under such an erroneous definition of a majority, one might say that the motion was not adopted because it did not receive fifty percent plus one of the votes cast, although it was, quite clearly, passed by a majority vote. [RONR (10th ed.), p. 387; see also p. 66 of RONR In Brief.]

Question 5:

Can we round to the nearest number in computing the result of a vote? For example, since two thirds of 101 is 67.3333, will 67 affirmative votes out of 101 votes cast meet the requirement of a two-thirds vote?

Answer:

No. The requirement of a two-thirds vote means at least two thirds. As a consequence, nothing

less will do. If 101 votes are cast, 67 affirmative votes are not at least two thirds. It is less than two thirds, and will not suffice. [RONR (10th ed.), p. 388.]

Question 6:

Do abstention votes count?

Answer:

The phrase "abstention votes" is an oxymoron, an abstention being a refusal to vote. To abstain means to refrain from voting, and, as a consequence, there can be no such thing as an "abstention vote."

In the usual situation, where either a majority vote or a two-thirds vote is required, abstentions have absolutely no effect on the outcome of the vote since what is required is either a majority or two thirds of the votes cast. On the other hand, if the vote required is a majority or two thirds of the members present, or a majority or two thirds of the entire membership, an abstention will have the same effect as a "no" vote. Even in such a case, however, an abstention is not a vote. [RONR (10th ed.), p. 387, l. 7-13; p. 388, l. 3-6; p. 390, l. 13-24; see also p.66 of RONR In Brief.]

Question 7:

What is a vote of no confidence?

Answer:

The term "vote of no confidence" is not used or defined anywhere in RONR, and there is no mention of any motion for such a vote. However, this does not mean that an assembly cannot adopt a motion, if it wishes, expressing either its confidence or lack of confidence in any of its officers or subordinate boards or committees. Any such motion would simply be a main motion, and would have no effect other than to express the assembly's views concerning the matter. A vote of "no confidence" does not - as it would in the British Parliament - remove an officer from office.

Question 8:

How do you deal with a "friendly amendment"?

Answer:

On occasion, while a motion is being debated, someone will get up and offer what he or she terms a "friendly amendment" to the motion, the maker of the original motion will "accept" the amendment, and the chair will treat the motion as amended. This is wrong. Once a motion has been stated by the chair, it is no longer the property of the mover, but of the assembly. Any amendment, "friendly" or otherwise, must be adopted by the full body, either by a vote or by unanimous consent.

If it appears to the chair that an amendment (or any other motion) is uncontroversial, it is proper for the chair to ask if there is "any objection" to adopting the amendment. If no objection is made, the chair may declare the amendment adopted. If even one member objects, however, the amendment is subject to debate and vote like any other, regardless of whether its proposer calls it "friendly" and regardless of whether the maker of the original motion endorses its adoption. [RONR (10th ed.), p. 154.]

Question 9:

Isn't it true that a member who has a conflict of interest with respect to a motion cannot vote on the motion?

Answer:

Under the rules in RONR, no member can be compelled to refrain from voting simply because it is perceived that he or she may have some "conflict of interest" with respect to the motion under consideration. If a member has a direct personal or pecuniary (monetary) interest in a motion under consideration not common to other members, the rule in RONR is that he *should not* vote on such a motion, but even then he or she cannot be *compelled* to refrain from voting. [RONR (10th ed.), p. 394, l. 15-25.]

Question 10:

Should proxy votes be counted?

Answer:

A "proxy" is a means by which a member who expects to be absent from a meeting authorizes someone else to act in his or her place at the meeting. Proxy voting is not permitted in ordinary deliberative assemblies unless federal, state or other laws applicable to the society require it, or the bylaws of the organization authorize it, since proxy voting is incompatible with the essential characteristics of a deliberative assembly. As a consequence, the answers to any questions concerning the correct use of proxies, the extent of the power conferred by a proxy, the duration, revocability, or transferability of proxies, and so forth, must be found in the provisions of the law or bylaws which require or authorize their use. [RONR (10th ed.), p. 414-15.]

Question 11:

Must debate on a motion stop immediately as soon as any member calls the question?

Answer:

It is a fairly common misconception that, after debate has continued for some time, if any member shouts out "Question!" or "I call the question!", debate must immediately cease and the chair must put the pending question to a vote. This is simply not the case. Any member who wishes to force an end to debate must first obtain the floor by being duly recognized to speak by the chair, and must then move the *Previous Question*. Such a motion must be seconded, and then adopted by a two-thirds vote, or by unanimous consent. It is not in order to interrupt a speaker with cries of "Question" or "Call the Question," and even if no one is speaking, it is still necessary to seek recognition. [RONR (10th ed.), p. 193-94; see also p 35-37 of RONR In Brief.]

Question 12:

Isn't it always in order to move to table a motion to the next meeting?

Answer:

This question confuses the motion to *Lay on the Table* with the motion to *Postpone to a Certain Time*. The purpose of the motion to *Lay on the Table* is to enable an assembly, by majority vote and without debate, to lay a pending question aside temporarily in order to take up something else of immediate urgency. In ordinary societies it is rarely needed, and hence seldom in order. [RONR (10th ed.), p. 201-210; see also p. 127 of RONR In Brief.]

Question 13:

Can something be defeated by adopting a motion to table it?

Answer:

This is a common violation of fair procedure. Such a motion is not in order, because it would permit debate to be suppressed by a majority vote, and only a two-thirds vote can do that. The proper use of the motion to *Lay on the Table* is stated in the answer to Question 12, immediately above. [RONR (10th ed.), p. 207-209.]

How can something be defeated without a direct vote on it?

Before debate on an original (ordinary substantive) main motion has begun you may raise an *Objection to Consideration of [the] Question*, which is undebatable and can suppress the main question by a two-thirds vote against consideration. [RONR (10th ed.), p. 209, l. 1-4; p. 258-61; see also p. 129 of *RONR In Brief*.]

If debate on the main motion has begun and you want to get rid of that motion without a direct vote on it, use the motion to *Postpone Indefinitely*. That motion requires only a majority vote, but until it is adopted, it leaves the main question open to debate. [RONR (10th ed.), p. 121-24; see also p. 126 of *RONR In Brief*.] If you feel that it is undesirable that debate take place, move the *Previous Question* immediately after moving to *Postpone Indefinitely*. If adopted by a two-thirds vote, this motion will cause an immediate vote on the motion to *Postpone Indefinitely* without further debate. [RONR (10th ed.), p. 189-201.]

Question 14:

How can I get an item on the agenda for a meeting?

Answer:

For a proposed agenda to become the official agenda for a meeting, it must be adopted by the assembly at the outset of the meeting. At the time that an agenda is presented for adoption, it is in order for any member to move to amend the proposed agenda by adding any item which the member desires to add, or by proposing any other change.

It is wrong to assume, as many do, that the president "sets the agenda." It is common for the president to prepare a proposed agenda, but that becomes binding only if it is adopted by the full assembly, perhaps after amendments as just described. [RONR (10th ed.), p. 363, l. 8-20; see also p. 16 of *RONR In Brief*.]

Question 15:

Isn't it necessary to summarize matters discussed at a meeting in the minutes of that meeting in order for the minutes to be complete?

Answer:

Not only is it not necessary to summarize matters discussed at a meeting in the minutes of that meeting, it is improper to do so. Minutes are a record of what was done at a meeting, not a record of what was said. [RONR (10th ed.), p. 451, l. 25-28; see also p. 146 of *RONR In Brief*.]

Question 16:

If minutes of a previous meeting are corrected, are the corrections entered in the minutes of the meeting at which the corrections were made?

Answer:

If corrections to minutes are made at the time when those minutes are originally submitted for approval, such corrections are made in the text of the minutes being approved. The minutes of the meeting at which the corrections are made should merely indicate that the minutes were approved "as corrected."

If it becomes necessary to correct minutes after they have initially been approved, such correction can be made by means of the motion to *Amend Something Previously Adopted*. In this event, since the motion to *Amend Something Previously Adopted* is a main motion, the exact wording of that motion, whether adopted or rejected, should be entered in the minutes of the meeting at which it was considered. [RONR (10th ed.), p. 452, l. 12-15; p. 458, l. 10-16; see also p.151 of RONR In Brief.]

Question 17:

Can votes be taken in an executive session?

Answer:

Yes, votes can be taken in executive session. Proceedings in an executive session are secret, but are not restricted in any other way. [RONR (10th ed.), p. 92-93.]

Question 18:

Is it possible to withdraw a resignation after it has been submitted?

Answer:

A resignation is a *Request to Be Excused from a Duty*. It may be withdrawn in the same manner as any motion may be withdrawn - that is to say, before the proposed resignation has been placed before the assembly by the chair stating the question on its acceptance, it may be withdrawn without the consent of the assembly, but it may not be withdrawn without permission of the assembly once it has been placed before the assembly for its approval. [RONR (10th ed.), p. 277-80; 283-85.]

Question 19:

Can we hold our board meetings by conference telephone call?

Answer:

You may hold board meetings by conference telephone call only if your bylaws specifically authorize you to do so. If they do, such meetings must be conducted in such a way that all members participating can hear each other at the same time, and special rules should be adopted to specify precisely how recognition is to be sought and the floor obtained during such meetings. [RONR (10th ed.), p. 482, l. 28, to p. 483, l. 5; see also p. 159 of RONR In Brief.]

It should be noted in this connection that the personal approval of a proposed action obtained from a majority of, or even all, board members separately is not valid board approval, since no meeting was held during which the proposed action could be properly debated. If action is taken by the board on the basis of individual approval, such action must be ratified by the board at its

next regular meeting in order to become an official act. [RONR (10th ed.), p. 469, l. 24, to p. 470, l. 2.]

Question 20:

How can we get rid of officers we don't like before their term is up?

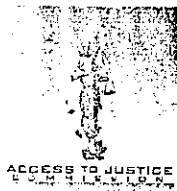
Answer:

It depends. If the bylaws just state a fixed term for the officer, such as "two years," or if they say the officer serves for a specified term "*and* until [the officer's] successor is elected" (or words to that effect), then the group must use formal disciplinary proceedings, which involve the appointment of an investigating committee, preferral of charges by such a committee, and the conduct of a formal trial. The procedure is complex, and should be undertaken only after a careful review of Chapter XX of RONR.

On the other hand, if the bylaws state a term for the office but add "or until [the officer's] successor is elected," or contain other wording explicitly indicating that the officer may be removed before the term expires, then the election can be rescinded (see Chapter 7 of RONR In Brief) and a successor then elected for the remainder of the term.

Of course, if the bylaws themselves establish a procedure for removal from office, that procedure must be followed. [RONR (10th ed.), p. 642-43.]

TAB 3



NEVADA SUPREME COURT ACCESS TO JUSTICE COMMISSION

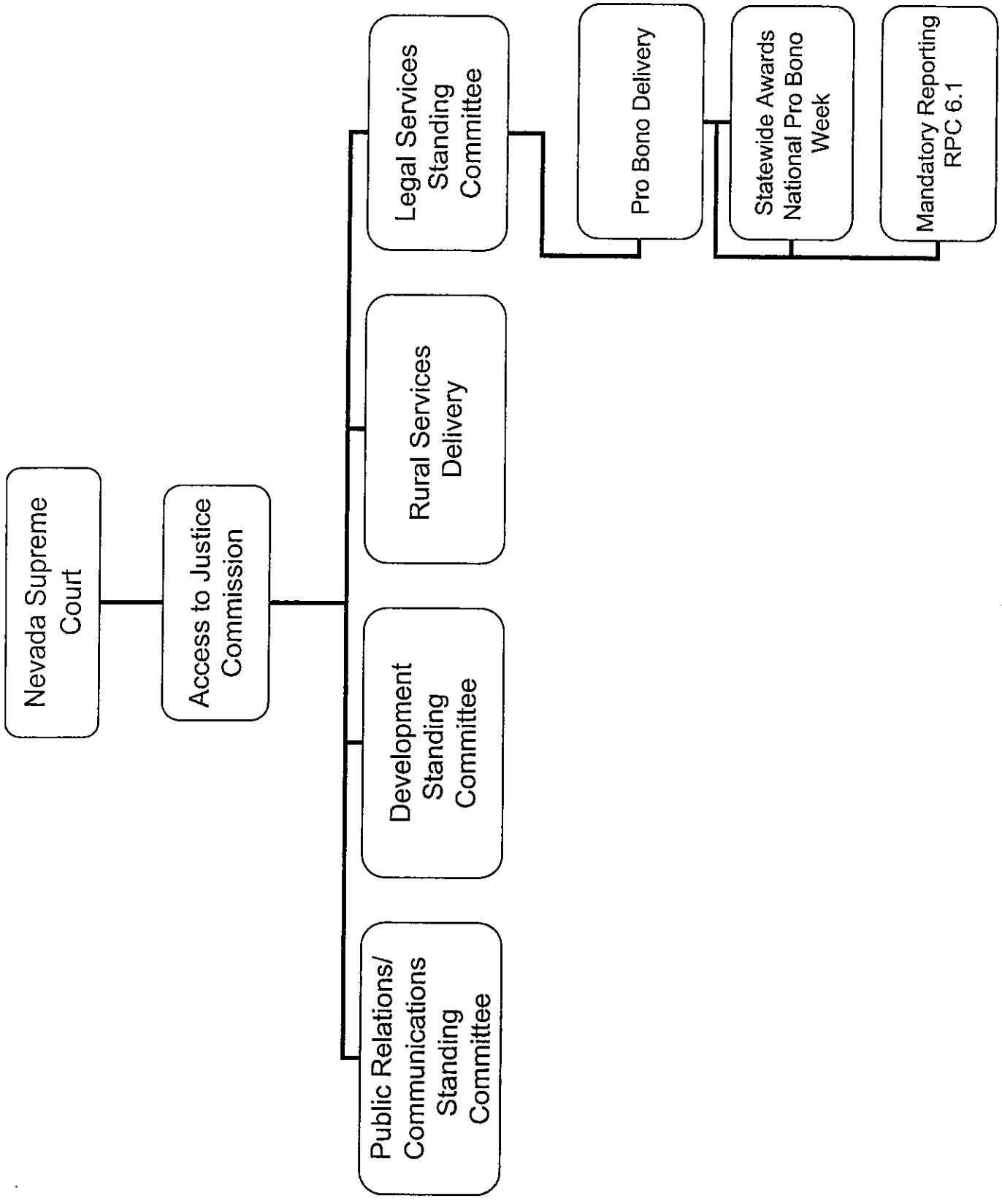
The Supreme Court Access to Justice Commission is seeking lawyers to participate on Committees which are part of this Commission. Participation will be by appointment only. AJC is seeking lawyers who have the time and interest in the work of the AJC. No prior experience working on a local or state committee is required. The AJC requires an eagerness to help those less fortunate in Nevada get access to the courts and the legal system.

The AJC was created to:

- 1) Assess current and future needs for civil legal services for persons of limited means in Nevada.
- 2) Develop statewide policies designed to support and improve the delivery of legal services.
- 3) Improve self-help services and opportunities for proper person litigants and increase pro bono activities.
- 4) Develop programs to increase public awareness of the impact that limited access to justice has on other government services and on society.
- 5) Investigate the availability of and pursue increased public and private financing to support legal services organizations and other efforts to provide legal services to persons of limited means.
- 6) Recommend legislation or rules affecting access to justice to the Supreme Court.

Under SCR 15, the Access to Justice Commission directly creates and appoints its committees. At present, there is no minimum or maximum membership and appointments are made as deemed necessary and proper. The Co-Chairs, Chief Justice Hardesty and Justice Michael Douglas, have deemed expansion of all Committees to be appropriate at this time and therefore will be making appointments in the next quarter. The Commission may also add new Committees and/or working groups, and consider expansion of the Commission itself, in future.

Communications	Development	Legal Services Delivery	Rural Services Delivery
Focus			
marketing and communication of Commission programs and initiatives to the membership and the public where appropriate	develop viability of funding for new programs, or identify potential sources of future funding from existing sources for Commission initiatives and programs	state-wide delivery of civil legal services, recognition programs for pro bono programs and attorneys, and outreach to the legal community on emergent issues. This Committee is generally intended for legal services professionals currently involved in part of the continuum of care for civil legal aid in Nevada.	New committee, Feb 2009. Anticipated focus will be on the provision of legal services to rural communities, with emphasis on technology- based solutions and increased pro bono lawyer participation. This group will work closely with the existing AOC Rural Court Technology project.
Current projects			
Needs Assessment Marketing; Public Interest Lecture Series; Recruitment and Retention; Mandatory Reporting; Website expansion	Loan Assistance LRAP; Division of Aging Funding concerns; Court Posted Fees : Real Estate Escrow Funds; Recruitment/Retention; Fellowship; Cy Pres	Pro Bono Recognition National Pro Bono Week; mandatory reporting; Statewide Award; Emeritus; Self Help; Standardized Forms; Standardized Reporting (provider statistics); Law Firm initiatives	Prepare Legal Resources Brochure for the Rurals Work with AOC Technology in Courts project: obtain update Attend Lmted. Juris. Judges meeting in Jan



~~NEWARK COUNTY COURT ACCESS TO JUSTICE~~
STANDING COMMITTEES
Updated 7.2009

RURAL SERVICES DELIVERY *est. April 2009*

Justice Douglas- Chair
Amber Candelaria
Valerie Cooney
Judge Dahl
Judge Davis
Judge Dory
Judge Fletcher
Anne Heck (AOC)
Anna Johnson
Judge Lane
Judge Maslach
John McCormick (AOC)
Sheryl Overstreet (AOC)
Judge Papez
Judge Puccinelli
Judge Wagner
Judge Wambolt

COMMUNICATIONS

Needs Assessment Marketing
Public Interest Lecture Series
Recruitment and Retention
 LRAP- Development
 Fellowships- LSD
 Benefits and Salaries- LSD
Mandatory Reporting
Website

David Thronson
Judge Gonzalez
Kimberly Abbott
Brett Kandt
Judge Doherty
Christine Smith
William Heavilin
Trevor Hayes

Scott Roedder- ex officio

DEVELOPMENT

IOLTA comparability/minimum standards
LRAP
Recruitment/Retention
 2009 Fellowship- Thronson
 LRAP- work group Lynn, Anna, Valerie
 Retirement/benefits/salaries- Paul

Deferred to 2010:
 Cy Pres-Paul
 Division of Aging Funding concerns
 Court Posted Fees
 Nye County
 Real Estate Escrow Funds

Ernie Nielsen
Paul Elcano
Valerie Cooney

Anna Johnson
James Bradshaw
Tom Warden
Lynn Etkins
Suzy Baucum
David Thronson

LEGAL SERVICES DELIVERY

Pro Bono Recognition
Pro Bono Week- also with Communications
State Wide Award- Renee
Nevada Lawyer
Emeritus- Kimberly
Self Help
Standardized Forms-Justice Douglas, Chair, Supreme Court Library Commission
Hotlines, continuum of care issues
Standardized Reporting (provider statistics)
Law Firm initiatives

Paul Elcano (ED)
Sugar Vogel (ED)
John Desmond
Kimberly Abbott
Judge Steinheimer
AnnaMarie Johnson (ED)
Ernie Nielsen (ED)-Chair
Valerie Cooney (ED)
Judge Puccinelli
Barbara Buckley (ED)
Lynn Etkins
Odessa Ramirez
Renee Kelly
Christopher Reade
Amber Candelaria
James Berschtold
Steven McDonald

FUND DISTRIBUTION

TBD

****Bold = Current ATJ Commission members.**



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Standing Committee Reports

The Committees will provide verbal reports as time permits on ongoing projects.

1. Development

Most recently met on October 2, 2009, will be communicating via e-mail and scheduling meetings as needed leading up to Nov. 2 hearing on Rule 217.

This group voted to focus all efforts on campaigning to implement amendments to SCR 217. Once that is accomplished and hopefully, related fundraising questions can be resolved, attention will move forward on additional initiatives.

Recently the Nevada Justice Association responded back to Paul Elcano on a question posed last year as to interest in pursuing Cy Pres legislation in Nevada. (See letter attached.) The NJA is not opposed to the idea in principle, but did ask to be included on any working group when the time came to discuss details. As previously agreed, the Executive Directors will approach the presiding district court judges north and south to determine if there is an appetite to move forward.

Projects for 2010

LRAP

Division of Aging Funding concerns

Court Posted Fees

Nye County

Real Estate Escrow Funds

Recruitment/Retention

2009 Fellowship- Thronson

LRAP- work group Lynn, Anna, Val, ask Judge Dahl)

Retirement/benefits/salaries- Paul

Cy Pres-Paul

2. Communications

Marketing efforts in the last quarter have been concentrated on pro bono week, working with Scott Rodder (the State Bar's media Consultant), Zenzi (Bank of Nevada's PR

Firm, which is donating pro bono time), and the Legal Services Delivery Committee, which forms the basis of the substance needed to get press pick up. Once Pro Bono week is complete, the Communications group will meet and pick up planning for continued marketing of the Access to Justice Campaign. Some related key issues necessary to move forward in that regard should be resolved by then.

3. Legal Services Delivery

The last quarter, working groups on statewide awards, national pro bono week, and changes to Rule 6.1 and Rule 216 have made progress. Reports on Rule 6.1 and 216 are provided under Agenda Tab 5 (discussion items).

- **Statewide Awards**

Plans are being discussed to hold the statewide awards in 2010 in conjunction with the Professionalism Summit in October. Justice Saitta responded favorably to the idea and has forwarded the request on to her planning committee. We expect a response once the Summit for 2009 is completed.

- **National Pro Bono Week**

The schedule of events for pro bono week is attached. This information is included on the State Bar's website as well as www.nevadalawhelp.org.

Continuing projects in 2010 for Legal Services Delivery

Pro Bono Recognition

Pro Bono Week- also with Communications

Nevada Lawyer

Emeritus

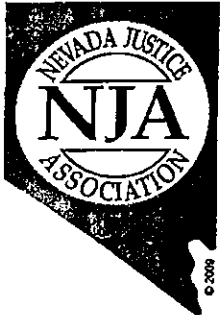
Self Help

Standardized Forms-Justice Douglas, Chair, Supreme Court Library Commission

Hotlines, continuum of care issues, Standardized Reporting (provider statistics), Law Firm initiatives

4. Rural Courts Services Delivery

A separate report will be given under Agenda Tab 5 (discussion items) by Justice Douglas.



August 21, 2009

Access to Justice Commission
Chief Justice James Hardesty
Justice Michael L. Douglas
Nevada Supreme Court
201 South Carson Street
Carson City, NV 89701-4702

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Stephen H. Osborne

PRESIDENT-ELECT
Steven M. Baker

VICE-PRESIDENT
Graham A. Galloway

SECRETARY
Robert E. Marshall

TREASURER
Cliff W. Marcek

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John Squire Orendel
Neil G. Galatz
Peter Chase Neumann

EXECUTIVE DIRECTOR
Victoria D. Riley

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FAX (775) 883-5372

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717 S. Third Street
Las Vegas, NV 89101-5702
(702) 732-8409
FAX (702) 732-9310

www.nevadajustice.org

Re: Cy Pres Doctrine

Dear Chief Justice Hardesty and Justice Douglas:

Some time ago, NJA was asked by Paul Elcano on behalf of the Access to Justice Commission to address use of the Cy Pres doctrine in Nevada. Over a period of several meetings, the board discussed the concept and feels that in the rare instance that the doctrine may apply, it would be appropriate for attorneys to utilize the Cy Pres doctrine to distribute funds to various Legal Services programs.

The Board voted in support of the concept in principle saying, "Nevada should be one of the states that supports and upholds the Cy Pres doctrine". Our Board feels requesting attorneys to use Cy Pres whenever and wherever appropriate in their work is the right thing to do. We are not aware of any legal requirement upon which to base the request to our members, but still feel that it is the appropriate action for our association.

Of course, the substance and effect of the program is in the details. Since the idea of utilizing the Cy Pres doctrine in Nevada is currently conceptual and not formally articulated, the NJA would be pleased to be part of any working group, committee, commission or team that develops the structure and content of Cy Pres doctrine in Nevada. Please feel free call upon us to be part of the drafting and implementation team.

We wish you all success in this project. Please let us know how we can participate as this project evolves.

Sincerely yours,

Stephen H. Osborne
President

cc: Paul Elcano, Washoe Legal Services
Kristina Marzec, Access to Justice Commission

NEVADA JUSTICE ASSOCIATION

atjc000000027



The Nevada Supreme Court Access to Justice Commission is pleased to partner in the following events celebrating pro bono and public service in Nevada during National Pro Bono Week.

Schedule of Events

Saturday, October 24

Legal Aid Fair 10 am– 5 pm Hosted by Volunteer Attorneys For Rural Nevadans
Gold Dust West Casino, Juniper Room.

Information and Ask-A-Lawyer booths to provide information to the public-at-large on a variety of different areas of law. **Gold Dust West Casino**, Juniper Room. 2171 US Highway 50 East, Carson City, NV 89701, (775) 885-9000

Contact: For more information on this event, and others that are being planned in Douglas, Lyon, and Churchill Counties, contact Odessa Ramirez, VARN Asst. Ex. Director, 775-883-8278 oramirez@varn.org.

Monday, October 26

Kick-Off Cocktail Mixer 5 pm to 7 pm
Law Offices of Lionel, Sawyer, & Collins
Catered by FireFly

Chief Justice James Hardesty and Justice Michael Douglas, Co-chairs, Access to Justice Commission, Special Guests and Keynote Speakers. No-fee event, but RSVP is required due to limited space.

Hosted by **Lionel, Sawyer & Collins**, 1700 Bank of America Plaza, 300 S. Fourth Street Las Vegas, NV 89101, and sponsored by Bank of Nevada (an Access to Justice Commission Preferred Interest Banking Partner) RSVP/Event Contact: Kristina Marzec kristinam@nvbar.org 702-317-1404

Tuesday, October 27

Pro Bono Celebration Breakfast (CLE) 7am to 9am
The Grove at South Creek

Sponsored by Lewis & Roca, LLP, Woodburn and Wedge, The Grove at South Creek, Nevada Legal Services, the State Bar of Nevada, Washoe County Senior Law Project, Washoe County, the Law Library, Washoe Legal Services and the Washoe County Bar Association.

Featured speaker **Dean Hintz, Ph.D "Life Balance"** .5 Nevada and .5 California Substance Abuse CLE credit. \$25 per person, \$175 per table. **The Grove at South Creek**, 95 Foothill Road, Reno, Nevada. Event Contact: Renee Kelly, Washoe Legal Services. 229 S. Arlington Ave, Reno, NV 89501 775-785-5721

Senior Legal Institute 8:30 am to 12 noon *With special guest Mayor Oscar Goodman (10 am)*
Historic 5th Street School

Historic 5th Street School, 401 S. Fourth St. Las Vegas, NV 89101. Clark County Pro Bono attorneys will be presenting valuable legal information on a variety of legal areas of concern to seniors including Estate Planning, Elder Abuse, Long term health care and planning for incapacity. One-on-one legal consultations and document preparation will also be available. Attorneys interested in providing pro bono services for this event should contact Sugar Vogel at 229-6644. Event Contact: Donna Wittman 702-229-1855

Representing Child Victims of Abuse & Neglect (CLE) 9 am to 2:15 pm

3-Hour CLE, FREE with acceptance of a new pro bono case through LACSN –Sponsored by Legal Aid Center of Southern Nevada & UNLV William S. Boyd School of Law – For more information or to register, go to www.lacsn.org or contact Kimberly Abbott at 386-1070, ext. 137 or kabbott@lacsn.org.

Special Considerations in Representing Pro Bono Clients (CLE) 1:30 pm to 3:30 pm

2-Hour CLE, FREE to current pro bono volunteers – Sponsored by Legal Aid Center of Southern Nevada & UNLV William S. Boyd School of Law – For more information or to register, go to www.lacsn.org or contact Kimberly Abbott at 702-386-1070, ext. 137 or kabbott@lacsn.org.

Homeless Assistance Project Ask-A-Lawyer Night 4:30pm to 6:30pm

Sponsored by Legal Aid Center of Southern Nevada, UNLV William S. Boyd School of Law's Public Interest Law Association (PILA) & Friends in the Desert -- Volunteers provide information & advice to those who come for a free meal – For more information or to volunteer, please contact Kimberly Abbott at 702-386-1070, ext. 137 or kabbott@lacsn.org.

Wednesday, October 28

Champions of Justice Luncheon 12 noon to 1:30 pm
Springs Preserve Amphitheater

Keynote Speaker Mark Schickman, Chair, ABA Standing Committee on Pro Bono. This event will honor **Chief Justice James Hardesty and Justice Michael Douglas**, Co-Chairs of the Access to Justice Commission, for their dedicated support of access to justice for all Nevadans. Fee is \$150 per person, \$1,500 per table. RSVP by September 28. **Springs Preserve Amphitheater**, 333 S. Valley View, Las Vegas, NV 89017. Event Contact: Nevada Legal Services 530 S. Sixth Street, Las Vegas, NV 89101. 702-386-0404

Public Interest Lecture Series: Boyd Alumni Pro Bono Volunteer Panel on Pro Bono Opportunities 12 noon to 1:00 pm
William S. Boyd School of Law

Hosted at the William S. Boyd School of Law and geared towards law student, this lecture is designed to help encourage careers and volunteerism in public law. Event Contact: Cynthia Asher at Cynthia.asher@unlv.edu

Cocktail Reception- Celebrating IOLTA supporting Pro Bono 5:30 pm- 7:30 pm
Chief Justice James Hardesty and Justice Michael Douglas, Co-chairs, Access to Justice Commission, Special Guests and Keynote Speakers. No-fee event, but RSVP is required due to limited space. RSVP/Contact Beth Skokowski, 702-252-6287

Bank of Nevada Executive Offices

Co-Sponsored By Bank Of Nevada And The Nevada Law Foundation to honor the

civil legal aid programs and services supported by IOLTA accounts. Hosted at Bank of Nevada, Executive Offices, 2700 West Sahara Avenue, Las Vegas, NV 89102. RSVP/Contact Beth Skokowski, 702-252-6287

Basics of Intellectual Property Seminar (CLE) and Ask-A-Lawyer Session 6 pm to 9 pm

Sponsored by Legal Aid Center of Southern Nevada and the Nevada MicroEnterprise Initiative (at Nevada MicroEnterprise Initiative). To volunteer to teach part of the seminar or to provide one-on-one consultations, please contact Kimberly Abbott at 386-1070, ext. 137 or kabbott@lacsnsn.org .

Thursday, October 29

Pro Bono Recruitment Fair 11:30am to 1:15pm

Family Court

Sponsored by the Legal Aid Center of Southern Nevada (LACSN) Pro Bono Project – at Family Court outside the Bench/Bar Meeting – Stop by to learn more about pro bono opportunities.

Ask-A-Lawyer at Family Court 2 pm to 5 pm

Co-sponsored by the Family Court Self-Help Center, Eighth Judicial District

Family Court

Every week the Ask-A-Lawyer program helps many Nevadans in need of help in family law matters. Consider stopping by or volunteering during Pro Bono week. Contact: Kimberly Abbott, kabbott@lacsnsn.org 702-386-1070 ext 137, or, Amber Candelaria, Program Director, Family Law Self Help Center 702-455-0021

Friday, October 30

As we enjoy Nevada Day and many of us have a day off from work, please think of those less fortunate in need of legal assistance. Pledge to take a case, make a donation, volunteer to teach a clinic or class, or volunteer for a day with Ask-A-Lawyer before the end of the year.

PROPOSED UNIFORM METHOD OF REPORTING STATISTICS TO THE ACCESS TO JUSTICE COMMISSION

For each calendar year*, programs shall report:

For overall program:

1. Number of clients** assisted without litigation (counsel and advice, brief service, and extended service***). Does not include folks turned away, referred, or not helped).
2. Number of clients represented with litigation or administrative agency representation
3. Number of individuals attending classes/clinics/ask-a-lawyers

For pro bono programs:

1. Number of new clients placed with pro bono attorneys
2. Number of clients with open pro bono cases
3. Number of individuals helped by pro bono attorneys with brief service/ask-a-lawyer/hotline work or other brief consultations.

*Programs shall compile the statistics in January of each year for the previous calendar year. First report, January 2010.

**Clients are defined as individuals with whom the program has an attorney-client relationship.

**Clients are counted once, even though multiple services may be performed for a client such as writing letters to creditors, assisting with a foreclosure, and calling a landlord.

*** Many programs use these categories. Counsel and advice usually consists of a 10-30 minute consultation, brief service consists of letter writing on the client's behalf, and extended service may be demand letters and negotiation or a loan modification.

print

Message 2 of 43 in (NLF)

Date Friday, September 25, 2009 at 2:59 PM
From Barbara Buckley <BBuckley@lacsns.org> [Add To Contacts] [Spam]
To "reglet@mainorlawyers.com" <reglet@mainorlawyers.com>, "dmcelhinney@lrlaw.com" <dmcelhinney@lrlaw.com>
CC
Subject NLF formula
Attachments [image001.jpg](#) [save to documents]
Status ↵ This message has been replied to

David and Bob –

Several months ago, the Board of Directors for the Nevada Law Foundation requested that Legal Aid Center of Southern Nevada, Nevada Legal Services, Washoe Legal Services, Volunteer Attorneys of Rural Nevada, the Washoe County Senior Law Project, and the Las Vegas Senior Citizen Law Project determine if they could agree upon a mechanism to disburse funds to these agencies from the Nevada Law Foundation without the necessity of submitting grant applications. If the funds were distributed on a formula basis, less time could be spent on administrative paperwork and more time could be spent on direct services to the indigent. Additionally, such a formula would prevent the common occurrence of funding being awarded disproportionately to organizations despite their size and the areas served by different organizations. It was our understanding that this new process could commence this year and obviate the need for grant applications which are due October 15, 2009.

After much debate, the organizations unanimously agreed to recommend the formula set forth below to be utilized for the next two years. The proposed distribution is as follows:

58.5%	Legal Aid Center of So. Nevada (LACSN)
13.5%	Washoe Legal Services (WLS)
11.7%	Nevada Legal Services (NLS)
7%	Las Vegas Senior Citizen Law Project (LVSCLP)
6.3%	Volunteer Attorneys of Rural Nevada (VARN)
3%	Washoe County Senior Citizen Law Project (WCSCLP)

The proposed distribution formula considers many factors: geographic

issues (where the funds are generated and where eligible individuals are located)(Northern and statewide providers receive 34.5%), capacity, tradition (for example, NLS agreed to not seek funds from the South when the organizations were divided); special population characteristics (i.e., number of seniors, etc.). More details on the rationale are available.

The providers also strongly suggest that the Board select a more nominal grant level for grants to all law-related 501(c)(3) organizations, i.e., \$25,000, and that additional funding above this amount not be given to any law-related nonprofit organization until all abused/neglected children in foster care across the state have an attorney representing them, until we stop turning away domestic violence victims for lack of resources, and until legal services entities are able to assist low income clients with basic legal needs. These are the priorities expressed by the Nevada Law Foundation and they should be followed. The grants to "law related organizations" have expanded rapidly over the last several years, growing from \$66,000 in 2002 to \$171,000 in 2007. From 2002-2006, the grants to nonprofit "law related" organizations exceeded the sums awarded to the largest legal aid organization in the State. Once the goals as set forth above are reached, and the money has been maximized for greatest effect, new "law related programs" offered by nonprofit organizations could be considered. We suggest that this lump sum be taken from the reserves of the Nevada Law Foundation since more than sufficient funding remains in the reserves. That would ensure that all current incoming IOLTA revenue is allocated to the Foundation's core mission.

We are happy to meet with your board and discuss this further. We know that we got it to you much later than expected, and that we are pushing into the application season, so please let us know how you intend to proceed.

Thanks for your consideration.

Barbara

Barbara E. Buckley, Esq.
Executive Director
Legal Aid Center of Southern Nevada
800 South Eighth Street
Las Vegas, Nevada 89101
bbuckley@lacsns.org
<http://www.lacsns.org>

Legal Aid Center of Southern Nevada is a private, non-profit, 501(c)(3) organization and gladly

accepts donations.

Please see <http://www.lacsn.org> for more information.

Sign up for the LACSN E-Newsletter at <http://www.lacsn.org>

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TAB 4



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Nevada Law Foundation

Nevada Law Foundation Vice-Chair Robert Eglet will be representing the Nevada Law Foundation at the Commission meeting.

For the purposed of general overview, attached are:

- 1) The IOLTA interest rate reports provided by Suzan to the Commission since the last Commission meeting. Irwin Union Bank, one of the preferred interest banks, was removed from the list.
- 2) Information regarding the IOLTA reserve, provided by the Nevada Law Foundation in response to a request by the Rule 217 Working Group chaired by Chief Justice Hardesty.
- 3) A summary of income and expenses from 2005-2008 previously provided by Suzan during strategic planning. I provided this to give perspective when Robert discusses expected IOLTA revenues for 2009. Based on my recent conversations with Suzan, she anticipates the total amount available will be about 1.4 million. This is slightly up from 2008. It appears most of the gains were in the first quarter. When Wells Fargo dropped from 1% to .30%, it unfortunately appears to have offset the gains of Bank of Nevada providing 2% for the remaining three quarters.
- 4) The Executive Director's proposed block granting formula will be presented under this agenda item. For reference, the proposal they have agreed upon is as follows:

58.5%	Legal Aid Center of So. Nevada (LACSN)
13.5%	Washoe Legal Services (WLS)
11.7%	Nevada Legal Services (NLS)
7%	Las Vegas Senior Citizen Law Project (LVSCLP)
6.3%	Volunteer Attorneys of Rural Nevada (VARN)
3%	Washoe County Senior Citizen Law Project (WCSCLP)

The proposed distribution formula considers many factors: geographic issues (where the funds are generated and where eligible individuals are located)(Northern and statewide providers receive 34.5%), capacity, tradition (for example, NLS agreed to not seek funds from the South when the organizations were divided); special population characteristics (i.e., number of seniors, etc.). More details on the rationale are available.

The providers also strongly suggest that the Board select a more nominal grant level for grants to all law-related 501(c)(3) organizations, i.e., \$25,000, and that additional funding above this amount not be given to any law-related nonprofit organization until all abused/neglected children in foster care across the state have an attorney representing them, until we stop turning away domestic violence victims for lack of resources, and until legal services entities are able to assist low income clients with basic legal needs. These are the priorities expressed by the Nevada Law Foundation and they should be followed. The grants to "law related organizations" have expanded rapidly over the last several years, growing from \$66,000 in 2002 to \$171,000 in 2007. From 2002-2006, the grants to nonprofit "law related" organizations exceeded the sums awarded to the largest legal aid organization in the State. Once the goals as set forth above are reached, and the money has been maximized for greatest effect, new "law related programs" offered by nonprofit organizations could be considered. We suggest that this lump sum be taken from the reserves of the Nevada Law Foundation since more than sufficient funding remains in the reserves. That would ensure that all current incoming IOLTA revenue is allocated to the Foundation's core mission.

<u>Name of Bank</u>	<u>High Interest Rate</u>	<u>Low Interest Rate</u>	<u># of Trans.</u>
Bank of America	0.0040%	0.0020%	165
Bank of George	2.14%	2.14%	9
Bank of Las Vegas	0.25%	0.25%	8
Bank of Nevada	2.00%	2.00%	234
Bank of North Las Vegas	0.50%	0.50%	4
Bank of the West	1.20%	0.03%	29
Black Mountain Community Bank	0.0015%	0.0015%	3
Boulder Dam Credit Union			1
Carson River Community Bank	0.30%	0.30%	1
Citibank	0.30%	0.30%	27
City National Bank	1.00%	1.00%	25
Clark County Credit Union	1.00%	1.00%	1
Clearstar Credit Union	2.44%	0.49%	1
Colonial Bank	0.20%	0.19%	3
Community Bank of Nevada	2.00%	2.00%	47
Desert Community Bank	0.50%	0.10%	6
Financial Horizons Credit Union	1.34%	0.25%	1
First Asian Bank	2.16%	2.16%	3
First Commerce Bank	2.15%	2.00%	1
First Independent Bank	2.00%	2.00%	16
First Republic Bank	1.00%	0.50%	12
First Security Bank of Nevada	0.25%	0.25%	5
Heritage Bank	2.00%	2.00%	17
Irwin Union	2.00%	0.10%	11
Meadows Bank	2.13%	2.13%	5
M&I Bank	0.05%	0.05%	3
Mutual of Omaha Bank(1st national)	2.00%	2.00%	21
Nevada Bank & Trust	0.10%	0.10%	1
Nevada Commerce Bank	2.00%	2.00%	6
Nevada Security Bank	0.30%	0.05%	2
Nevada State Bank	0.50%	0.50%	287
Paramount Bank	0.75%	0.75%	1
Red Rock Community Bank	2.00%	2.00%	9
Service First Bank	2.00%	2.00%	4
Southwest USA	2.00%	2.00%	2
Sun West	0.35%	0.35%	4
U.S. Bank	0.2252%	0.1217%	136
Wachovia Bank	0.0010%	0.0010%	4
Washington Mutual	0.60%	0.01%	47
Wells Fargo	0.30%	0.30%	511

<u>Name of Bank</u>	<u>High Interest Rate</u>	<u>Low Interest Rate</u>	<u># of Trans.</u>
Bank of America	0.0040%	0.0020%	459
Bank of George	2.14%	2.14%	9
Bank of Las Vegas	0.25%	0.25%	8
Bank of Nevada	2.00%	2.00%	191
Bank of North Las Vegas	0.50%	0.50%	4
Bank of the West	1.20%	0.03%	29
Black Mountain Community Bank	0.0015%	0.0015%	5
Boulder Dam Credit Union			1
Carson River Community Bank	0.30%	0.30%	1
Citibank	0.30%	0.30%	27
City National Bank	1.00%	1.00%	26
Clark County Credit Union	1.00%	1.00%	1
Clearstar Credit Union	2.44%	0.49%	1
Colonial Bank	0.20%	0.19%	3
Community Bank of Nevada	2.00%	2.00%	47
Desert Community Bank	0.50%	0.10%	6
Financial Horizons Credit Union	1.34%	0.25%	1
First Asian Bank	2.16%	2.16%	3
First Commerce Bank	2.15%	2.00%	1
First Independent Bank	2.00%	2.00%	16
First Republic Bank	1.00%	0.50%	1
First Security Bank of Nevada	0.25%	0.25%	5
Heritage Bank	2.00%	2.00%	17
Irwin Union	0.98%	0.96%	13
Meadows Bank	2.13%	2.13%	5
M&I Bank	0.05%	0.05%	3
Mutual of Omaha Bank(1st national)	2.00%	2.00%	19
Nevada Bank & Trust	0.10%	0.10%	1
Nevada Commerce Bank	2.00%	2.00%	6
Nevada Security Bank	0.30%	0.05%	2
Nevada State Bank	0.50%	0.50%	300
Paramount Bank	0.75%	0.75%	1
Red Rock Community Bank	2.00%	2.00%	10
Service First Bank	2.00%	2.00%	4
Southwest USA	2.00%	2.00%	2
Sun West	0.35%	0.35%	4
U.S. Bank	0.2252%	0.1178%	134
Wachovia Bank	0.0010%	0.0010%	2
Washington Mutual	0.60%	0.01%	47
Wells Fargo	0.30%	0.30%	507

<u>Name of Bank</u>	<u>High Interest Rate</u>	<u>Low Interest Rate</u>	<u># of Trans.</u>
Bank of America	0.0040%	0.0020%	172
Bank of George	2.14%	2.14%	9
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Bank of Nevada	2.00%	2.00%	191
Bank of North Las Vegas	0.50%	0.50%	4
Bank of the West	1.20%	0.15%	29
Black Mountain Community Bank	0.15%	0.15%	5
Boulder Dam Credit Union			1
Carson River Community Bank	0.30%	0.30%	1
Citibank	0.30%	0.30%	25
City National Bank	1.00%	1.00%	57
Clark County Credit Union	1.00%	1.00%	1
Clearstar Credit Union	2.44%	0.49%	1
Colonial Bank	0.20%	0.19%	2
Community Bank of Nevada	2.00%	2.00%	47
Desert Community Bank	0.50%	0.10%	6
Financial Horizons Credit Union	1.34%	0.25%	1
First Asian Bank	2.16%	2.16%	3
First Commerce Bank	2.15%	2.00%	1
First Independent Bank	2.00%	2.00%	15
First Republic Bank	0.50%	0.50%	1
First Security Bank of Nevada	0.25%	0.25%	5
Heritage Bank	2.00%	2.00%	17
Irwin Union	0.98%	0.96%	13
Meadows Bank	2.13%	2.13%	5
M&I Bank	0.05%	0.05%	3
Mutual of Omaha Bank(1st national)	2.00%	2.00%	20
Nevada Bank & Trust	0.10%	0.10%	1
Nevada Commerce Bank	2.00%	2.00%	6
Nevada Security Bank	0.30%	0.05%	2
Nevada State Bank	0.50%	0.50%	287
Paramount Bank	0.75%	0.75%	1
Red Rock Community Bank	2.00%	2.00%	10
Service First Bank	2.00%	2.00%	4
Southwest USA	2.00%	2.00%	2
Sun West	0.35%	0.35%	4
U.S. Bank	0.2252%	0.1178%	136
Wachovia Bank	0.0010%	0.0010%	5
Washington Mutual	0.60%	0.01%	52
Wells Fargo	0.30%	0.30%	529

NEVADA LAW FOUNDATION

September 18, 2009

Kristina Marzec
State Bar of Nevada
Access to Justice Commission
600 E. Charleston Blvd.
Las Vegas, NV 89104

RE: Request of September 15, 2009

Dear Kristina,

Pursuant to your request of September 15, 2009, please be advised that of the \$805,875.00 in the Nevada Law Foundation Reserve for the period ending July 31, 2009 the investment summary is as follows:

Cash	\$ 195,369.00
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Strategic Asset Management Investment Account: LPL Financial

Cash Equivalents	\$ 15,888.94
Equities and Options	\$ 53,909.30
Fixed Income	\$ 163,709.50
Mutual Funds	\$ 376,998.92

If you have any questions or need further clarification, please do not hesitate to contact either David McElhinney or myself.

Sincerely,

Suzan Baucum

Suzan Baucum, Esq.
Executive Director

CC: Nevada Law Foundation Trustees

2005-2008 Revenue and Expenses

REVENUE	2005	2006	2007	2008 through Oct
IOLTA Revenue	856,216.20	1,031,116.02	1,331,222.73	1,147,903.00
Interest Income	4,643.65	11,782.83	12,484.48	6,623.27
NLF Membership Dues	3,758.14		3,168.00	-
Colleague Donations	49,045.00	38,270.00	41,742.00	22,299.40
Silver Ball Donations	119,681.00	108,810.00	130,850.00	99,030.00
NLF Donations	350.00	2,550.00	2,000.00	1,005.00
Interest Income - NLF	709.59			
Building Donations	177,520.00	177,974.72	45,835.57	43,500.00
Miscellaneous Income	426.05	6,932.29	597.05	36.95
Dividends	67,642.34	76,308.76	82,154.52	-
ACTUAL REVENUE	\$ 1,279,991.97	\$ 1,453,744.62	\$ 1,650,054.35	\$ 1,320,397.62
DISBURSEMENTS				
GRANTS				
Legal Aid to Disadvantaged	269,000.00	295,500.00	839,525.00	847,300.00
Law Related Education	-	64,000.00	61,000.00	59,000.00
	\$ 269,000.00	\$ 359,500.00	\$ 900,525.00	\$ 906,300.00
PROGRAM EXPENSES				
Promotional/colleague	80,453.76	66,413.76	87,039.76	836.40
Silver Ball Direct Expenses				64,204.67
IOLTA Service Charges	1,515.80	1,046.58	506.96	1,090.47
Scholarships	8,900.00	8,900.00		-
Debit Adjustments	441.26	628.22	1,161.83	3,451.98
	\$ 91,310.82	\$ 76,988.56	\$ 88,708.55	\$ 69,583.52
EXPENSES/GEN. & ADMIN.				
Accounting	6,395.00	10,415.00	10,890.00	9,740.00
Building	363,978.32	65,881.57	62,191.62	58,224.97
Computer technical assist	800.00	800.00	1,050.00	1,540.00
Copies	-	-	-	-
Dues, Subscriptions & Fees	1,143.50	2,624.25	2,596.75	2,389.25
Exec. Dir's Expense Account	952.25	1,608.44	542.70	545.28
Exec. Dir/Staff Travel	9,975.09	4,578.29	5,337.47	1,580.73
Furniture and Equipment	14,283.57	19,240.32	8,134.70	3,922.92
Insurance	30,052.96	10,434.22	10,036.39	2,272.00
Investment expense	29,751.84	22,536.68	65,207.45	-
Maintenance and Repairs	1,880.95	5,513.69	2,824.58	4,465.00
Meeting Expenses / Board Travel	1,532.32	3,526.94	1,969.59	4,820.63
Office Expense & Supplies	4,708.42	2,301.96	3,018.04	2,778.86
Office Rent	9,035.00			
Postage	5,819.02	7,940.23	7,479.00	6,804.58
Printing	22,384.98	20,336.30	20,593.70	11,509.46
State Street Contributions	10,453.00	11,140.74	15,500.00	13,769.95
Employee Insurance benefits				5,589.60
Salaries	104,535.00	107,640.00	111,407.40	95,624.60
Bonus	6,349.50	5,516.25		-
Taxes and licenses	31.70	18.25	1,247.20	184.71
Taxes building	881.71	952.25	201.34	4,513.02
Taxes - payroll	27,332.30	13,042.92	15,723.93	9,445.59
Telephone & utilities	12,556.11	11,513.76	13,115.26	10,202.94
Contract services/secretarial	50,361.67	38,507.43	43,180.03	31,753.04
Miscellaneous	4,638.53	3,277.74	995.01	635.00
TOTAL EXPENSES/GEN. & ADMIN	\$ 719,832.74	\$ 369,347.23	\$ 403,242.16	\$ 282,312.13

TAB 5



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rule 217 work group Recommendations

Redline Rule Recommendations

Chief Justice Hardesty will be leading the discussion regarding the working group's final recommendations on Rule 217 (most recent draft attached). I anticipate there will be some minor changes presented at the time of meeting in follow-up to Justice Hardesty's recent meetings with bank representatives.

Talking Points

Attached are talking points provided to the standing committees to aid them in discussing this issue, which I believe address several recurring questions voiced to the Commission in the past several months.

Summary of Rule Changes

1. *Establishing minimum standards for interest.* The rule provides three options, suggested and utilized by existing preferred interest providers. It is important to note that this rule does not regulate banks, but rather directs lawyers on the minimum standards for IOLTA accounts, and only those accounts. Nevada's proposed rule is also the most flexible of the 18 states which have comparability.

- The negotiated flat interest rate will be monitored by the Access to Justice Commission and published annually. At that time, the two index-tied options will also be reviewed to ensure each reflects fair market rates.
- The floor rate was determined by speaking with many banking partners who suggested this was a very reasonable index to use (a half percent above the Federal Discount Rate).

2. *Exceptions provided for rural areas.* There is an automatic waiver of the minimum standards in the event the member doesn't maintain an office within 20 miles of a participating bank. This was particularly important for our rural members.

3. *Fees.* While I suspect this may be an area the Chief Justice further addresses, the rule draft simply states no fees are allowed. None of the current preferred interest

banks are charging fees, and as such, the working group felt we should start from this position. Fees can easily subsume any savings gained under comparability if not specifically addressed in the rule. Typical charges are per check, per deposit, minimum balance, FDIC Insurance, Sweep, and negative netting (a practice of pro rata charges among all IOLTA accounts to cover those that don't maintain big enough balances to incur fees).

4. *Reporting.* Attorneys will be required at least annually to personally review and verify IOLTA accounts are in compliance with the rule, to be reported on the member's annual dues statement. The working group envisioned this can be easily accomplished by the check-box system currently used.

- The State Bar will monitor member compliance by use of the annual form.
- The designated foundation under SCR 216 will monitor banking compliance in conjunction with the Access to Justice Commission

Hearings

It is anticipated the State Bar Board of Governors will discuss this recommendation at its next regularly-scheduled meeting on October 21, 2009.

The Nevada Supreme Court scheduled a public hearing on the Administrative Docket to occur on November 2, 2009.

Rule 217. Creation and maintenance of interest-bearing trust accounts. A member of the state bar or the member's law firm shall create or maintain an interest-bearing trust account for clients' funds which are nominal in amount or to be held for a short period of time in any banking, credit union, or savings and loan association which is in compliance with the following provisions:

1. An interest-bearing trust account established pursuant to this rule may be established with any bank, credit union, or savings and loan association authorized by federal or state law to do business in Nevada and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or other financial institution approved by the state bar pursuant to Rule 78.5 of these rules. Funds in each interest-bearing account shall be subject to withdrawal upon request and without delay.

2. Interest minimum standards. The rate of interest payable upon any interest-bearing trust account shall ~~not be less than the rate paid by the depository institution to regular non-attorney depositors~~ meet any one of the following minimum standards:

(a) The 30-day LIBOR minus .50 percent, or, the Federal Discount Rate plus .50 percent, whichever is greater; or

(b) Equal to the Federal Fund Target Rate, or, the Federal Discount Rate plus .50 percent, whichever is greater; or

(c) Equal to a flat interest rate, to be determined by the Access to Justice Commission and made public on or before November 1 for the following calendar year.

(d) Higher rates offered by the institution to customers whose deposits exceed certain time or quantity minima, such as those offered in the form of certificates of deposit, [may be obtained by a member of the state bar or the member's law firm on some or all deposited funds] are permissible so long as there is no impairment of the right to withdraw or transfer principal immediately without penalty.

3. Exceptions. The minimum standards stated above in subsection 2 (a) –(c) are waived only if the member or member's law firm does not maintain an office within 20 miles of a financial institution meeting those minimum standards. Notice of waiver shall be reported by the member or member's law firm annually on a form to be provided by the state bar with annual membership fee statements.

4. Fees prohibited. Accounts under this rule shall be exempt from service charges and fees.

[3] 5. Reporting. A member of the state bar or the member's law firm establishing such account shall ~~[direct the depository institution to]~~:

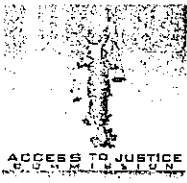
(a) direct the depository institution to:

(i) remit interest or dividends, as the case may be, on the average monthly balance in the account or as otherwise computed in accordance with an institution's standard accounting practice at least quarterly, to ~~the Nevada Law Foundation~~, the designated tax-exempt bar foundation pursuant to Rule 216;

~~(b) (ii) [to]~~ transmit with each remittance to ~~[the Nevada Law Foundation]~~ the designated tax-exempt bar foundation a statement showing the name of the member of the state bar or the member's law firm for whom the remittance is sent (and the rate of interest applied); and

~~(c) (iii) [To]~~ transmit to the depositing member of the state bar or the member's law firm at the same time a report showing the amount paid to ~~[the Nevada Law Foundation]~~ the designated tax-exempt bar foundation; and

(b) personally review accounts under this rule at reasonable intervals, not less than annually, to verify that the account is performing in compliance with this rule, and verify the same on a form to be provided by the state bar with annual membership fee statements.



IN RE: ADOPTION OF AMENDMENTS TO SCR 217 IMPLEMENTING MINIMUM STANDARDS FOR IOLTA ACCOUNTS

TALKING POINTS

1. What does the rule do?

The rule requires that trust accounts be placed only in participating banks that provide one of three identified benchmark interest rates. There is an exception for areas without a participating bank within 20 miles. Currently there are 15 participating banks; increased participation has been indicated contingent upon passage of the rule by two of the top three banks in Nevada such that few, if any, lawyers would even need to move a trust account.

2. How were the benchmarks determined?

The participating banks helped the Access to Justice Commission identify three rates from which banks can pick the best for its own business needs. The rates are designed to move with market forces and will be reviewed annually for efficacy.

3. Why is the rule needed?

The interest paid on lawyer trust accounts funds Nevada's civil legal aid providers charged with providing legally-related services to the poor, to the victims of domestic violence, and to children protected by or in need of protection of the juvenile court, as well as promoting or providing law-related educational programs for members of the public.

5,000 to 1. That's how many qualifying clients there are for every civil legal aid attorney in Nevada. That does not encompass the working poor and the Children's Attorney Project, which increases that number even more.

.001 %. That is the current interest being paid on trust accounts by one of the top 3 trust account holders in Nevada. That same bank is paying much higher rates in other states with rules such as is proposed here. This is the typical experience in states which have adopted some form of this rule.

18. There are currently 18 states with similar IOLTA rules and there are no lawsuits pending in the country on this issue. Nevada's proposed rule is much more flexible than any other and was crafted with local banks.

Negotiating expends exhaustive resources. While the Commission worked very hard at negotiating with current participating banks, those negotiations were done under the auspices of a pending rule change. A rule makes thing simple for banks and for the recipients of funding to forecast future revenues.

Minimal effort, high return. Increasing interest on IOLTA is a simple way for every lawyer in Nevada who holds trust money to support our communities.

By nature, IOLTA accounts only gain interest because they are pooled for the purpose of generating interest for the public good. Lawyers of course may still maintain trust accounts for other than nominal amounts or short-term holding to inure to the benefit of the client, the amendments do nothing to change that.

The Resource

for Great Programs, Inc.

Benchmark (or Safe Harbor) Rates of IOLTA Programs Across America

Prepared for the IOLTA Workshops, Boston, Mass.
Feb. 10, 2009

By Safe Harbor Rate (ascending):

1) Alabama	55% of FFR	9-27-07 Adopted; 1-1-08 Effective.
2) Massachusetts	55% of FFR ¹	7-26-06 Adopted; 1-1-07 Effective.
3) Maryland	55% of FFR ²	4-1-08 Effective.
4) <u>New Mexico</u>	<u>55% of FFR</u>	<u>9-3-08 Adopted; 1-1-09 Effective.</u>
5) Louisiana	60% of FFR ³	1-3-08 Adopted; 4-1-08 Effective.
6) Missouri	60% of FFR ⁴	8-21-07 Adopted; 1-1-08 Effective.
7) New Jersey	60% of FFR	May 2002. ⁵
8) <u>New York</u>	<u>60% of FFR</u>	<u>8-15-07 Effective.</u>
9) Maine	65% of FFR ⁶	9-21-07 Adopted; 1-1-08 Effective.
10) West Virginia	65% of FFR	10-08 submitted to court; pending. ⁷
11) <u>Texas</u>	<u>65% of FFR⁸</u>	<u>1-13-09 Effective.</u>
12) <u>California</u>	<u>68% of FFR</u>	<u>10-10-07 Gov. Approved; 1-1-08 Effective.</u>
13) Hawaii	70% of FFR	6-16-08 Issued; 7-1-08 Effective.
14) Illinois	70% of FFR	1-25-07 Adopted; 6-1-07 Effective.
15) Indiana	70% of FFR	Unspecified. ⁹
16) <u>Utah</u>	<u>70% of FFR</u>	<u>4-1-08 Effective.</u>
17) Minnesota	80% of FFR ¹⁰	12-21-06 Adopted; 1-1-07 Effective.

Important note: Some IOLTA programs listed above also honor banks that pay a set interest rate *above* the benchmark, including Maryland's "Honor Roll" rate (65% of FFR; 1% floor), Texas' "Prime Partner" rate (75% of FFR; 1% floor), Massachusetts "Leadership" program (75% of FFR; 1% floor), Maine's "Prime Partner" rate (75% of FFR; 2% floor), Missouri's "Partners in Justice" rate (70% of FFR), and New York's tiered floor rates (0.50% - 0.80% as of 1-31-09). Pennsylvania does not have a benchmark rate, but does have a "Platinum Leader" bank program that offers banks some recognition in exchange for paying 60% FFR. Other IOLTA programs also might offer incentive programs for banks that go above and beyond comparability.

¹ Massachusetts includes a 1% rate floor.

² Maryland includes a 0.55% rate floor.

³ Louisiana includes a 0.60% rate floor. Safe Harbor option appears only in Louisiana Bar Foundation "IOLTA Handbook."

<http://www.raisingthebar.org/pdf/iolta-%20CertifiedEligibleFinancialInstitution.pdf>

⁴ Missouri includes 0.60% rate floor.

⁵ Comparability in various forms has been in effect since May 2002.

⁶ Fed Funds Target Rate in effect July 1st of each year; rate resets yearly.

⁷ Court action expected December 2008.

⁸ Benchmark rate previously was 60 percent of the Fed Funds Target Rate, effective March 1, 2007. Texas also added a 0.65% rate floor effective Jan. 13, 2009.

⁹ Safe Harbor option appears only in Indiana Bar Foundation "IOLTA Handbook." See

http://www.inbf.org/Media/Universal_IOLTA_Handbook.pdf.

¹⁰ Minnesota might be the only state not to define the safe harbor or benchmark rate as already net of fees.



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rule 216 recommendations

Rule 216 (attached) provides for the creation and designation of a tax-exempt bar foundation to process IOLTA funds, and designates the recipients of those funds. (Compare to Rule 217, which provides for the creation and maintenance of the trust accounts themselves and thus contains the proposals for IOLTA minimum standards.)

Talking points regarding potential changes

At the last Commission meeting, a number of points were raised about SCR 216 that go along with discussions related to SCR 217. Specifically:

1. For conformity, the rules should be uniform as to whether they refer to the "designated tax-exempt bar foundation" or name the Nevada Law Foundation.
2. It was suggested the six core legal aid providers be specifically named in the rule (LACSN, City of Las Vegas SLP, WLS, NLS, Washoe SLP, and VARN).
3. Subsection (1)(a) is problematic, stating "a major portion of funds shall be disbursed...." The opinion was unanimous that this language is vague, and was slated for further discussion.

A major portion of all IOLTA funds shall be disbursed for the purposes of providing legally-related services to the poor, to victims of domestic violence, and to children protected by or in need of protection of the juvenile court. The remainder of the IOLTA funds shall be spent as the bar foundation deems appropriate, keeping in mind the purposes set forth in this rule.

Committee and working group recommendations

After several meetings and lengthy discussions, both the Legal Services Delivery and Executive Directors Committee recommend that this rule **not** be changed at this time. There are a number of issues to be vetted and resolved which need more time and energy, and both groups feel strongly focus should be on Rule 217 and resolving fundraising issues first to provide a foundation for potential changes to this rule.

Rule 216. Creation of foundation.

1. The board of governors, with the approval of the supreme court, shall designate a tax-exempt bar foundation for the purposes of providing legally-related services to the poor, to the victims of domestic violence, and to children protected by or in need of protection of the juvenile court; promoting or providing law-related educational programs for members of the public; and providing similar programs which qualify for tax-exempt status by the United States Internal Revenue Service under I.R.C. section 501(c)(3) or any additions thereto or amendments thereof. To carry out these purposes, the bar foundation may utilize the income accrued from interest-bearing clients' trust accounts (IOLTA funds) as authorized by Rules 216 through 221, and as the supreme court may otherwise order.

(a) A major portion of all IOLTA funds shall be disbursed for the purposes of providing legally-related services to the poor, to victims of domestic violence, and to children protected by or in need of protection of the juvenile court. The remainder of the IOLTA funds shall be spent as the bar foundation deems appropriate, keeping in mind the purposes set forth in this rule.

(b) Among factors to be considered in disbursing the funds should be the geographic origin of the funds.

2. The governing body of the designated bar foundation shall be composed of nine members. Six of the members shall be members in good standing of the state bar, and three shall be lay persons who have knowledge of and are acquainted with the needs of the poor, victims of domestic violence, and children protected by or in need of protection of the juvenile court.

(a) None of the members of the bar foundation's governing body shall also be a member of the board of governors of the state bar or be related to any member of the board of governors within the third degree of consanguinity.

(b) The members of the bar foundation's governing body shall not be members of the governing body or employees of grantee organizations.

3. The terms of office of the members of the governing body of the bar foundation shall be staggered. Each member shall be appointed for a term of two years. No member may serve on the governing body for more than a lifetime total of six years. The time served in filling a partial term created by a vacancy shall not be included in computing the six year lifetime limit.

4. In even-numbered years, the supreme court shall appoint for two-year terms, commencing June 30th, three attorneys and two lay persons as members of the governing body of the bar foundation.

5. In odd-numbered years, the board of governors of the state bar shall appoint for two-year terms, commencing June 30th, three attorneys and one lay person as members of the governing body of the bar foundation.

6. Vacancies on the governing body of the bar foundation shall be filled by the supreme court by appointment.

7. The principal office of the bar foundation shall be situated in Clark County.

[Added; effective May 27, 1983; amended effective May 1, 1996.]



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rule 6.1 recommendations

Rule 6.1 (attached) is the rule which defines pro bono service and related issues such as mandatory reporting and sanctions and fines.

This memorandum is prepared by the Commission Executive Director on her own behalf, and chronicles the work done over the past quarter by first the working group, then the Executive Directors, and finally the Legal Services Delivery Committee. While this is not my normal practice, in this instance I opine it is important to relay to the Commission the significant process devoted in getting to the ultimate decision of recommending no action at this time.

Committee and working group recommendations

Ultimately, the recommendation of the Legal Services Delivery Committee (which is the final decision making body regarding recommendations to it by working groups), and with which the Executive Directors concur, **is to take no action at this time on this rule**. The rationale is in large part similar to that regarding Rule 216, *to wit*: further vetting and discussion is warranted on this rule, both because there are a number of hot button issues and the critical change to focus on now is the IOLTA minimum standards rule (217). Simply put, they don't want to overload the membership with too many change requests.

Talking points regarding potential changes

The objective of the initial working group, as directed by the Commission, was to review all discussed potential changes to RPC 6.1 to date, review the current efficacy of the existing rule, and make recommendations for amendment. To that end, the following questions were posed (and the answers of the working group follow):

1. Required change: Subsection (c), "voluntary pro bono plan." This entire subsection addresses committees and sections that have been retired & rolled into the Access to Justice Commission.

Question posed: Should this rule subsection be revoked in its entirety, amended to

keep the goals but remove the entities and replace with references to Rule 15 and the Commission, or otherwise amended.

Answer: Unanimously, revoke in its entirety. Rule should be checked for conformity after deletions.

Subsequent issue: We noticed that once you remove the defunct "pass through 501(c)(3) entities" there exist some question about who can be a direct recipient of sanctions and fines under the rule (ie the government run programs such as the senior law projects).

2. What is Pro Bono. There have been many who suggest how pro bono is defined under this rule should be either expanded or restricted further, depending on who you talk to.

Question posed: As is, restrict, or expand. This group needs to make a definitive recommendation on how 6.1 defines pro bono, with redline if appropriate.

Answer: Unanimously, leave as is. The committee which worked on this definition very deliberately set up tier 1 and tier 2 pro bono, which is the ABA standard nationally for states which have mandatory pro bono reporting. The tenet of the rule, through reporting and encouragement, is ultimately to increase services to the poor. Nevada actually allows more liberal tier 2 pro bono credit than many other states.

3. Dues Check-Off. A number of options have been discussed here involving adding a mandatory contribution in an amount less than \$500 or some other combination of rule changes effecting a mandatory dues set off, and leaving this rule alone.

Questions posed: How effective is the rule as is with regard to dues check off? Should the amount be changed? Is there any facility to making the contribution mandatory (and I see a huge cost-benefit bottom line analysis here)? If so, how should the change be effected in the rules (ie Dues add on or in 6.1, or both).

Answer: Unanimously support the current dues check off system. Lowering the amount would be a huge step back, and the numbers have continued to increase ever year except 2009 (which is skewed due to the economic conditions-even then, revenue was down only about 3%).

Given the current climate, this is not the best time to propose this to the bar at large. It is very important to work on the "hearts and minds" cultural shift of the attitude towards pro bono and secure other critical changes first, such as IOLTA minimum standards. The preferred method, which at least 12 other states do, is to have a portion of bar dues allocated to legal services. Recommendation is to work towards inclusion of legal services in next dues increase, whenever that is.

4. 6.1 Reporting. There has been some discussion about revoking mandatory reporting or drastically reduce it, perhaps in exchange for some sort of mandatory financial contribution as discussed above.

Questions posed: How is mandatory reporting affecting pro bono service and contributions? Are we getting the information we need? Is there information that could be added and/or deleted to make the information more useful? If changes are needed in the form, do those changes in any way require a rule amendment? What more could we be doing with the information we are getting?

Answer: Unanimously agreed reporting is critical. The Coordinators get many calls every week with lawyers motivated by getting "credit" for pro bono work. The ATJ director last year got over 50 calls on this point after dues statements went out. Nevada was the 4th in the country to pass this rule, it would be a tremendous step backward to give ground on this point. Mandatory reporting positively affects the cultural mindset towards pro bono, encourages volunteerism, and encourages donation.

Executive Director Comment: The Legal Services Providers Executive Directors noted they maintain an open mind on this issue moving forward with a view towards the best end result possible. If for example the bar were amendable to implementing a dues add-on or set-off in future, in exchange for reduced or eliminated pro bono reporting, the EDs do not want to dismiss this option out-of-hand. There would have to be a cost-benefit analysis, certainly.

5. Reporting form.

Question posed: (does not require a rule change). The issue is the statistically huge portion of people who skip question one entirely (asking **I did** or **I did not** do Pro Bono), but who yet still fill in the rest of the form indicating they did pro bono. This skews the statistics.

Answer: The working group is suggesting in future the bar consider changing the reporting form so this question has the "I did not complete pro bono" option *first* and *bolded*, add a statement "If no, section complete," followed by the "Yes" section *bolded* and followed by "check all the qualify" indented.

Executive Director Comment: We did not make the deadline for this year's dues statement (which was in August), however this suggestion will be made for next year and I don't anticipate a problem. It's a very small change in format that will have a big impact on functionality.

6. Pooling or pro rata reporting. A number of law firms have stated pro rata reporting (or pooling of hours) would benefit them. This could be accomplished with a check-box on individual reporting forms indicating the hours are a firm aggregate. Opponents contend this sets a precedent taking away from the individual responsibility of pro bono.

Question posed: Does this group support pooling, and if so, suggested language.

Answer: Unanimously no. The group is strongly opposed philosophically to diluting the individual responsibility of pro bono, a core principle of Rule 6.1. The consensus was that while law firms might like it, codification of this reporting option would not increase actual service and would likely be confusing. No other state we could find had this option in its rule.

Executive Director Comment: Other committees have candidly commented that we know many large law firms do this, which of course is an ethics violation for the individual lawyers reporting hours they personally did not perform. I personally opine that in the larger scheme of things, cost benefit analysis should be weighted. If it encourages the larger firms to increase pro bono, ultimately the overarching goals will be met. It would be simple to add a check box indicating "aggregate reporting" that would indicate the firm participates in pooling and remove the ethical dilemma for the reporting lawyer. Further, it could be easily tracked (just one more field to print out on the statistics report).

7. Mandatory filing of firm "pro bono policies." This has come up a number of times as a potential compromise to mandatory pro bono service (or alternatively seen as a stepping stone to mandatory pro bono itself later). The law school in particular noted it might encourage higher contributions over time.

Answer: While a great idea, the timing is not ripe to ask for this at this time. Once again, firms could view this as overly intrusive of internal operating procedures. Another similar idea for the future (that is enacted in a few states now) is to require that firms over a certain size designate a pro bono coordinator. However, as with other issues, we should gain ground on other initiatives first.

8. Requiring lawyers to verify hours as with CLE.

Question posed: Since reporting is mandatory, should verification and follow up be mandated.

Answer: Unanimously no. Foremost, the difference is that CLE is mandatory, while pro bono is not. The rule is either aspirational or not. Second, this sends the message to the membership they are not trusted. Third, the remedy would be to impose discipline (you would be making a finding of falsifying a form at worst or lack of diligence at best); there is no appetite to either expend those

important resources or for the idea in principle. Finally, given the scope of so many crucial projects and goals before Access to Justice and facing expanding statewide delivery, this would be an enormous allocation of resources for no real gain (even if you added a fine).

Rule 6.1. Pro Bono Publico Service.

(a) **Professional responsibility.** Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 20 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(1) Provide a substantial majority of the 20 hours of legal services without compensation or expectation of compensation to:

(i) Persons of limited means; or

(ii) A public service, charitable group, or organization in matters that are designed primarily to address the needs of persons of limited means; and

(2) Provide any additional services through:

(i) Delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(ii) Participation in activities for improving the law, the legal system, or the legal profession; or

(iii) Delivery of services in connection with law-related education sponsored by the State Bar of Nevada, the Nevada Bar Foundation, a county bar association, or a court located in Nevada.

(3) As an alternative to rendering at least 20 hours of pro bono publico legal services per year as provided in subparagraphs (1) and (2), a lawyer may discharge the professional responsibility to provide legal services to those unable to pay by:

(i) Providing at least 60 hours of professional services per year at a substantially reduced fee to persons of limited means; or

(ii) Contributing at least \$500 per year to an organization or group that provides pro bono legal services to persons of limited means.

(4) When pro bono legal service is performed for an individual without compensation or at a substantially reduced fee, the fee shall be agreed to in writing at the inception of the representation and refer to this Rule.

(5) The following do not qualify as pro bono legal service under this Rule:

(i) Legal services written off as bad debts;

(ii) Legal services performed for family members; and

(iii) Activities that do not involve the provision of legal services, such as serving on the board of a charitable organization.

(b) **Reporting; discharge of professional responsibility.**

(1) All members shall complete an Annual Pro Bono Reporting Form, indicating services performed under this Rule, to be submitted to the state bar annually on a form to be provided by the state bar with the members' fee statements. If a member fails to file the report required by this Rule, the state bar shall notify the member that a fine of \$100 will be imposed unless the member files the report within a specified period of time not less than 30 days after the notice.

(2) The professional responsibility to provide pro bono services as established under this Rule is aspirational rather than mandatory in nature. Accordingly, the failure to render pro bono services will not subject a member to discipline.

(c) **Voluntary pro bono plan.** The purposes of the voluntary pro bono plan are to make available legal services to those Nevadans who cannot otherwise afford them and to expand the present pro bono programs. To accomplish these goals the following committees are hereby created.

(1) **District Court Pro Bono Committees.** In each judicial district, the Chief Judge of the District Court shall appoint a Pro Bono Committee consisting of representatives of various members of the bench and bar as well as pro bono services and community organizations of that judicial district. The responsibility of these committees is to determine and address the specific unmet legal needs of that jurisdiction by way of a plan to be submitted to the Supreme Court. Pursuant to paragraph (d) of this Rule, the Pro Bono Committee may establish a foundation. The foundations are authorized to receive funds paid in satisfaction of an order of any court entered in accordance with paragraph (e) of this Rule and to determine the allocation and use of such funds in a manner consistent with this Rule. If no foundation is established, the Pro Bono Committee is authorized to receive such funds and determine their allocation and use in a manner consistent with this Rule.

(2) **Access to Justice Section.** The board of governors shall have the power to establish a permanent Statewide Access to Justice Section that shall assist in the implementation of this Rule as well as facilitate and support local efforts to improve the public's access to justice. The initial officers of the Access to Justice Section

shall be the currently serving officers of the Access to Justice Committee. Thereafter, elections for officers shall be held as provided in the Access to Justice Section's bylaws, as approved by the board of governors. The Access to Justice Section shall be composed of regular members who are licensed to practice law in Nevada and laypersons who may become auxiliary members.

(d) **Foundations.** A district court Pro Bono Committee may establish a local foundation to actively promote the provision of civil legal services to disadvantaged persons and households within the district. A foundation established pursuant to this Rule shall be created as a Nevada nonprofit corporation and is authorized to:

- (1) Actively promote the observance of this Rule within the district;
- (2) Receive donations from members of the State Bar of Nevada and monies from the courts as provided in this Rule;
- (3) Distribute such funds to providers of pro bono and free or reduced fee civil legal services in the district and to public law libraries;
- (4) Develop other new sources of funding and support for delivery of civil legal services;
- (5) Support existing legal services and pro bono efforts and foster new projects to broaden the existing range of civil legal services; and
- (6) Serve as an educational facilitator to make the community as a whole aware of the efforts being made to provide all Nevadans within the district with full access to the justice system.

(e) **Payment of civil sanctions to fund pro bono programs or libraries.** Subject to the limitations of this Rule, a court may direct that sanctions or fines imposed under NRS 1.210, NRAP 38, NRCP 11, JCRCP 11, or like authority be paid to a nonprofit entity or law library specified below. The court's discretion to direct payment of sanctions or fines to a nonprofit entity or law library, however, is limited to civil sanctions imposed against counsel, parties, witnesses or others appearing before the court and expressly excludes sanctions or fines imposed against a defendant in any criminal case. Payment may be directed only to the following:

- (1) A nonprofit entity or committee designated pursuant to a voluntary pro bono plan described in paragraph (c) to serve the pro bono and access to justice needs either for the judicial district in which the judicial officer presides or, if serving outside his or her judicial district, where the case is heard; or
- (2) A public law library or nonprofit entity associated with a public law library located either in the judicial district in which the judicial officer presides or, if serving outside his or her judicial district, where the case is heard; or
- (3) To the Nevada Law Foundation or other statewide nonprofit entity designated by the state bar to serve pro bono and access to justice needs.
- (4) The supreme court may also direct payment to such nonprofit entities or public law libraries located in the judicial district in which the matter before the supreme court originated or to any other public law library in the state.

(f) **Limitation on authority to specify use of funds.** A judicial officer who orders payment of a sanction or fine pursuant to paragraph (e) must not participate in the specific determination of which entity will receive the sanction or fine or of how that sanction or fine will be used by the nonprofit entity or law library designated to receive the funds. The judicial officer may, however, serve on the board or as an officer of a nonprofit entity created pursuant to this Rule, or of a law library or nonprofit entity associated with a law library, provided that he or she does not participate in specific decisions regarding the use of any sanction or fine directed to the nonprofit entity or library by that judicial officer.

[Added; effective May 1, 2006.]



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rule 15: Commission Composition, final recommendations

At the last Commission meeting, the working group's recommendations pertaining to changes to Rule 15 were discussed. (Copy of materials from 7.10.2009 meeting attached).

After discussion, the Commission requested the Rule be resubmitted with the following minor changes:

1. Clarify the Executive Director is staff (so as not to imply the position is a voting member of the Commission itself); and
2. Add three at-large appointments.

The amended draft follows below for review and discussion:

Draft 5

Rule 15. Commission on Access to Justice.

1. **Creation, purpose.** The supreme court shall appoint a commission on access to justice. The commission shall:

(a) Assess current and future needs for civil legal services for persons of limited means in Nevada.

(b) Develop statewide policies designed to support and improve the delivery of legal services.

(c) Improve self-help services and opportunities for proper person litigants and increase pro bono activities.

(d) Develop programs to increase public awareness of the impact that limited access to justice has on other government services and on society.

(e) Investigate the availability of and pursue increased public and private financing to support legal services organizations and other efforts to provide legal services to persons of limited means.

(f) Recommend legislation or rules affecting access to justice to the supreme court.

2. **Composition.** The access to justice commission shall be staffed by an executive director and composed of the chief justice of the supreme court or the chief justice's designate and the following members, to be appointed by the supreme court to four-year terms:

(a) One district judge each from the Second and the Eighth Judicial District Courts. At least one of those judges must be assigned to the family division of the district court.

(b) One additional district judge to be selected from the First, Third, Fourth, Fifth, Sixth, Seventh, or Ninth Judicial District Courts.

(c) One limited jurisdiction judge, who shall serve as liaison to the Nevada Judges Association.

(d) One representative designated by the Nevada Attorney General.

(e) One representative each from the City of Las Vegas Senior Citizens Law Project, ~~[Clark County Legal Services/Pro Bono Project]~~ **Legal Aid Center of Southern Nevada/ Pro Bono Project**, ~~[the Eighth Judicial District Pro Bono Foundation]~~ **the designated tax exempt bar foundation pursuant to SCR 216**, Nevada Legal Services, Volunteer Attorneys for Rural Nevadans/Domestic Violence Project, ~~[the Washoe Access to Justice Foundation,]~~ the Washoe County Senior Law Project, and Washoe Legal Services/Pro Bono Project.

(f) One representative each from the Clark County Bar Association, the State Bar of Nevada **Board of Governors**, **the State Bar of Nevada Young Lawyers Section**, and the Washoe County Bar Association.

(g) **One student representative of the Public Interest Law Association and [O]ne faculty representative from [the clinical program at] the William S. Boyd School of Law of the University of Nevada, Las Vegas, designated by the Dean. Individual appointments under this subsection may be rotated in less than four year terms.**

(h) Two persons who are not members of the legal profession[.];

(i) Three at-large representatives. Appointments under this subsection may be rotated in less than four year terms as the Commission deems necessary and proper to facilitate diversity and fulfill the Commission's purpose.

The commission may appoint nonvoting members, including, but not limited to, judges and representatives from other direct service providers, county bar associations, and neighborhood pro bono projects.

3. **Meetings.** The commission shall meet at least semi-annually and shall have additional meetings, as the commission deems appropriate. The commission may form separate subcommittees to address specific issues.



MEMORANDUM

From: Anna Johnson, Lynn Etkins, and Kristina Marzec

To: Access to Justice Commission

Re: Commission Composition under SCR 15: Review and recommendations

Attachments:

- 1- Redline recommended amendments
- 2- Roster by rule-slotted allocations
- 3- Current subcommittees

Justice Douglas tasked this working group to compare the current composition of the Access to Justice Commission with enabling Rule 15 and make recommendations on potential changes and attendant policy considerations. To that end, what follows are recommendations which (a) identify housekeeping changes in the rule to conform to current organizational relationships, (b) recommend new Commission appointments, (c) identify current appointments requiring attention under the existing language, and (d) recommend policy regarding standing committees and working groups.

1. Rule Changes

As seen in the attached redline, housekeeping changes are recommended to include changing the name of Clark County Legal Services to Legal Aid Center of Southern Nevada, removing the two now-defunct pro bono foundations, and codifying the Commission executive director position.

Additions recommended as formal appointments are: The Nevada Law Foundation, a PILA student representative, and a State Bar of Nevada Young Lawyers Section Representative.

2. Appointments

Terms. Subject to reappointment under the current rule in 2010 (four year terms).

Defunct slots. There are two now-defunct slots for the prior pro bono foundations which need to be addressed. One was vacated by Judge Voy and the second remains filled by Judge Steinheimer.

Vacancies. There are three immediate vacancies: A limited jurisdiction judge under §2(c); a Clark County Bar representative under §2(f); and a second lay-member under §2(h). As indicated above, three new formal appointments are recommended for the Nevada Law Foundation in §2(e); a PILA student representative in §2(g); and a State Bar of Nevada Young Lawyers Section Representative in §2(f).

3. Policy Considerations

These recommendations replace two defunct positions and add one additional slot. This group posits that formally appointing non-Commission members to the committees and working groups and formally recognizing their volunteerism is the best practice to achieve the Commissions goals rather than significantly expanding the size of the voting Commission. As it stands, there exists a liberal policy of non-voting member attendance at Commission meetings as allowed under the current rule, which is a practice that serves the purpose of ensuring that needed points of view are at the table. This also allows flexibility as the Commission works through various goals and projects that may affect various interested groups at differing junctures.

COPY

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- (a) Assess current and future needs for civil legal services for persons of limited means in Nevada.
- (b) Develop statewide policies designed to support and improve the delivery of legal services.
- (c) Improve self-help services and opportunities for proper person litigants and increase pro bono activities.
- (d) Develop programs to increase public awareness of the impact that limited access to justice has on other government services and on society.
- (e) Investigate the availability of and pursue increased public and private financing to support legal services organizations and other efforts to provide legal services to persons of limited means.
- (f) Recommend legislation or rules affecting access to justice to the supreme court.

2. **Composition.** The access to justice commission shall be composed of the chief justice of the supreme court or the chief justice's designate, the commission executive director, and the following members, to be appointed by the supreme court to four-year terms:

(a) One district judge each from the Second and the Eighth Judicial District Courts. At least one of those judges must be assigned to the family division of the district court.

(b) One additional district judge to be selected from the First, Third, Fourth, Fifth, Sixth, Seventh, or Ninth Judicial District Courts.

(c) One limited jurisdiction judge, who shall serve as liaison to the Nevada Judges Association.

(d) One representative designated by the Nevada Attorney General.

(e) One representative each from the City of Las Vegas Senior Citizens Law Project, ~~[Clark County Legal Services/Pro Bono Project]~~ Legal Aid Center of Southern Nevada/ Pro Bono Project, ~~[the Eighth Judicial District Pro Bono Foundation]~~ the Nevada Law Foundation, Nevada Legal Services, Volunteer Attorneys for Rural Nevadans/Domestic Violence Project, ~~[the Washoe Access to Justice Foundation,]~~ the Washoe County Senior Law Project, and Washoe Legal Services/Pro Bono Project.

(f) One representative each from the Clark County Bar Association, the State Bar of Nevada Board of Governors, the State Bar of Nevada Young Lawyers Section, and the Washoe County Bar Association.

(g) One student representative designated by the Public Interest Law Association, and, [Ø]one faculty representative from ~~[the clinical program at]~~ the William S. Boyd School of Law of the University of Nevada, Las Vegas.

(h) Two persons who are not members of the legal profession.

The commission may appoint nonvoting members, including, but not limited to, judges and representatives from other direct service providers, county bar associations, and neighborhood pro bono projects.

3. **Meetings.** The commission shall meet at least semi-annually and shall have additional meetings, as the commission deems appropriate. The commission may form separate subcommittees to address specific issues.

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Access to Justice Commission

2009

Last	First	Title	Position	Rule Slot	SCR 15§	Email
Abbott	Kimberly		Pro Bono Project Director	Legal Aid Center of Southern Nevada	2(e)	kabbott@lacs.nv.org
Cooney	Valerie		Executive Director	Volunteer Attorneys for Rural Nevadans	2(e)	vcooney@varn.org
Desmond	John			Washoe County Bar	2(f)	jpd@jonesvargas.com
Doherty	Frances	Hon.		Second Judicial District Court/ Family Court	2(a)	frances.doherty@washoecourts.us
Douglas	Michael	Justice	Commission Co-Chair	Supreme Court of Nevada	2	mdouglas@nvcourts.nv.gov
Elcano	Paul		Executive Director	Washoe Legal Services	2(e)	pelcano@ashoelegalservices.org
Ferenbach	Cam			SBN Board of Governors	2(f)	cferenbach@lionslawyer.com
Goff						
Gonzalez	Betsy	Hon.		Eighth Judicial District Court	2(a)	GonzalezE@clarkcountycourts.us
Hardesty	James	Chief Justice	Commission Co-Chair	Supreme Court of Nevada	2	jhardesty@nvcourts.nv.gov
Johnson	Anna Marie		Executive Director	Nevada Legal Services	2(e)	ajohnson@nslaw.net
Kandt	W. Brett			Office of the Attorney General	2(d)	bkandt@ag.nv.gov
Nielsen	Ernest			Washoe Co. Senior Law Project	2(e)	entelsen@washoecounty.us
Puccinelli	Andrew	Hon.		Fourth Judicial District Court/Rural rep	2(b)	apuccinelli@elkocountynv.net
Thronson	David	Professor		UNLV Boyd Law School	2(g)	David.thronson@unlv.edu
Vogel	Sheri Cane		Executive Director	Senior Citizens Law Project	2(e)	svogel@lasvegasnevada.gov
Warden	Tom		Vice President, Community Relations The Howard Hughes Corporation	Layperson 1	2(h)	
						twarden@ggdp.com
Steinheimer	Connie	Hon.		Defunct slot- Washoe Access to Justice Foundation	2(e)	judge.steinheimer@washoecourt.us
				Defunct slot-Eight Judicial Pro Bono Foundation	2(e)	
Vacant				Clark County Bar	2(f)	
Vacant				Limited Jurisdiction Judge; Liaison to Nevada Judges Association 15(2)(c)	2(c)	
Vacant				Layperson 2		
Marzec	Kristina		Commission Ex. Dir.	Staff	2(h)	kristinam@nvbar.org
					2	

NEVADA SUPREME COURT ACCESS TO JUSTICE
STANDING COMMITTEES
Updated 4.2009

RURAL SERVICES DELIVERY *est. April 2009*

Justice Douglas
Amber Candelaria
Valerie Cooney
Judge Dahl
Judge Davis
Judge Dory
Judge Fletcher
Anne Heck (AOC)
Anna Johnson
Judge Lane
Judge Maslach
John McCormick (AOC)
Sheryl Overstreet (AOC)
Judge Papez
Judge Puccinelli
Judge Wagner
Judge Wambolt

COMMUNICATIONS

Needs Assessment Marketing
Public Interest Lecture Series
Recruitment and Retention
 LRAP- Development
 Fellowships- LSD
 Benefits and Salaries- LSD
Mandatory Reporting
Website

David Thronson
Judge Gonzalez
Kimberly Abbott
Brett Kandt
Judge Doherty
Christine Smith
William Heavilin
Trevor Hayes

Scott Roedder- ex officio

DEVELOPMENT

LRAP
Division of Aging Funding concerns
Court Posted Fees
 Nye County
Real Estate Escrow Funds
Recruitment/Retention
 2009 Fellowship- Thronson
 LRAP- work group Lynn, Anna, Val, ask Judge Dahl)
 Retirement/benefits/salaries- Paul
Cy Pres-Paul

Ernie Nielsen

Paul Elcano
Valerie Cooney
Bret Kandt
Nancy Becker
Anna Johnson
Cam Ferenbach
Tom Warden
Lynn Etkins
Suzy Baucum
David Thronson

LEGAL SERVICES DELIVERY

Working Groups: Pro Bono Delivery; Awards and Pro Bono Week; Mandatory Reporting and 6.1

Pro Bono Recognition
Pro Bono Week- also with Communications
State Wide Award- Renee
Nevada Lawyer
Emeritus- Kimberly
Self Help
Standardized Forms-Justice Douglas, Chair, Supreme Court Library Commission
Hotlines, continuum of care issues
Standardized Reporting (provider statistics)
Law Firm initiatives

Paul Elcano (ED)
Sugar Vogel (ED)
John Desmond
Kimberly Abbott
Judge Steinheimer
AnnaMarie Johnson (ED)
Ernie Nielsen (ED)-Chair
Valerie Cooney (ED)
Judge Puccinelli
Barbara Buckley (ED)
Lynn Etkins
Odessa Ramirez
Renee Kelly
Christopher Reade
Amber Candelaria

FUND DISTRIBUTION

TBD

****Bold = Current ATJ Commission members.**

COPY

atjc000000072



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rule 6.5

California recently adopted Rule 1-650 *Limited Legal Services Programs* (Operative August 28, 2009). Nevada adopted the exact version of ABA Model Rule 6.5 in our version, RPC 6.5 *Non Profit and Court Annexed Limited Legal Service Programs* (added eff. 5-1-2006).

We noted with interest that California adds one subsection not present in the model rule or the Nevada counterpart. Cal 1-650 adds subsection (c), stating in relevant part "the personal disqualification of a lawyer participating in the program will not be imputed to other lawyers participating in the program."

This language is stronger than that which would apply in Nevada through RPC 1.10 (Imputed disqualification), allowing waiver only under the terms of 1.7 (Conflict: current clients).

The Legal Services Providers have indicated this addition may be worth considering as their programs continue to expand and grow.

The two rules are compared below.

California Rule	Nevada Rule
	Rule 6.4 (formerly Supreme Court Rule 194) is the same as ABA Model Rule 6.4.
<p>Rule 1-650 Limited Legal Services Programs [Operative August 28, 2009]</p> <p>(A) A member who, under the auspices of a program sponsored by a court, government agency, bar association, law school, or nonprofit organization, provides short-term limited legal services to a client without expectation by either the member or the client that the member will provide continuing representation in the matter:</p> <p>(1) is subject to rule 3-310 only if the member knows that the representation of the client involves a conflict of interest; and</p>	<p>Rule 6.5. Nonprofit and Court-Annexed Limited Legal Services Programs.</p> <p>(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:</p> <p>(1) Is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and</p> <p>(2) Is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or</p>

(2) has an imputed conflict of interest only if the member knows that another lawyer associated with the member in a law firm would have a conflict of interest under rule 3-310 with respect to the matter.

(B) Except as provided in paragraph (A)(2), a conflict of interest that arises from a member's participation in a program under paragraph (A) will not be imputed to the member's law firm.

(C) The personal disqualification of a lawyer participating in the program will not be imputed to other lawyers participating in the program.

Discussion:

[1] Courts, government agencies, bar associations, law schools and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms that will assist persons in addressing their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, whenever a lawyer-client relationship is established, there is no expectation that the lawyer's representation of the client will continue beyond that limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation.

[2] A member who provides short-term limited legal services pursuant to rule 1-650 must secure the client's informed consent to the limited scope of the representation. If a short-term limited representation would not be reasonable under the circumstances, the member may offer advice to the client but must also advise the client of the need for further assistance of counsel. See rule 3-110. Except as provided in this rule 1-650, the Rules of Professional Conduct and the State Bar Act, including the member's duty of confidentiality under Business and Professions Code § 6068(e)(1), are applicable to the limited representation. (Added by order of the Supreme Court, operative August 28, 2009.)

[3] A member who is representing a client in the circumstances addressed by rule 1-650 ordinarily is not able to check systematically for conflicts of interest. Therefore, paragraph (A)(1) requires compliance with rule 3-310 only if the member knows that the representation presents a conflict of interest for the member. In addition, paragraph (A)(2) imputes conflicts of interest to the member only if the member knows that another lawyer in the member's law firm would be disqualified under rule 3-

1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

[Added; effective May 1, 2006.]

310.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the member's law firm, paragraph (B) provides that imputed conflicts of interest are inapplicable to a representation governed by this rule except as provided by paragraph (A)(2). Paragraph (A)(2) imputes conflicts of interest to the participating member when the member knows that any lawyer in the member's firm would be disqualified under rule 3-310. By virtue of paragraph (B), moreover, a member's participation in a short-term limited legal services program will not be imputed to the member's law firm or preclude the member's law firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with rule 1-650, a member undertakes to represent the client in the matter on an ongoing basis, rule 3-310 and all other rules become applicable. (Added by order of the Supreme Court, operative August 28, 2009.)



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Rural Courts Service Delivery

This item will be discussed by Justice Douglas, who chairs this Committee.

Three action items for this group by January 2010 are:

1. Arrange for an hour at the next limited jurisdiction judges meeting in January to address ATJ issues (Judge Dahl to facilitate).
2. Prepare a second Legal Resources Brochure geared towards the rurals, and secure funding for print copies.
3. Obtain from the AOC a connectivity and infrastructure update on the jurisdictions participating in the Technology in the Courts initiative. (Attached.)

Nevada New Court Progress

Black=completed/ Blue=in progress/ Red=work to do/ Green= Court initiated delay

Court	Dept.-Judge	Contact Name	Number	Notes
Judicial District: Carson City & Storey Counties				
Carson City Storey County 885 East Musser Street Carson City, Nevada 89701	Dept. 1-Russell	Christine Erven	(775) 882-1966	Email response received indicating the Courts use JAVS free of charge to provide telephonic appearances. This is a wrong number I will need research and try back later.
	Dept. 2-Wilson	Susan Greenberg	(775) 882-1619	s/w law clerk 7/22/09 Susan and Judge are out this week try back week of 7/27/09
	Dept. 2-Maddox			
Judicial District: Washoe County				
Washoe County <i>Civil/Family Division</i> 75 Court Street Reno, Nevada 89501	Dept. 4-Steinheimer	Audrey Kay	(775) 328-3183	RCVD 3/19/09 from Bob: I contacted Audrey the JA and she said she would ask Judge if she wants the service. L?M for Audrey regarding whether she had an opportunity to speak with the Judge. S/W Audrey 7/21/09 she has not spoken to Judge about the service yet she said that she will and get back to me.
	Dept. 6 - Adams	Heidi Boe, Sec.	(775) 328-3176	
	Dept. 10 - Elliott	Heidi Howden, Sec.	(775) 328-3530	
	Dept. 5 - Schumacher	Caryn Elder, Sec	(775) 328-3186	sent email to Bob re: previous contact efforts 7/20/09
Washoe County <i>Family Division</i> South Sierra Street, 3rd FL Reno, Nevada 89501	Dept. 11 - Weller	Annie Allison	(775) 328-3800	sent email to Bob re: previous contact efforts
	Dept. 12 - Doherty	Michon Chesnut	(775) 328-3470	sent email to Bob re: previous contact efforts
	Dept. 13 - Peck	Janet Taylor	(775) 325-6732	sent email to Bob re: previous contact efforts
	Dept. 14 - Gardner	Stephanie Broome, Sec.	(775) 325-6788	sent email to Bob re: previous contact efforts
Washoe County <i>Probation Department</i> Court	Tiras,	Ruby	(775) 832-4100	S/W Ruby and left message on Judge VM 8/27/09
Judicial District: Churchill & Lyon Counties				
Churchill County North Maine Street Fallon, Nevada 89406	Dept. 1-Huff	Johneta McGowen, Sec Chelsea Warner	(775) 423-6088 (775) 423-6080	Checking with local phone company first and then will look into CourtCall, spoke with Jim and does want the service. I called on 7/8/09 and Chelsea is out for the rest of the week. LM with Lena for Chelsea call me back on 7/21/09. Judge Huff has main chambers in Churchill County. Ok to order the lines 8/27/09. Lines ordered, phones sent. 8/28/09 Court trained on 9/24/09 ALL COMPLETE
	Richards	Brenda	(775) 423-2845	Judge is having trouble with Speakerphone. S/W office manager Brer Court was awarded a grant for video conferencing. They do not want the service.

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
yon County 31 uth Main Street Yerington, Nevada 89447	Dept. 2-Aberasturi	Chermaine Gord/Debbie	(775) 463-6571	AOC grant funding for Polycom phones, S/W Bea 7/21/09 she is the contact for all three Judges. They all travel between both court location and the units are only at the Lyon County location. She will look into coordinating their appearances on their existing units and get back to me. Judges are not interested in allowing CourtCall to coordinate matters.
	Dept. 3-Rogers	Bea McMinn, Sec		
Judicial District: Elko County				
Elko County 571 Idaho Street Elko, Nevada 89801	Dept. 1-Memco	Linda, JEA	(775) 753-4601	Both have responded to Justice Gibbons with an interest in CourtCall, Judge has not completed schedule form s/w 6/8 & 6/23 she was out ill and did not complete. Linda has completed the schedule form and will fax to by 7/17/09. S/W Justine 7/21/09 she will look for fax and send me. Linda is out of the office. Training has been scheduled for 8/20/09 at 9:30 AM. Training completed. We had difficulty on training as Shortel dropped call. But the conference was completed successfully ; the court is ALL COMPLETE
	Dept. 2-Puccinelli	Stephanie Pattani	(775) 753-4602	resent schedule form by email spoke with on 6/22/09 has not had an opportunity to complete form yet. L/M with Asst. 7/8/09 re status of sched forms. The court has indicated they want to use their own lines waiting for completed form before I send units for o/c & Chambers. 7/21/09 LM with Law clerk for Stephani to call me back. S/W 8/14/0 re:scheduling training. Stephani does not think Judge will want to use existing line to conduct courtcalls she will check with Judge about us installing a separate line and get back to me the week of 8/17/09. I spk with Judge 8/26/09 ok to order line in O/C only he does not want any distractions to court so we must be mindful during set up. Lines order phones sent 8/27/09 Court Trained on 9/22/09 ALL COMPLETE
	Jail Courthouse 75 West Silver Street Elko, Nevada 89801	JP Court & Muni Court - Kacin	Frankie Correa, Ct Admin	(775) 738-8403

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
Carlin Courthouse 101 S. 8th Street Carlin, Nevada 89822	JP & Muni Court - Feasel	Sarah	(775) 754-6321	spoke with Judge Feasel, court will use their own line, sent phone schedule form revd. Training was set for 7/8/09 at 2PM court's phone line did not work so I have ordered a VOIP unit to be shipped and we will test on this unit before we order a line for the court. Court has decided to allow courtcall to install a line. Order sent to Saul. Lines completed court trained on 9/11/09 ALL COMPLETE
Elko County 1510 Lake Avenue Wells, Nevada 89835	JP Court - Calton	Terri	(775) 752-3726	responded to Justice Gibbons with an interest in CourtCall, S/W Terri she knows nothing about service and asked me to call back after she had a moment to discuss with Judge. I spoke with Judge 7/15/09 ok to set in O/C & Chambers. Line ordered with Saul 7/22/09 phones sent for 7/29/09. Lines were halted by Judge and reordered with Saul for completion on 8/14/09. Sent email to Saul re: Status 8/18/09. RESEN schedule form 8/27/09. Lines completed 8/28/09 training TBA. Court trained 9/9/09 ALL COMPLETE
East Line Township Justice Court 937 West Wendover Blvd West Wendover NV 89883	Melville	Katie	(775) 664-2305	Judge is in Elko County. S/W Katie 8/25/09. LM for Court Administrator Stephanie 8/27/09. S/W Stephanie 8/31/09 ok to send phones. Court will attempt to use their existing lines. Unit sent 9/15/09. Waiting for schedule form to be completed. Confirmed phone received by court 9/21/09 S/W Stephanie court has not had an opportunity to plug in the phone. 9/28/09 court will plug in unit this week. Calendars are online
Jackpot Township Justice Court 1146 Juliette Drive Jackpot NV 89825	Black		(775) 755-2456	Judge is in Elko County. LM on VM 8/21/09 S/W Judge 9/2/09 ok to send unit and if line doesn't work order a new line. Unit sent 9/15/09 schedule form completed 9/11/09. Court confirmed receipt of unit and dial tone 9/23/09. Training TBA
Judicial District: Esmeralda, Mineral & Nye Counties				
1 Courthouse Road/ 101 Radar Road Tonopah, Nevada 89049	Dept. 1-Davis	Gerie Clifford, Sec		Polycom phones satisfying needs, they know about CourtCall. Verify addresses and travel

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
onopah Township Justice Court	Maslach	Patty	(775) 482-8155	Judge is in Nye County, Court Administrator is Jennifer. Jklapper@co.nye.nv.us Schedule form sent 8/26/09. She will get back me by 8/28/09. LM for Jennifer 9/15/09 S/W Patty 9/21/09 Jennifer g another line and will call me back.
Nye County Government Center 1520 East Basin Avenue Pahrump, Nevada 89060	Dept. 2-Lane	Cindy Ward, Sec Chumley	(775) 751-4210	Polycom phones satisfying needs, they know about CourtCall. Spoke with Rebecca Chumley 7/21/09 they will likely use their unit in o/c ar request courtcall install in the hrg rm & Judge's chambers. The court will be having some sort of remodel by the new year so they will likel request the hrg rm/chamber connection at that time. She is going to check with the Judge and get back to me. I emailed her the Schedule form 7/23/09. Court is ready to go forward I left a message for Rebec on 8/17/09 re: set up for Justice courts also. 8/27/09 ok to set up Dist Ct. 2, Chambers 2, & Hearing Room. She is still verifying JP Ct. 1. L. ordered phones sent 8/28/09 The lines were activated on 9/4/09. The cross connections are in the hands of Ken Hunt, the courts inside wiring guy. I last spoke with Ken on 9/14/09 to review the line destinations (again). He was working with Rebecca to get the lines extended to the correct locations. I attempted to get another update this morning but he is not in today. I will follow up again tomorrow. 9/29/09. Lines still not complete Ken got tied up with other.
	Brisebill, JP Court1	Kathy Ivy	(775) 751-7050 (775) 751-7057	Fax number 775.751.7059. Judge is in a temporary courtroom that wi not be completed until new year
	Jasperson, JP Court2		(775) 751-4272	Fax number 775.751.7059. Judge is in a temporary courtroom that wi not be completed until new year
3eaty Township Justice Court	Sullivan	Debbie	(775) 553-2951	Judge is in Nye County. 8/21/09 Number is busy try again next week. S/W Debbie 9/8/09 who referred me to the Court Administrator. LM 1 Ct. Admin with Debbie. 9/22/09 Ct. Admin in a meeting will call me back.
Judicial District: Humboldt, Lander & Pershing Counties				

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Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
Pershing County 400 Main Street Loveland, Nevada 89419	Dept. 1 - Wagner	Jolene Scillacci, Sec.	(775) 273-2105	Called the listed contact number-4 attempts, no answer. I finally spoke with Jolene on 8/13/09 she wants me to send over line options. Judge will call me back. 9/15/09 s/w Jolene Judge has not mentioned anything to her. S/W Judge 9/21/09 He has spoken with Judge Montero but the have not made a decision. I called the court on 9/30/09 Judge has been out of the office his wife had surgery. Jolene requested I call the Judge directly at home. 775.273.2027. Judge is OK with service in O/C only. He wants me to contact Judge Wagner and advise the same. I am holding off on ordering lines until I verify that the court is not received AOC units.
	JP Court - Nelsen	Karen Stephens or Tricia	(775) 273-2753	responded to Justice Gibbons with an interest in CourtCall, Jim spoke with Judge who is interested, when I called the number provided it was not in service. I will research information and try again. All contact details has the same number. I tried calling again on 7/13/09 and still no answer on the line. Finally spoke with secretary. Judge is interested send information. RCVD Schedule Form 8/25/09. Lines have been ordered phones sent. 8/28/09. Lines completed training scheduled for 10/5/09
Humboldt County 50 West Fifth Street Winnemucca, NV 89446	Dept. 2 - Montero	Rose Sanchez	(775) 623-6371	Judge has a speakerphone and would like to upgrade. I spoke with Rose once she indicated that they would do whatever Judge Wagner decide. S/W Rose and advised that Judge Wagner wants to go forward with CourtCall. She mentioned that the Court just received an AOC grant and that they may not need units. I told her that we could still coordinate their telephonic appearances. She requested I send the details in writing to both her and the Judge. Sent 9/28/09
	JP Court - Wambolt	Debbie Court Clerk Ginger Court Administrator	(775) 623-6377	Union Township Justice Court - Judge is in Humboldt County. S/W Debbie she asked I call back and speak with Ginger. 9/2/09 s/w Ginger ok to set up court in O/C only. Line order sent 9/15/09. Waiting for confirmation from Saul.

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
Lander County 315 S. Humboldt Battle Mountain, NV 89820	JP Court - Bunch	Tonya	(775) 635-5151	6/17/09 Denise knew nothing about the service will check with Judge and get back to me. Spoke with Judge and rcvd ok to set up. He shai this court with 2 Judicial Judges (Montero/Wagner). Judge halted line install after he discovered they may be getting units through the AOC He will contact me next week possible training on existing lines after checks with the Dist. Judges. I spoke with Judge Bunch who has not l an opportunity to speak with the District Judges. They have recently rcvd new units which all will share. Judge Bunch requested I call him back the first week of August if I have not heard from him. Judge wa me to get clearance through District courts re: allowing courtcall to handle their appearances through existing units.
Judicial District: Eureka, Lincoln & White Pine Counties				
White Pine County Courthouse 801 Clark Street Ely, Nevada 89301				Re-sent the letter 5/28/09. Both very interested in CourtCall, s/w on 6/23/09 requested I send schedule form & line options. I emailed Carol the schedule form and line options and followed up with a voicemail. spoke with Carol on 7/14/09 she said to try her back next week Judge has been in great discussion with Judge Papez in dept. 2. s/w Carol 7/22/09 Judge has not given her a response back. She suggested I try chief Judge Papez first who will likely make the decision for both counties. 8/3/09: Judge Dobrescu and Judge Papez have finally discussed i and have agreed to get things going with Court call. I have filled out the scheduling forms for our 3 courts in 3 different counties : once signed I will be faxing them. Thank you for your patience.Carol R. Fielding LINES HAVE BEEN ORDERED AN PHONES SENT. Lines completed. Training TBA
	Dept. 1-Dobrescu	Carol Fielding, Sec	(775) 289-4813	
	Dept. 2-Papez	Wendy Lopez, Sec	(775) 289-1546	s/w on 6/23/09 she will call me back week of 7/6/09, Judge appears t travel between Pioche Co & Eureka Co. I s/w Wendy on 7/13/09 Judge is still considering service. He has been discussing it in detail with Judge Dobrescu. I advised Wendy to give the Judge my number if he had e questions he would like answered. Lines have been ordered and phones sent, Lines completed training TBA

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
	Niman, JP Court	Donna, Sec	(775) 289-2678	open court only. Same building as district court. Lines have been ordered and phones sent Fax number is 775.289.2678 Lines completed Training scheduled for 10/1/09
Ely Municipal Court 1785 Great Basin Blvd Ely, Nevada 89301	Kalleres, Muni Court	Pat, Sec	(775) 289-4838	rcvd from Carol 8/5/09, s/w Pat this court does not want the service They utilize videoconferencing in conjunction with their regular desk phone when needed. They do not handle any civil proceedings just misdemeanors, domestic violence & DUI's,
Eureka County Courthouse) South Main Street Eureka, Nevada 89316	Dobrescu/Papez	Jackie Berg	(775) 237-5262	s/w on 8/18/09 ok to order lines and send units. She confirmed that it is only one courtroom and one chambers and that the Judges rotate weeks at this location. Lines have been ordered phones sent. Court completed. Training scheduled 10/21/09
Eureka Township Justice Court 701 South Main Street Eureka, Nevada 89316	Schweble, JP Court (Eureka Township Justice Court)	Cindy	(775) 237-5540	spoke with Cindy. This court does not want to be set up. They put an at&t line
Leowawe Township Court 5th and Tenabo Crescent Valley Nevada 89821	Fye	Linda	(775) 468-0244	Judge Fye is in Eureka Co. I left a message for the Judge on 8/13/09, Judge out 8/27/09. Ok to send Schedule form. 8/28/09 Judge called to confirm she is not interested in CourtCall they utilize AT&T like Eureka Justice Court.
Lincoln County Courthouse 181 Main Street Pioche, Nevada 89043	Cowley, JP Court (Meadow Valley Township Justice Court)	Brenda Mason, Sec	(775) 962-5140	they do not have phones!!!, confirm whether to add service in chambers. Judge Cowley only in O/C. Shares court with Judge Papez. Lines have been ordered phones sent. Lines completed. Court Trained 9/28/09 ALL COMPLETE
Lahranagat Valley Justice Court 100 South 1st West Street Alamo, Nevada 89001	Holton, JP Court	Marge Davis, Ct. Clerk	(775) 725-3357	Judge is in Lincoln county. ok to set up open court only. Does not share court with district. Lines have been ordered phones sent. Lines completed 8/27/09. She will call me with a training date. Training completed 9/16/09 ALL COMPLETE
Judicial District - Clark County (Las Vegas)				
	Dept. 1 - Cory	Joan Lawson	(702) 671-4324	training completed 7/2/09 at 12:30PM ALL COMPLETE FIRST CALL ALREADY MONITORED

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Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
Clark County Civil Courthouse 200 Lewis Avenue	Dept. 6 - Cadish	Tim Kelley	(702) 671-4350	lines ordered with Saul, phones sent. Waiting for Saul to complete li Lines completed 8/28/09 COURT IS COMPLETE
	Dept. 10 - Walsh	Jeri Winter	(702) 671-4385	ok to add a line in O/C only. Line ordered with Saul phone sent 7/17/ waiting for completion lines completed 8/28/09 training scheduled fo 9/9/09 at 2PST COURT COMPLETE
	Dept. 13 - Denton	Lorraine Tashiro	(702) 671-4429	s/w lorraine 6/24/09 sent email re line options and lm on vm 7/13/09. Line already dropped by Ignacio 7/15/09 lm on vm, 7/29/09 LM On ' rcvd email from Lorraine on 7/30/09: Good morning, Sha. I'm sorry I haven't been able to respond to this; I am still working on but I have been bombarded with multiple tasks in the last 6 weeks or And, last week, I received an e-mail from Court Administration that there is going to be another delay and more technicalities that they ne to work out. I will let you know what Judge Denton decides as soon as all the technicalities are worked out. Thank you for your understanding and patience. S/W Lorraine on 8/13/09 Judge still has not made a decisio Send her email from Matt stating all ahead. 9/25/09 s/w Lorraine she will check with Judge and get back to me 9/30/09 s/w Lorraine Judge in a trial, she has not had time to discuss with him. She will call me back.
	Dept. 15 - Silver	Gail M. Reiger	(702) 671-4412	spoke with Gail training is scheduled for 7/22/09 at 10AM PST. If the are not please with sound quality we will order a new line and send units. Training completed. JM Sent 7/24/09. ALL COMPLETE
Clark County Civil Courthouse 200 Lewis Avenue	Dept. 18 - Barker	Diane Sanzo	(702) 671-4459	L/M with law clerk on 7/14/09, LM2 for Diane on 7/21/09, S/W Dian 7/22/09 she will get with Judge and call me back for training/test call. Court trained 8/10/09 court is ok with existing unit. JM Sent 8/25/09. COURT COMPLETE
	Dept. 20 - Wall	Alona Candito	(702) 671-4440	ok to set up. Lines have been ordered with Saul phones sent 7/17/09. Lines completed 8/28/09 call court on 9/1/09 to schedule training. Trained 9/3/09 ALL COMPLETE

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
Las Vegas, Nevada 89155 Court Contact is Matt Zoccole @ 702.671.3312, occoleM@clarkcountycourt s.us	Dept. 23 - Miley	Carmen Alper	(702) 671-0574	LM on VM for Carmen on 7/15/09, S/W Carmen briefly she said she will have to call me back. No phones needed assigned units from Jud Gonzalez Dept. F Lines assigned from Judge Gonzalez also. Lines completed 8/28/09 training TBA. Court Trained 9/10/09 ALL COMPLETE
	Dept. 24 - Bixler	Tatyana Ristie	(702) 671-0591	7/1/09 s/w Tatyana training scheduled for 7/7/09 @ 1PM. Training completed. Court now wants line in O/C and chambers. Court does not know about using the service for hearings on the calendar but they are open to some change and they do allow telephonic "conferences" at least once a week. Lines have been ordered and units sent 7/8/09 with Saul Lines completed 8/28/09 LM for Tatyana advising her of completion. COURT COMPLETE
	Dept. 3 - Herndon	Molly Free, JEA	(702) 671-1312	schedule form completed, verifying if court wants to use own equipment or not. Ok to set up lines have been ordered with Saul phones sent 7/17/09. Lines to be completed next week. Training scheduled for 10/2/09
	Dept. 4 - Hardcastle	Janice Liston	(702) 671-4306	s/w Janice on 6/23/09 Judge will likely be a floater she will check and get back to me on line options wants service on O/C & Chambers. Lir ordered phones sent. Waiting line completion confirmation. Lines completed 8/28/09 training TBA. Court trained 9/30/09 ALL COMPLETE
	Dept. 6 - Oesterle	Tracy Cordoba	(702) 671-3392	ok to set up. Lines have been ordered with Saul phones sent 7/17/09. Lines completed 8/28/09 training TBA. 9/25/09 s/w Tracy she still do not have a training date available. She will call me back. LM on VM 9/30/09 re: training.
	Dept. 7 - Bell	Chermaine Gord	(702) 671-4344	wants to use own line. training TBA. I left 2 messages for Chermaine with no response a finally spoke with her on 7/15/09. She said the Jud has been in trial and their schedule is busy. She doesn't see any time available for the training until August. I LM for Chermaine on 8/13/09 she is out until 8/19/09 s/w Chermaine training scheduled for 8/20/09 10:30 AM PST. Training completed. ALL COMPLETE
	Dept. 12 - Leavitt	Sue Deaton, JEA	(702) 671-4372	LM on VM 6/29/09. Ok to set up in O/C & Chambers. Sent line order and units waiting for completion. Lines Completed 8/28/09 training TBA Court Trained 9/11/09 ALL COMPLETE

Nevada New Court Progress

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Court	Dept.-Judge	Contact Name	Number	Notes
Las Vegas Township Court Clark County <i>Civil Courthouse</i> 200 Lewis Avenue Las Vegas, Nevada 89155	JP Court 1 - Lippis	Debbie?	(702) 671-3341	schedule form rcvd with no contact information research to locate. I spoke with a Debbie on 7/15/09 she will call me back. LM on VM 8/7/09, S/W Debbie on 8/13/09 she will call me back. LM 8/27/09 re up 9/30/09 s/w Debbie, ok to order line in O/C only. Lines ordered, phones sent.
	JP Court 4 - Saragosa	Justa Johnson	(702) 671-3367	LM on VM 8/26/09 re: set up LM on VM 9/25/09
	JP Court - 9 Bonaventure	Debbie	(702) 671-3330	S/W Debbie Judge is out until week of 8/31/09 sent information by fax to 702.671.4789
	JP Court - 12 Sullivan	Jennifer	(702) 671-0842	s/w Jennifer in O/C only. Lines have been ordered 8/28/09 phones sent. Schedule form completed. Court trained 9/24/09 ALL COMPLETE
Clark County <i>Family Courthouse</i> 601 North Pecos Las Vegas, Nevada 89101	Dept. F - Gonzalez	Enia Castillo	(702) 671-3545	ok to install units in depts 10D, 10A & Judge's Chambers. Lines have been ordered and phones sent 7/17/09. COURT CANCELED REQUEST. SENT CANCELTION TO SAUL. Court will use their own lines and cisco units. I sent her line options email. Court does not wish to use CourtCall
	Dept. M - Potter	Cindy Marshall, JE	(702) 671-3553	Training Scheduled for 7/8/09 @ 1PM From: Marshall, Cindy Date: 7/8/2009 10:53:15 AM Judge Potter has had an opportunity to review the options provided by Court Call and feels like these services would not be appropriate for courtroom. Therefore, we would need to cancel the training for this afternoon. Thank you. I also spoke with Cindy with the intention to continue our training and possibly inform the Judge of the benefits of our service. Cindy said that there would be no need as the Judge has already diligently researched CourtCall and they do not wish to use it service.
Las Vegas Municipal Court	Brown, Dept. 4	Theresa	(702) 229-2036	LM on VM RE: Set up. Court is closed on Fridays S/W Theresa on 8/31/09 Judge does not want service.
North Las Vegas Township Justice Court 2428 N. MLK BLVD. North Las Vegas, NV 89032	Dahl, Dept. 1		(702) 455-7804	LM on VM RE: Set up. Court is closed on Mondays, hours are T-F 7AM-6PM

Nevada New Court Progress

Black=completed/ Blue=in progress/ Red=work to do/ Green= Court initiated delay

Court	Dept.-Judge	Contact Name	Number	Notes
Henderson Township Justice Court 243 Water Street Henderson, Nevada 89015	Burr Gibson George	Linda Morris, Ct Administrator	(702) 455-7923	s/w Linda at length on 7/21/09 she is definitely interested in the servi for her court but she is also exploring other options. This Court alrea has units in O/C and I sent her a civil packet for review along with ar email with a schedule form for completion. LM for Linda on 8/11/09; 9/2/09 s/w Hanna left message for Linda to call me.
he Outlying Justice Courts of Boulder City, Bunkerville, Goodsprings, Laughlin, Mesquite, Moapa, Moapa Valley and Searchlight				
Boulder City Justice Court 505 Avenue G Boulder City NV 89005	Miller	Nancy Spilker	(702) 455-8000	
Goodsprings Justice Court 3120 Las Vegas Blvd South Jean NV 89019	Haviland	Becki Driskel	(702) 874-1405	
Moapa Justice Court 1340 East Community Center Hwy 168 Moapa Nevada 89025	Kolhoss	Deanna Hartson	(702) 864-2333	
Searchlight Justice Court 190 Cottonwood Cove Road Searchlight NV 89046	Vacant	Ruth Walker	(702) 297-1252	Primary contact is Karen M. Powell at 702-455-4147. Lines have bee ordered 8/11/09, phones were sent 8/12/09. Schedule forms complete 8/7/09. Court was upset because Techs were showing up without notifying the court. Saul to resolve. 9/21/09 I have a request for 8 run courts in Nevada.
Bunkerville Justice Court 190 Virgin Street Bunkerville, NV 89007	Dodenbier	Marlene Duty	(702) 346-5711	6 of the 8 are complete but I have been having difficulties with the la two due to court access or IT personnel. I am hoping to have them resolved shortly. I will keep you posted. Saul 9/24/09 sent Email to Karen requesting a training date for the courts that are currently completed.
Mesquite Justice Court 500 Hillside Drive Mesquite Nevada 89027	Dodd	Marlene Van Beveren	(702) 346-5298	
Moapa Valley Justice Court 20 N. Moapa Valley Road Overton NV 89040	Waite	Tanya Robinson	(702) 397-2840	

Nevada New Court Progress

Black=completed/ Blue=in progress/ Red=work to do/ Green= Court initiated delay

Court	Dept.-Judge	Contact Name	Number	Notes
Laughlin Justice Court 101 Civic Way Laughlin Nevada 89029	Atkins	Helen Birdie	(702) 298-4622	
Judicial District, Douglas County				
Douglas County 1625 8th Street Minden, Nevada 89423	Dept. 1-Gamble	Joann Thaler, Sec	(775) 782-9961	Their needs have been satisfied to date-both use speakerphone in Chambers, they would be interested in upgrading, I spoke with Joann who will check with Judge and get back to me. 7/13/09 Joanne said the Judge is not interested at this time.
	Dept. 2-Gibbons	Ursula McManus	(775) 782-9951	Their needs have been satisfied to date-both use speakerphone in Chambers, they would be interested in upgrading, I spoke with Ursula she did not know about the service will check with Judge and get back to me. I left a vm for Ursula on 7/13/09. S/W Ursula 7/29/09 she requested I send packets. Info sent 8/13/09., Spoke with Ursula Judges have no made a decision but it is on his desk. Judge Gamble is having surgery and will not be back until November try back then as both Judge and will have to agree to go forward.

TAB 6



2009 PROGRAMS AND PROJECTS ACCESS TO JUSTICE COMMISSION

Updated 9.2009

- **501 (C) 3. ON HOLD indefinitely**
 - If reinstated, develop conflict policy and scope of lobbying/legislative activities
- **ATJC PR & Marketing**
- **Attorney recognition programs**
 - Statewide awards, State Bar Annual Convention
 - National Pro Bono Week October 21, 2009. Plan state-wide events.
- **Court posted fees**
- **Cy Pres funding**
- **Emeritus Attorney Program.** Providers to develop working program and work with Director to implement operating rules and develop comprehensive plan to solicit participation. Tap eligible out of state attorney resources.
- **IOLTA Comparability.** Negotiate with banks to join preferred list. Recommend potential rule changes to enforce comparability through amendment to SCRs (likely 217). Expand marketing plan.
- **Law firm initiatives**
 - Follow through with large law firms, responders and non-responders
 - Identify future plan for medium and small firm meetings
- **Lawyer recruitment and Retention**
 - Loan repayment assistance program
 - Fellowships
 - Retirement/benefits/salary enhancement
 - Public Interest Lecture Series. Define goals and objectives of the series
- **Legal Needs Assessment**
 - Marketing plan development and roll-out
- **NLF and the ATJC.** Continue to expand relationship between NLF and the ATJC as potential investment and/or fundraising arm
- **Rule changes (potential)**
 - IOLTA Comparability
 - Rules 216 and 217
 - Amendments to RPC 6.1 and mandatory reporting
 - SCR 15- Composition of the ATJC
 - NLF as fundraising and investment arm of the Commission
- **Rural legal services delivery**
 - Continue to develop the new standing committee goals
 - Assist with the AOC Technology in the Courts initiative
- **Self-Help initiatives**
 - Participate in RJC Self-help roll-out
 - Standardized Forms: Coordinate with Supreme Court Library Commission
- **Statewide fundraising.**
- **Uniform Reporting.** Develop a standardized reporting system for legal services provider statistics
- **Website.** Develop nevadalawhelp.org

RULE 15 OF THE NEVADA SUPREME COURT*

“This court agrees with the petition’s allegations regarding the importance of access to justice in a democratic society; the lack of sufficient access to justice for thousands of Nevada citizens of limited means despite the efforts of numerous public and private organizations, attorneys, and other individuals, the critical need for statewide strategic planning and coordination of efforts to expand services and improve access to justice; and the effectiveness of supreme court commissions on access to justice created in other jurisdictions to respond to similar challenges...”

PURPOSE OF THE ACCESS TO JUSTICE COMMISSION

- 1) Assess current and future needs for civil legal services for persons of limited means in Nevada.
- 2) Develop statewide policies designed to support and improve the delivery of legal services.
- 3) Improve self-help services and opportunities for proper person litigants and increase pro bono activities.
- 4) Develop programs to increase public awareness of the impact that limited access to justice has on other government services and on society.
- 5) Investigate the availability of and pursue increased public and private financing to support legal services organizations and other efforts to provide legal services to persons of limited means.
- 6) Recommend legislation or rules affecting access to justice to the Supreme Court.

*condensed

Rule 15. Commission on Access to Justice.

1. **Creation, purpose.** The supreme court shall appoint a commission on access to justice. The commission shall:

- (a) Assess current and future needs for civil legal services for persons of limited means in Nevada.
- (b) Develop statewide policies designed to support and improve the delivery of legal services.
- (c) Improve self-help services and opportunities for proper person litigants and increase pro bono activities.
- (d) Develop programs to increase public awareness of the impact that limited access to justice has on other government services and on society.
- (e) Investigate the availability of and pursue increased public and private financing to support legal services organizations and other efforts to provide legal services to persons of limited means.
- (f) Recommend legislation or rules affecting access to justice to the supreme court.

2. **Composition.** The access to justice commission shall be composed of the chief justice of the supreme court or the chief justice's designate and the following members, to be appointed by the supreme court to four-year terms:

- (a) One district judge each from the Second and the Eighth Judicial District Courts. At least one of those judges must be assigned to the family division of the district court.
- (b) One additional district judge to be selected from the First, Third, Fourth, Fifth, Sixth, Seventh, or Ninth Judicial District Courts.
- (c) One limited jurisdiction judge, who shall serve as liaison to the Nevada Judges Association.
- (d) One representative designated by the Nevada Attorney General.
- (e) One representative each from the City of Las Vegas Senior Citizens Law Project, Clark County Legal Services/Pro Bono Project, the Eighth Judicial District Pro Bono Foundation, Nevada Legal Services, Volunteer Attorneys for Rural Nevadans/Domestic Violence Project, the Washoe Access to Justice Foundation, the Washoe County Senior Law Project, and Washoe Legal Services/Pro Bono Project.
- (f) One representative each from the Clark County Bar Association, the State Bar of Nevada, and the Washoe County Bar Association.
- (g) One representative from the clinical program at the William S. Boyd School of Law of the University of Nevada, Las Vegas.
- (h) Two persons who are not members of the legal profession.

The commission may appoint nonvoting members, including, but not limited to, judges and representatives from other direct service providers, county bar associations, and neighborhood pro bono projects.

3. **Meetings.** The commission shall meet at least semi-annually and shall have additional meetings, as the commission deems appropriate. The commission may form separate subcommittees to address specific issues.

[Added; effective June 15, 2006.]

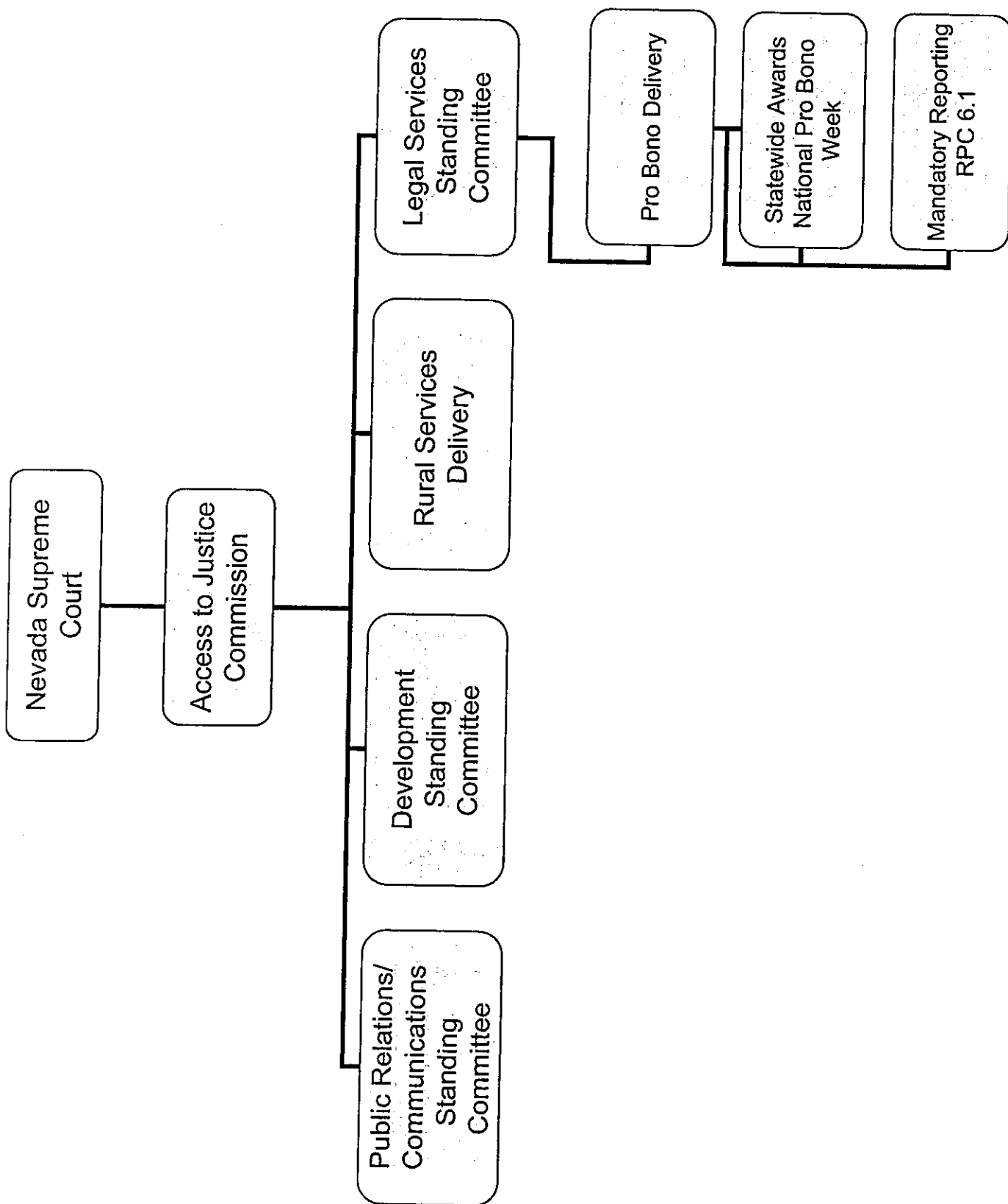
Access to Justice Commission 2009

Last	First	Title	Position	Rule Slot	Phone	Email
Abbott	Kimberly		Pro Bono Project Director	Legal Aid Center of Southern Nevada	702-386-1070	kabbott@lacs.nv.org
Cooney	Valerie		Executive Director	Volunteer Attorneys for Rural Nevadans	775-883-8278	vcooney@varn.org
Desmond	John			Washoe County Bar	775-786-5000	jpd@jonesvargas.com
Doherty	Frances	Hon.		Second Judicial District Court/ Family Court	775-328-3470	frances.doherty@washoecourts.us
Douglas	Michael	Justice	Commission Co-Chair	Supreme Court of Nevada	702-486-3205	mdouglas@nvcourts.nv.gov
Elcano	Paul		Executive Director	Washoe Legal Services	775-287-0329	pelcano@ashoelegalservices.org
Ferenbach	Cam			SBN Board of Governors	702-383-8888	cferenbach@lionelsawyer.com
Goff	Betsy	Hon.		Eighth Judicial District Court	702-671-4378	GonzalezE@clarkcountycourts.us
Gonzalez	James	Justice	Commission Co-Chair	Supreme Court of Nevada	775-684-1590	jhardesty@nvcourts.nv.gov
Hardesty	Anna Marie		Executive Director	Nevada Legal Services	800-323-8666	ajohnson@nlsilaw.net
Johnson	W. Brett			Office of the Attorney General	775-688-1966	bkandi@ag.nv.gov
Kandt	Ernest			Washoe Co. Senior Law Project	775-328-2592	erielson@washoecounty.us
Nielsen	Andrew	Hon.		Fourth Judicial District Court/ Rural Courts	775-753-4602	apuccinelli@elkocountynv.net
Puccinelli	David	Professor		UNLV Boyd Law School	702-895-2080	David.thronson@unlv.edu
Thronson	Sheri Cane		Executive Director	Senior Citizens Law Project	702-29-6644	svogel@lasvegasnevada.gov
Vogel			Vice President, Community Relations The Howard Hughes Corporation			
Warden	Tom			(layperson 1)	702-791-4267	twarden@gqp.com
Steinheimer	Connie	Hon.		Defunct slot- Washoe Access to Justice Foundation	775-328-3183	judge.steinheimer@washoecourt.us
Vacant				Defunct slot-Eight Judicial Pro Bono Foundation		
Vacant				Limited Jurisdiction Judge; Liaison to Nevada Judges Association 15(2)(c)		
Marzec	Kristina		Commission Director	State Bar of Nevada	702-382-2200 702-317-1404	kristinam@nvbar.org

Access to Justice Commission

July 2009

Last	First	Title	Position	Rule Slot	SCR 155	Email
Abbott	Kimberly		Pro Bono Project Director	Legal Aid Center of Southern Nevada	2(e)	kabbott@lacs.nv.org
Bradshaw	James			State Bar Board of Governors	2(f)	jbradshaw@Mcdonaldcarano.com
Cooney	Valerie		Executive Director	Volunteer Attorneys for Rural Nevadans	2(e)	vcooney@varn.org
Desmond	John			Washoe County Bar	2(f)	jpd@jonesvargas.com
Doherty	Frances	Hon.		Second Judicial District Court/ Family Court	2(a)	frances.doherty@washoecourts.us
Douglas	Michael	Justice	Commission Co-Chair	Supreme Court of Nevada	2	mdouglas@nvcourts.nv.gov
Elcano	Paul		Executive Director	Washoe Legal Services	2(e)	pelcano@ashoelegalservices.org
Goff	Betsy	Hon.		Eighth Judicial District Court	2(a)	Gonzalez E@clarkcountycourts.us
Gonzalez	James	Chief Justice	Commission Co-Chair	Supreme Court of Nevada	2	hardesty@nvcourts.nv.gov
Johnson	Anna Marie		Executive Director	Nevada Legal Services	2(e)	ajohnson@nslaw.net
Kandt	W. Brett			Office of the Attorney General	2(d)	bkandt@ag.nv.gov
Nielsen	Ernest			Washoe Co. Senior Law Project	2(e)	enielsen@washoecounty.us
Puccinelli	Andrew	Hon.		Fourth Judicial District Court/Rural rep	2(b)	apuccinelli@elkocountynv.net
Thronson	David	Professor		UNLV Boyd Law School	2(g)	David.thronson@unlv.edu
Vogel	Sheri Cane		Executive Director	Senior Citizens Law Project	2(e)	svogel@lasvegasnevada.gov
Warden	Tom		Vice President, Community Relations The Howard Hughes Corporation	Layperson 1	2(h)	
Steinheimer	Connie	Hon.		Defunct slot- Washoe Access to Justice Foundation	2(e)	twarden@ggpp.com
				Defunct slot-Eight Judicial Pro Bono Foundation	2(e)	judre.steinheimer@washoecourt.us
Vacant				Clark County Bar	2(f)	
Vacant				Limited Jurisdiction Judge; Liaison to Nevada Judges Association 15(2)(c)	2(c)	
Vacant				Layperson 2	2(h)	
Marzec	Kristina		Commission Ex. Dir.	Staff	2	kristinam@nvbar.org



TAB 7



MEMORANDUM

From: Kristina Marzec
To: Access to Justice Commission
Date: October 9, 2009
Re: Commission Calendar 2010

As you will recall for 2009, we set the four quarterly meetings at once. This worked particularly well and I would like to do this again for 2010 to allow for maximum availability and attendance. Based solely on the Supreme Court's master calendar (which is already mostly full), I propose the following dates for consideration:

First Quarter

Jan 8, 11, 21, 22

Second Quarter

April 1, 2, 7, 8, 9, 12, 26, 27

Third Quarter

July 14, 15, 16, 22, 23

Fourth Quarter

Oct- 1, 6, 7, 8, 21, 22

LOCATIONS

The legal service providers would like to have one *everyone in person* meeting annually. If approved, my suggestion is the State Bar annual convention for the years it is held in Nevada. For the other years, rotate between the South and the North.

Because 2010 is an out-of-state year for the convention, I propose the in-person meeting mid-year in July at the Northern Nevada Bar Center.

The remaining three meetings would continue to be video-conferenced in Reno, Carson City, and Las Vegas.

North Carolina Access to Justice Commission
Mission, Bylaws and Principles Document
Revised 8/11/06

Article I. Mission and Authority

In order to expand access to civil legal representation for people of low income and modest means in North Carolina, the North Carolina Supreme Court, by order dated November 3, 2005, created the North Carolina Equal Access to Justice Commission.

Article II. Members

Section 2.01 Number and Appointment

The Commission shall be comprised of 25 members representing the legal community. The number of members and the representative organizations are specified in the Order establishing this Commission. The current membership includes:

Membership	Number of Members
Supreme Court	1
Court of Appeals	1
Superior Court	1
District Court	1
Clerk of Court or Administrative Office of the Courts	1
North Carolina Bar Association	2
North Carolina State Bar	2
IOLTA	1
Voluntary Bar Associations	3
Philanthropy Community	1
Business Community	2
Legal Aid of North Carolina	2
NC Justice Center	1
Legal Services Community (unrestricted organization)	1
Client Community	1
Governor of North Carolina	1
President Pro Tempore	1
Speaker of the North Carolina House of Representatives	1

Section 2.02 Qualifications

Members of this Commission shall be residents of North Carolina with a demonstrated interest in access to justice and shall be appointed according to the Court order establishing this Commission.

Section 2.03 Terms of Office

Terms of office shall be three years commencing on the date of the first meeting of the Commission. In order to provide continuity in the membership of the Commission, the terms for which the Commission's initial members are appointed shall expire on the dates set forth below. Governmental appointments expiration dates coincide with the

expiration of the appointing person's term of office or with the member's term of office, whichever comes first.

April 30, 2007	Class I
April 30, 2008	Class II
April 30, 2009	Class III

Section 2.04 Resignation

Any member may resign by sending a written notice of resignation to the Executive Director of the Commission. The resignation shall be effective on the date of the notice unless an effective date thereto is stated in such notice.

Section 2.05 Vacancies

If a vacancy on the Commission occurs, the Chair may request the appointing organization to designate another appointee.

III. Meetings and Rules of Procedure

Section 3.01 Regular Meetings

The Commission shall meet at least four times per year at such dates, times and locations as the Chair shall determine. Meetings will be announced at least 4 weeks in advance of meetings with notice to each member.

Section 3.02 Special Meetings

Special meetings of the Commission may be called by or at the request of the Chair or any seven or more Commission members. The person calling any special meeting shall give no less than 5 days' prior notice stating the purpose of the meeting by personal delivery, first class mail, electronic transmission or facsimile to the address of each member noted in the official records of the Commission.

Section 3.03 Action and Quorum

At all Commission meetings, fifteen (15) shall constitute a quorum for the transaction of business. Voting may be in person, by proxy, by letter or by telephone. Action shall be deemed official if approved by a majority (50% plus one person).

Section 3.04 Action by Consent

Any action which may be taken at a meeting of members may be taken without a meeting through a consent in writing describing such action and executed by three-fifths (3/5ths) of all members entitled to vote.

Section 3.05. Amendment of Bylaws

These by-laws may be amended by the affirmative vote of three-fifths (3/5ths) of the Commissioners present, assuming a quorum is present, at any meeting of the Commission.

IV. Officers

Section 4.01 Officers

The officers of the Commission shall be a chairman, an executive director, a vice chair, a secretary and a treasurer. The Commission's chair will be the Chief Justice or her designee. The vice chair, secretary and treasurer shall be elected by the Commission on recommendation of the Chair.

Section 4.02 Chair

The Chair is the official spokesperson of the Commission and shall preside at all Commission meetings.

Section 4.03 Vice Chair

The Vice Chair shall perform the duties and exercise the powers of the Chair in her absence or inability to perform. The Vice Chair will also perform other such duties as assigned by the Chair.

Section 4.04 Secretary

The Secretary is responsible for the minutes and other records of the Commission. The Secretary shall also assume other responsibilities as assigned by the Chair.

Section 4.05 Treasurer

The Treasurer shall chair the Finance Committee and shall be responsible for the financial records of the Commission.

Section 4.06 Executive Director

The executive director shall be responsible for supervisory and administrative responsibilities, including, but not limited to, compiling research, identifying alliances for the Commission's work, overseeing the overall work of the Commission and its committees and project and shall be responsible for fund development of the Commission. The Executive Director is appointed by the Chief Justice.

V. Research, Programs and Projects

Section 5.01 Research. The Executive Director will provide assistance to Commission members for the management of research projects. The Executive Director may work with other organizations, including local law schools and universities, to facilitate her work.

Section 5.02 Programs

From time to time, the Commission will develop programs to educate the legal community and the public, generally. Each year, the Commission will review the current programs to determine their feasibility and necessity.

Section 5.03 Projects

From time to time, the Commission will engage in specific projects which will involve Commission members and others invited to participate in the Commission's work. These projects may rely upon the expertise and resources of the organizations represented on the Commission.

Section 5.04 Committees

There will be two standing committees of the Commission, the Executive Committee and the Finance Committee. The Executive Committee will be responsible for the overall management of the Commission and its activities. The Finance Committee is responsible for fund development for the Commission. Other committees may be added as needed based upon the research, project or program needs of the Commission and at the discretion of the Chair. Except as otherwise provided in section 4.03, the members of all committees will be appointed by the chair of the Commission.

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October 1, 2009

Pro Bono Challenge: Take one case

Only about half of the state's lawyers perform pro bono work

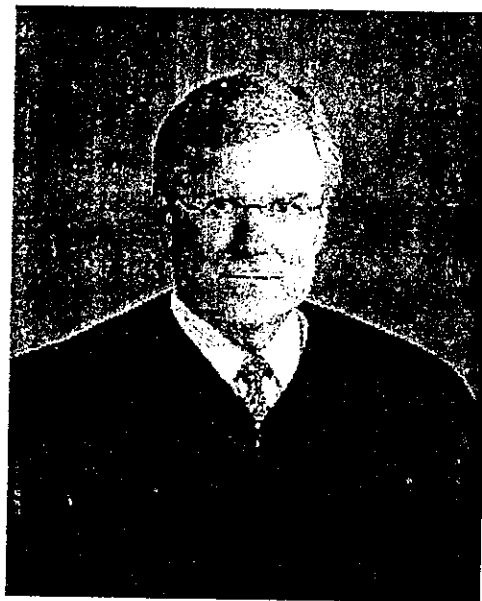
By Gary Blankenship
 Senior Editor

Despite a steadily rising Bar membership, pro bono work remains flat and the Bar's Pro Bono Legal Services Committee is working on a three-pronged attack to improve those statistics.

The committee reviewed and refined its plans at a September 9 meeting during the Bar's Tampa General Meeting. Those plans include participation in a likely ceremonial session at the Supreme Court at the end of October as part of a national pro bono week celebration.

"I view this as a three-legged stool. One leg is an outreach to the lawyers of Florida to inspire them to increase their pro bono activities," said committee Chair and First District Court of Appeal Judge William VanNortwick. "The second leg is reinventing pro bono with legal service organizations. . . . The third leg is to have sophisticated marketing materials that can be used by Bar leaders, judges, and justices in their outreach to lawyers."

VanNortwick reported that the ABA has set the week of October 26 as a celebration of pro bono, and Florida is planning to participate. He said he had discussed the matter with Chief Justice Peggy Quince and that the court was tentatively planning a pro bono ceremonial session on October 26.



Committee member Kathy McLeroy will head up the state's efforts to participate in pro bono week, he added.

Tallahassee consultant Gary Yordon outlined the "One" campaign geared to improve lawyer participation. The slogan for the campaign, aimed at getting lawyers to take a single pro bono case, is "One: One client, one attorney, one promise."

Promotional materials will include a brochure as well as an online video featuring interviews with lawyers and judges about the benefits they've received from pro bono work.

Yordon said the videos primarily will be a "peer-to-peer" communication to focus on the benefits from pro bono that attorneys have seen in their professional and personal lives.

Also under consideration, he said, is a poster that could be hung outside judges' chambers.

"It essentially says, 'When you come in this chamber, ask me how you can be the one.' We want judges to be able to tell them, 'Here's what you can do,'" Yordon said.

He said the brochures and video could be ready by mid to late October.

Those materials will be part of the community-based pitch that will be made to lawyers, according to Sheila Meehan, pro bono developer with Florida Legal Services, Inc.

She noted the organization, using a Florida Bar Foundation grant, has hired Adrienne Davis to be the coordinator for the new campaign.

Davis, who has already met with several law firms, said the program wants to do more than just make a presentation at a local bar and then hope for the best. "This is not just a professional responsibility that comes for lawyers, but a passion on how we can improve the quality of life," she said.

The campaign will look at the unique resources of each area of the state — existing pro bono programs, legal aid agencies, law schools, law firms, and local bars — and tailor the program for that locale, Davis said.

"We're trying to be strategic about engaging not just legal aid organizations, but getting all members of the legal community owning what we're doing," Davis said.

To that end, the committee is striving to collect information about every legal aid and pro bono program in the state, both to use in designing an outreach for each area and to compile in a Web site that can help lawyers looking for an opportunity to do pro bono work.

Committee members said it would be good if the site outlined what kinds of pro bono work each program or organization offered, but some said the actual matching of an attorney to a case should be left to the various programs and agencies.

"The experience we've had with using the Web site to place attorneys with particular cases has not yielded good results," said committee member Rob Johnson, executive director of Brevard County Legal Aid. "I think what really the Web site should do is describe opportunities and have attorneys contact the program about taking certain types of cases."

Paul Doyle, of The Florida Bar Foundation, recounted how the Foundation has awarded eight grants totalling \$650,000 including one to the pro bono committee. The Foundation has another \$170,000 for further applications, he added.

The grant recipients cover a variety of programs, ranging from helping children aging out of

the foster care system to assisting solo practitioners with pro bono services, he said, and also has geographic as well as rural and urban diversity.

When the Supreme Court approved the current aspirational pro bono program about 15 years ago, a statewide system for monitoring the program was established.

"We built something on the theory 'If we build it, they will come,' and they did come," Doyle said of that system. "Unfortunately, they didn't stay.

"We have to keep the system and the opportunities alive and vibrant."

The committee's discussion focused on many challenges to boosting pro bono.

Committee member Robin Rosenberg said the current pro bono plan has circuit committees to oversee local pro bono efforts. While helping to coordinate pro bono efforts, those committees have undermined judges' traditional role of recruiting lawyers to take on unrepresented parties.

Doyle added, "On the local level, the judges are critical, particularly among smaller firms and individual practitioners. I don't think it was sustained on a consistent level when this [the current system] was started 10 to 15 years ago."

"One of the things I hear a lot from lawyers, especially the last couple years when jobs are scarce, is the potential impact of doing anything that's not job-related to their future," said Young Lawyers Division President R.J. Haughey. "We need to emphasize that this is good for your career."

One potential solution discussed by committee members was persuading judges to hear pro bono cases first on their motion dockets. This step, they said, would provide recognition to the pro bono attorneys and reduce the time required by a pro bono case. McLeroy said that's already done in some Miami courts.

The committee began its work to increase pro bono after a study last year by Kelly Carmody & Associates showed that while the Bar membership is increasing by about 2,500 lawyers a year, the amount of pro bono work in the state has been stagnant for several years. It also showed that only about half of the state's lawyers perform pro bono work and that 64 percent cite lack of time as a reason for not providing pro bono service.

The committee has been using the report as guideposts for designing its program to boost pro bono.

Yordon said the report shows of the 50 percent of attorneys who do not do pro bono, about half of those are unlikely to, but the other half would be willing but don't understand how pro bono works.

The program, Yordon said, also aims to build on another finding of the study: Once lawyers begin doing pro bono, they find it so rewarding that they continue doing it.

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[Revised: 10-08-2009]

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Documenting the Justice Gap In America

*The Current Unmet Civil Legal Needs of
Low-Income Americans*

An Updated Report of the
Legal Services Corporation

September 2009

Preface

This report updates and expands the Legal Services Corporation's groundbreaking 2005 report *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, first released in September 2005, which documented the enormous challenge the nation faces in providing civil legal assistance to low-income individuals and families.

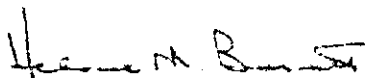
This report, completed in September 2009, shows that a continuing, major justice gap exists in our nation: for every person helped by LSC-funded legal aid programs, another is turned away. That was the primary finding in 2005 and LSC's collection of data from LSC-funded programs across the country in 2009 reaffirms that finding. This report replicates the methodologies and analysis used in 2005 and includes data on unrepresented litigants.

Since 2005, additional state legal needs studies have added to the body of knowledge that suggests only a fraction of the civil legal problems experienced by low-income Americans are addressed with the help of a private attorney or a legal aid lawyer. New data also indicate that state courts, particularly family and housing courts, are facing increased numbers of unrepresented litigants, which raises concerns about equal access to justice. Significantly, the number of people in poverty has increased because of the recession and high unemployment rate.

The 2005 Justice Gap Report helped shape the dialogue over equal access to justice and provided a better understanding of the need for enhanced funding for the Corporation. The LSC budget provided by the Congress has increased to \$390 million in Fiscal Year 2009. LSC is deeply appreciative of its bipartisan support in Congress.

Lack of resources, however, continues to be the major factor why LSC-funded programs turn away half of those seeking help. Closing the justice gap will require a multifaceted approach that includes increased funding by federal and state governments, private funders and concerned private parties, and increased *pro bono* contributions by individual lawyers.

Our nation's pledge of equal justice for all is far from being fulfilled. By working together, we can come closer to realizing that ideal.



Helaine M. Barnett
President
Legal Services Corporation

Washington, DC
September 2009

Documenting the Justice Gap In America

Preface

Executive Summary	1
Introduction	5
Methodology #1: Unable to Serve: Count of People Seeking Assistance From LSC-Funded Programs Who Cannot be Served Due to Lack of Resources	9
Methodology #2: Continuing Documentation of Legal Needs: Analysis And Comparison of State Legal Needs Studies, 2006-2009	13
Methodology #3: Attorneys Per Capita: Legal Aid Lawyers Compared to Private Lawyers	19
New Data on Unrepresented Litigants	23
Conclusion: Providing Necessary Access to Civil Legal Assistance	27

Appendices

A: Other State Studies of the Legal Needs of Low-Income People	A-1
B: Methodological Variations in State Legal Needs Studies 2006-2009	B-1
C: Reasons Given for Not Getting an Attorney	C-1
D: Awareness of Free Legal Aid/Lawyer Referral	D-1
E: Tables from 2005 Justice Gap Study	E-1

"Equal justice under law is not merely a caption on the facade of the Supreme Court building. It is perhaps the most inspiring ideal of our society...it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

—U.S. Supreme Court Justice Lewis Powell, Jr.

Executive Summary

As the institution charged by Congress with the administration of the federally-funded civil legal assistance program for those who would otherwise be unable to afford adequate legal counsel, the Legal Services Corporation (LSC) has a responsibility to communicate to Congress what is required to secure *necessary access to civil legal assistance*—that is, the level of assistance that would be required across the nation to respond appropriately to the civil legal needs of low-income individuals and families.

The civil legal problems of low-income people involve essential human needs, such as protection from abusive relationships, safe and habitable housing, access to necessary health care, disability payments to help lead independent lives, family law issues including child support and custody actions, and relief from financial exploitation.

The difference between the level of legal assistance available and the level that is necessary to meet the needs of low-income Americans is the "justice gap."

In September 2005, LSC issued a comprehensive report, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, which used a variety of methodologies to document the justice gap and to quantify necessary access to civil legal assistance.

This report updates the 2005 Justice Gap Report, using new data. Analysis of this data confirms that the conclusion of the 2005 Justice Gap Report remains valid: there continues to be a major gap between the civil legal needs of low-income people and the legal help that they receive.

- Data collected in the spring of 2009 show that for every client served by an LSC-funded program, one person who seeks help is turned down because of insufficient resources.
- New state legal needs studies have added depth to a body of social science knowledge that has produced consistent findings for a decade and a half, documenting that only a small fraction of the legal problems experienced by low-income people (less than one in five) are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer.
- Analysis of the most recent available figures on attorney employment shows that nationally, on the average, only one legal aid attorney is available for every 6,415 low-income people. By comparison, there is one private attorney providing personal legal services (those meeting the legal needs of private individuals and families) for every 429 people in the general population who are above the LSC poverty threshold.
- New data indicate that state courts, especially those courts that deal with issues affecting low-income people, in particular lower state courts and such specialized courts as housing and family courts, are facing significantly increased numbers of unrepresented litigants. Studies show that the vast majority of people who appear without representation are unable to afford

an attorney, and a large percentage of them are low-income people who qualify for legal aid. A growing body of research indicates that outcomes for unrepresented litigants are often less favorable than those for represented litigants.

The first three findings are derived from three different methodologies, which were also employed in the 2005 report. The fourth finding is derived from a review and analysis of data on litigants appearing in court without representation, which was recommended in the 2005 report for which LSC did not have sufficient data at that time.

- **Methodology #1: *Unable to Serve: National count of people seeking legal help from LSC-funded providers who are denied services because programs lack sufficient resources.*** LSC asked its 137 grantee programs, with 918 offices, to document the number of people seeking assistance from the program who could not be served due to insufficient program resources. LSC-funded programs collected this data over a two-month period in March-May 2009, the same time period during which this data was collected for the 2005 Justice Gap Report.
- **Methodology #2: *Continuing Documentation of Unmet Legal Needs: Analysis and comparison of recent state legal needs studies.*** Since 2005, seven states have conducted legal needs studies using similar methodologies. For this report, the methodologies and findings of the seven recent state studies were compared to one another to draw currently valid, nationally applicable conclusions from them. The findings of these studies were also compared to the nine state studies conducted during 2000-2005 that were discussed in the 2005 report and the Comprehensive Legal Needs Study funded by the American Bar Association and released in 1994.
- **Methodology #3: *Attorneys Per Capita: Attorneys Per Capita: National count of legal aid attorneys; comparison of ratio of legal aid attorneys to low-income population and ratio of private attorneys providing personal legal services to general population.*** The count of legal aid attorneys included attorneys in all programs providing civil legal help to low-income people, not just those in LSC programs. The count of private attorneys providing personal legal services to the general population was based on estimates obtained from the American Bar Association. This report used U.S. Census population figures and estimates for the number of attorneys from the year 2007, the most recent year for which all figures were available.
- ***New Data on Unrepresented Litigants:*** Although there are no national statistics on unrepresented litigants, data was obtained from a compilation prepared by the National Center for State Courts of reports from state and federal courts, as well as individual reports from several states. The impact of the current economic crisis on caseloads and unrepresented litigants was documented by a survey of judges conducted by the Self-Represented Litigation Network in the spring of 2009. The available social science research on this topic also was reviewed.

Closing the justice gap and securing *necessary access to civil legal assistance* will require a multifaceted approach which will include a partnership of individual lawyers, the organized bar, federal and state governments, private funders and concerned private parties. In addition to increased funding for staffed legal aid programs, closing the justice gap will require increased pro bono efforts by the nation's lawyers. As the primary conduit for the federal government's share, the Legal Services Corporation bears responsibility for leading the way.

The findings reported here suggest a phased approach to addressing the unmet need. First, LSC's 2005 and 2009 "Unable to Serve" data show that only half of those seeking legal help from LSC

grantees are able to be served. As an initial critical goal, there must be enough funding to serve all of those *currently* seeking help from LSC grantees. This requires a doubling of LSC funds and a doubling of the state, local, and private funds that also support LSC grantees.

Second, state legal needs studies conducted from 2000 to 2009 generally indicate that less than one in five low-income persons get the legal assistance they need. To fund this need, the federal share must grow to be five times greater than it is now, or \$1.6 billion. IOLTA and other state, local and private funding sources, which are being hard hit by the economic downturn at present, will also have to grow in the future to contribute their proportionate share of the increase necessary to fund civil legal services.

In order to keep faith with our national commitment to equal access to justice, it is essential that the nation move toward the necessary funding levels in firm, measured strides that are designed to close the justice gap as quickly as possible.

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Introduction

The 2005 Justice Gap Report

In September 2005, the Legal Services Corporation (LSC) issued a comprehensive report, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, which used a variety of methodologies to document the civil legal needs of low-income individuals and families and to quantify *necessary access to civil legal assistance*—that is, the level of assistance that would be required across the nation to respond appropriately to those needs.

The civil legal problems of low-income people involve essential human needs, such as protection from abusive relationships, safe and habitable housing, access to necessary health care, disability payments to help lead independent lives, family law issues including child support and custody actions, and relief from financial exploitation.

The difference between the level of legal assistance available and the level that is necessary to meet the needs of low-income Americans is the “justice gap.”

The 2005 Justice Gap Report was the first nationwide report on the civil legal needs of low-income people since the Comprehensive Legal Needs Study funded by the American Bar Association and released in 1994.¹ The Justice Gap Report was based on data collected from LSC-funded programs in 2004 and 2005, as well as data from other state legal needs studies, the U.S. Census Bureau, and other sources covering the period 2000-2005. The report synthesized and compared the findings of the existing studies from this period, as well as those from the 1994 ABA study.

LSC’s Responsibility to Assess Legal Needs

Congress, in creating the Legal Services Corporation in 1974, determined that there is “need to provide equal access to the system of justice in our nation for those who would be otherwise unable to afford adequate legal counsel.” Congress explicitly recognized in the LSC Act that, “providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice, assist in improving opportunities for low-income persons,” and “has reaffirmed faith in our government of laws.”

The goal of providing equal access to justice for those who cannot afford to pay an attorney remains the reason for LSC’s existence and the benchmark for its efforts. In developing the budget mark it submits to Congress, therefore, LSC has a duty to assess what has been accomplished in meeting the need, what still needs to be achieved, and the role that federal funding should play in doing so. This was the basis for the determination by the LSC Board of Directors that LSC should undertake the 2005 Justice Gap Report.

The 2009 Justice Gap Report

Since the first Justice Gap Report was issued in 2005, major developments have occurred that potentially affect levels of need for civil legal assistance and the ability of legal aid providers to meet it.

- The current economic crisis, with its attendant problems of high unemployment, home foreclosures and family stress, has resulted in legal problems relating to consumer credit, housing, employment, bankruptcies, domestic violence and child support, and has pushed many families into poverty for the first time.

¹ “Report on the Legal Needs of the Low-Income Public: Findings of the Comprehensive Legal Needs Study,” American Bar Association, 1994.

- Just before the 2005 report was issued, Hurricane Katrina struck the Gulf Coast, resulting in legal needs that are still being experienced by low-income residents of Louisiana, Mississippi, and Texas, where many victims of the disaster have relocated. Hurricanes Ike and Gustav hit this region in 2008, a year that also saw widespread, record floods in the Midwest.
- While a long-term trend of increased state funding for civil legal aid has continued, budget crises have put this funding at risk in some states. Revenues from state Interest on Lawyers' Trust Accounts (IOLTA) programs rose in some states with new revenue enhancement techniques, but have recently fallen precipitously in many states as a result of low interest rates and the declining economy, reducing trust account deposits.
- According to the U.S. Census Bureau, the number of individuals living below 125 percent of the federal poverty level in the United States increased from 49.6 million in 2005 to 53.8 million in 2008.²
- At the federal level, an increase of \$40 million in LSC funding for FY 2009 was signed into law in March 2009. (The increase was reflected in LSC grants beginning in April 2009, and its impact is not reflected in any of the data in this report.)

This report updates the findings and analysis of the 2005 report. As in 2005, LSC President Helaine M. Barnett convened a Justice Gap Advisory Committee to assist in the preparation of the report. In addition to LSC staff, the committee included representatives of the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and the National Legal Aid and Defender Association (NLADA), both of which have traditionally provided their own recommendations on LSC funding and have independently undertaken efforts to develop new data on the unmet legal needs of low-income people, in addition to representatives of LSC-funded field programs and other members of the legal services community with expertise in documenting legal needs.³

The 2009 Justice Gap Advisory Committee concurred with the judgment of the 2005 group that the likely cost of more than \$1 million to conduct a new national legal needs survey would not be justified, and that the justice gap could best be illuminated by using the same three methodologies employed in the 2005 report, each of which has particular strengths and provides a different perspective. In addition, as recommended in the 2005 Justice Gap Report, the committee also reviewed and analyzed available data and research on litigants appearing in court without representation. Together, these different sources offer a broad picture of the justice gap.

The information in this updated report confirms the findings of the 2005 Justice Gap Report and is consistent with a body of social scientific literature that has been growing for two decades. Of those people who seek assistance from LSC-funded legal aid programs, one is turned away because of limited resources for every one helped. Only a small fraction of the legal needs of low-income people are addressed with the assistance of an attorney. There are more than ten times as many private lawyers providing personal legal services to persons in the general population above the LSC

² "Income, Poverty, and Health Insurance Coverage in the United States: 2008," U.S. Census Bureau, September 10, 2009. The 2008 data reflect the initial effects of the recession and signal even larger increases for 2009 because of high unemployment rates.

³ The Justice Gap Advisory Committee members were Jonathan Asher, executive director, Colorado Legal Services; Terry Brooks, legal counsel to SCLAID; Bob Echols, state support consultant at the ABA Resource Center for Access to Justice Initiatives; Deborah Hankinson, former chair of SCLAID; Melville D. Miller, Jr., president, Legal Services of New Jersey; Don Saunders, Civil Director, NLADA; Lois Wood, executive director, Land of Lincoln Legal Assistance Foundation; and Anthony Young, executive director, Southern Arizona Legal Aid.

poverty threshold as there are legal aid attorneys in relation to the low-income population they serve.⁴ State courts are being overwhelmed by a rising tide of unrepresented litigants, many of them low-income people eligible for LSC-funded assistance who have been unable to obtain an attorney.

All of these findings support the conclusion that there remains a significant justice gap in the United States: the difference between the level of legal assistance available and the level that is necessary to meet the civil legal needs of low-income Americans.

⁴ LSC is required by law to establish maximum income levels for persons eligible for civil legal assistance. Under LSC regulations, the maximum level is equivalent to 125 percent of the federal poverty guidelines, which are issued annually by the U.S. Department of Health and Human Services.

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Methodology #1: Unable to Serve

Count of People Seeking Assistance From LSC-Funded Programs Who Cannot be Served Due to Lack of Resources

To document the justice gap at the legal aid program level, LSC collected data on the number of people currently seeking help from LSC-funded legal aid programs who cannot be served due to insufficient program resources. Data was obtained from every state in the country.⁵

This count indicates that almost one million cases (944,376) per year are currently being rejected because programs lack sufficient resources to handle them. This figure does not include the many people who do not reach an LSC-funded program to ask for help, for whatever reason. Other studies indicate that those who seek help from legal aid programs represent only a fraction of the low-income people with legal needs.

Comparison of this data to statistics on cases handled in 2008 indicates that *for every client served by an LSC-funded program, at least one person seeking help will be turned down* due to limited resources. This conclusion is almost identical to the “Unable to Serve” finding of the 2005 study.

Methodology

LSC asked its grantee programs to collect data on numbers of people who could not be served during a two-month period, from Monday, March 16, through Friday, May 15, 2009. This period replicates that of the 2005 survey, which was taken March 14 through May 13, 2005.

Programs were asked to count the number of people who sought legal help from the program (in person, by phone, or online) for problems within LSC’s statutory mandate and were denied services because the program lacked sufficient resources.⁶

It is important to keep in mind that the data yielded by this methodology is *under-inclusive* as a representation of the justice gap in several ways:

- Data was collected only from LSC-funded programs. The count does not include people who may have sought help unsuccessfully from other programs. This limitation is particularly significant in a few states and grantee service areas where intake is not primarily performed by the LSC grantees, which could consequently count only a small percentage of the total number of persons who were turned down for service.⁷
- The count of people who could not be served does not include clients who received some service, but not the level of service that they actually needed. LSC programs frequently provide advice and counsel to people when they cannot provide full representation. These cases

⁵ As in 2005, data from LSC-funded programs in the District of Columbia, Puerto Rico, Virgin Islands, Guam and Micronesia is also included.

⁶ The count did not include people who were denied services because they were financially or otherwise ineligible, because services were prohibited by LSC restrictions, or because their case was determined to have insufficient legal merit to proceed. Nor were cases in which a program made a referral to another program with an expectation that the other program would provide substantial representation included in the count. The instructions provided by LSC to its grantees on completing the survey and other related documents can be viewed on-line at https://grants.lsc.gov/Easygrants_Web_LSC/Implementation/Modules/Login/Controls/PDFs/2009_UTS_Study_Instructions.pdf

⁷ In some places, other organizations do intake and do not send cases to the LSC-funded program when they know the program is not able to handle them.

do not appear as denials of service because the client has actually received a service (Advice and Counsel or Limited Action).⁸

- Many people who were counted as turned away for a single legal problem are likely to have had more than one legal problem. Legal aid programs regularly find that people who have contacted them for assistance with one problem have other legal problems as well.⁹ State legal needs studies confirm that a large percentage of people with at least one legal problem have more than one problem (see Methodology #2).¹⁰
- The count does not include people who sought unsuccessfully to reach LSC-funded programs. Legal aid programs have a finite capacity to provide legal assistance to eligible clients and, because of limited resources, often must limit intake to certain hours and a limited number of phone lines and intake advocates.¹¹
- More broadly, the methodology does not capture people with serious legal needs who did not contact any legal aid provider. Many factors may keep people from seeking help:
 - People with legal problems frequently do not understand that they need legal help (see Appendix C).
 - People with legal problems frequently do not know where to turn to obtain that help, or may not know that they are eligible for legal aid (see Appendix D).
 - People who meet the eligibility requirements for free legal services may not seek help from the program because they believe that the program will not be able to assist them. Legal aid providers observe that calls for assistance involving particular problem types tend to rise when the program is providing services in this area and to fall when intake is limited or closed in this area. A number of factors are typically involved in this phenomenon: for example, social services agencies and community workers are not making referrals; people are being told by others in the community that the program will not be able to help; and conversely, people are not hearing from others that they have obtained help from the program for a similar problem. Thus the number of calls tends to drop during periods when it is unlikely that clients will be able to obtain help, reflecting the understanding of the community about whether services are likely to be available.

⁸ As part of the research for this report, LSC grantees were asked to capture the number of clients that they assisted in a limited fashion where full extended representation would have been more likely to enable the client to obtain a satisfactory outcome. LSC grantees counted 82,500 such cases in the two-month period. This figure does not include cases where the programs judged that the advice and brief service provided was sufficient to resolve the problem presented. Programs estimated that, during the two-month study period, 46,000 cases were resolved in this manner.

⁹ For example, Pine Tree Legal Assistance, Maine's LSC grantee, asked people contacting the program in person (rather than by telephone) during the March-May period in which it collected "unable to serve" data whether they had other legal problems. It found that 66 percent of the people contacting the program in person had at least one legal problem beyond the one for which they were seeking immediate help, with an average of three additional problems.

¹⁰ The Virginia legal needs study considered under Methodology #2 reported that the average number of legal needs among households with at least one legal need was 3.62. The Alabama study reported that the average number of legal needs among households with at least one legal need was 3.6. The New Jersey study reported that 51.5 percent of those respondents who experienced at least one problem experienced more than one problem.

¹¹ Programs typically make legal information available in ways that are not dependent on talking directly with an advocate, such as through their websites, brochures, clinics, and other community education media.

- Other barriers, such as geographical distance and isolation, low literacy, physical or mental disability, limited English proficiency, culture and ethnic background, and apprehension about the courts and the legal system, also pose impediments.

This data provides *specific* documentation of the magnitude of unmet need. It is unique in that, through an extensive, nationwide sample, it documents legal problems for which people have *actually* sought, and been denied, help. It is also understated because it does not include many other people with pressing legal problems who also need assistance, but did not contact an LSC-funded program.¹²

Findings

The annualized figures for different case types are reported in Table 1.

Table 1: Unable to Serve

Type of Legal Problem Categories	Unable to Serve Twelve Month Projections	Calendar Year 2008 Cases Closed
Consumer	98,214	108,404
Education	8,874	6,839
Employment	42,264	26,896
Family	391,038	312,046
Juvenile	18,780	15,143
Health	22,230	30,802
Housing (Other than Foreclosure)	113,706	219,592
Foreclosure	21,756	9,920
Income	49,236	98,257
Individual	39,216	13,250
Miscellaneous*	139,062	48,006
Total	944,376	889,155

* Includes such services as wills and estates, advance directives and powers of attorney.

¹² There is one way in which this data may be slightly over-inclusive, in that eligibility for LSC services was documented in most, but not all, cases. Eligibility was established for all cases in which the intake process was completed. People who were determined to be ineligible were not included in the count. However, the count of people who were turned away does include some applicants for whom eligibility information was not collected because, before doing screening, the program ascertained and informed the applicant that the type of case presented was not within the program's case-handling priorities. Nevertheless, programs report that it is their experience that an overwhelming majority of those who contact legal services offices are eligible for their services.

To obtain an annualized figure, the data from the two-month survey was multiplied times six as a projection for an entire year.¹³ For comparison, the number of cases in which service was *provided* by LSC-funded programs in 2008 is also set out in Table 1.¹⁴

The table shows that there will be roughly 944,000 people seeking legal help in 2009 that LSC programs will be unable to serve at all. In comparison, approximately 889,000 people were served by LSC-funded programs in 2008.¹⁵ This means that *for every client served by an LSC-funded program, at least one eligible person seeking help will be turned down.*

This methodology yielded a similar ratio in the 2005 study, which estimated that 1,086,000 people would be turned away over the course of the year, while in the previous year, LSC programs had served 900,000 clients (see Appendix E, Table 2005-1).

The fact that the 2009 “Unable to Serve” survey did not show a national increased demand for service during a period when such an increase would have been expected, due to the economic crisis, may be attributable in part to several of the limitations of the survey identified above. In particular, the limited intake capacity of many programs means that an increased number of callers would not necessarily result in an increased number of callers who actually reach the program. Another factor that may prevent increased demand from resulting in increased requests for assistance is that many potential clients and sources of referrals learn when legal aid programs are unable to accept new cases and stop calling or making referrals.

Conclusion to Methodology #1

This methodology indicates that, as in 2005, roughly *one-half of the people who seek help from LSC-funded legal aid providers are being denied service because of insufficient program resources.* Almost one million cases will be rejected this year for this reason.

Because this figure does not include people seeking help from non-LSC-funded programs, people who cannot be served fully, and people who for whatever reason are not seeking help from any legal aid program, it represents only a fraction of the level of unmet need. The methodology reported in the next section provides information about the size of this larger group of low-income people with civil legal needs.

¹³ The hypothesis that this two-month count is approximately equal to one-sixth of a year's intake was tested in 2005 by asking 10 percent of LSC grantee programs to compare their 2004 April and May intake numbers with their total intake for 2004. The 2004 April and May intake for these programs yielded a count of 19,926 cases. A 12-month extrapolation from this figure would be 119,556 cases. The combined full-year 2004 totals for these programs was 119,166, almost identical to the extrapolation. This confirms that the sample period in 2005 was likely to reflect accurately one-sixth of a full-year total. The Justice Gap Committee did not repeat this test in 2009, relying on the assumption that the same results would hold true.

¹⁴ Case data from 2008 was used for comparison because 2009 data will not be available until March 2010. Past experience suggests that 2009 case totals will be within a few percentage points of those for 2008.

¹⁵ Pro bono cases provided through programs' private attorney involvement (PAI) requirement are included in the count of clients served. Roughly 7 percent of all cases closed by LSC-funded programs in 2008 were provided by pro bono attorneys. Total PAI cases were more than 10 percent of LSC cases in 2008, with the additional cases being other PAI cases where private attorneys provide services at reduced fees paid by LSC programs.

Methodology #2: Continuing Documentation of Legal Needs

Analysis and Comparison of State Legal Needs Studies 2006-2009

Over the past four years, seven states have conducted large-scale, survey-based studies to determine the kinds of legal problems experienced by low-income residents and the extent to which these needs are being met. These seven studies were conducted by independent research entities, according to rigorous social science survey standards. The states that produced these studies are Virginia (2007), Utah (2007), Wisconsin (2007), Nevada (2008), Alabama (2009), Georgia (2009) and New Jersey (2009).

These seven studies add to a body of knowledge that has been building since the ABA study in 1994. For this report, the methodologies and findings of these seven studies were compared to one another to determine the extent to which it is possible to draw nationally applicable conclusions from them.¹⁶ The findings and methodologies were also compared to those in the nine state studies considered in the 2005 Justice Gap Report, as well as those in the 1994 ABA study, to assess the continuing validity of the earlier findings.

In the six recent studies based on random telephone surveys, the sample size met the statistical threshold necessary to be able to generalize findings to the state low-income population (and in most instances was well above it). These findings can thus be considered very reliable.¹⁷ Analysis of the seven recent state studies shows that their findings are broadly consistent with one another. This consistency of findings from state to state (and researcher to researcher) reinforces their validity and indicates that they are likely to be predictive of needs at the national level.

Key points of comparison are as follows. (Each is described in more detail in a subsequent section.)

- The seven recent state studies found that low-income households experience a per-household average of legal needs ranging up to three legal needs per year.
- All seven state studies found that only a small fraction of the legal problems experienced by low-income people (less than one in five) is addressed with the assistance of a private or legal aid lawyer.

¹⁶ Hawaii (2007) and the District of Columbia (2008) also conducted studies of legal needs and the extent to which they were being met; while these studies were based upon data from a variety of sources, those sources did not include a random survey of low-income people. In addition, Indiana (2008) conducted a survey-based study of legal needs, but the questionnaire used did not solicit data about unmet legal needs. For this reason, these three studies cannot be compared directly to the other seven studies considered in this section. However, the findings on unmet legal needs from these studies are reported in Appendix A. All of the studies discussed in this report, as well as all other state studies of the legal needs of low-income people released in 2000 and later and a list of studies released before 2000, are available online at <http://www.abanet.org/legalservices/sclaid/atj/resourcecenter/compublicawareness.html> (under "Public Awareness and Communications").

¹⁷ The one study using the "cluster sampling" methodology (Utah) is based on a sample of 1,185, somewhat smaller than the 1,500 which is deemed to achieve maximum reliability. See Appendix B. However, the consistency of its findings with those in other states indicates that these findings can also be considered reliable.

- Those studies that ask respondents to rank the importance of the problems they experienced show that even if the legal problems included are limited to those considered to be “very important” or “most serious” or that “caused trouble” by the household experiencing it, a large majority of the problems are not addressed with the help of a lawyer.

These key findings of the seven recent state study findings are consistent with the analogous findings in the nine studies reported in the 2005 Justice Gap Report and the 1994 ABA study.

Methodology

Table 2 shows the studies considered in this report.

Table 2: State Legal Needs Surveys of Low-Income People 2006-2009

State	Released	Sponsor/Funder	Survey/Analysis By
Virginia	2007	Legal Services Corporation of Virginia	Schulman, Ronca, & Bucuvalas, Inc.
Utah	2007	Utah Legal Services/ “And Justice for All”	Sociology Department, Portland State University/D. Michael Dale
Wisconsin	2007	State Bar of Wisconsin	Gene Kroupa & Associates
Nevada	2008	Supreme Court of Nevada Access to Justice Commission	Gene Kroupa & Associates; Social Entrepreneurs, Inc.
Alabama	2009	Alabama Access to Justice Commission/Alabama Bar Foundation	Southeast Research, Inc.
Georgia	2009	Georgia Supreme Court Equal Justice Commission, Committee on Civil Justice	A.L. Burruss Institute of Public Service and Research, Kennesaw State University/D. Michael Dale
New Jersey	2009	Legal Services of New Jersey	Schulman, Ronca, & Bucuvalas, Inc./Poverty Research Institute, Legal Services of New Jersey, in consultation with Institute for Survey Research, Temple University

All seven of these state studies used a fundamentally similar methodology, based on the well-established social science survey methodology used in the 1994 ABA study. This is the same methodology used in the nine studies reported in the 2005 Justice Gap Report:

- A statistically valid sample of low-income households was identified either through a random telephone survey or, in Utah, according to an alternative “cluster sampling” methodology (for a description of this methodology, see Appendix B).
- In an interview (by telephone, in the states using a random telephone survey; in person, in Utah, according to the “cluster sampling” methodology), respondents were presented with descriptions of various circumstances constituting potential legal problems and asked whether anyone in their household had experienced these circumstances during the preceding year. The survey questionnaire was reviewed by attorneys to ensure that the situations described to the respondents contained a legal issue and met a threshold of seriousness.

- When respondents reported having experienced such circumstances, follow-up questions were asked about what the household did (or did not do) about the situation and what contacts, if any, they had with the civil justice system.

As shown above in Table 2, the sponsors and funders of the studies were different in each state, and the surveys on which they were based were conducted or overseen by a variety of different independent academic or private research entities. The survey questionnaires varied somewhat to reflect local circumstances and concerns. Other details of the methodology also varied somewhat. (See Appendix B for variations). However, in all seven states, the survey samples were broadly representative of low-income people in the state and the survey questions about legal needs were sufficiently similar to allow the resulting findings to be compared meaningfully to one another.

Findings: Legal Needs

The studies found that on the average low-income households experienced from 1.3 to 3.0 legal needs per year, as shown in Table 3.¹⁸

Table 3: Legal Needs

State	Average number of legal needs in preceding year per low-income household
Virginia	2.4
Utah	1.3 ¹⁹
Alabama	1.7
Georgia	3.0
State	Average number of categories of legal needs in which low-income households experiencing at least one problem experienced a problem in the preceding year
Wisconsin	2.1 ²⁰
Nevada	2.4 ²¹
State	Average number of new legal needs in preceding year per low-income individual experiencing at least one problem
New Jersey	2.3 ²²

¹⁸ The most common types of problems reported in the seven studies were in the areas of housing (such as evictions, foreclosure, utility issues, unsafe housing conditions and homelessness), consumer (such as abusive debt collection, oppressive contract terms, bankruptcy, and consumer scams), family (such as divorce, domestic violence, child custody, visitation, and support), employment (such as wage claims, unemployment, discrimination), health care (such as disputes over charges, access to services, and nursing home problems), and government benefits (such as difficulty in applying and denials). Although the distribution of problem types varied somewhat from state to state, these problem types appeared in all seven states. Other problem types reported at relatively high levels in at least one of the studies (but not a majority) were education, municipal services, and disability.

¹⁹ The Utah study notes that this figure conservatively understates the number of problems experienced by low-income Utahns each year, since detailed information was only recorded for five legal problems per household. Research from other states has shown that more than five problems occur with some frequency.

²⁰ The Wisconsin study reports that for the 45 percent of respondents who indicated that they or a household member had experienced at least one legal problem in the past year, the mean number of categories (out of thirteen) for which the household faced a problem or issue was 2.1. However, if a respondent experienced more than one problem within a particular category, only one problem was counted.

²¹ The Nevada study reports that for the 68 percent of respondents who indicated that they or a household member had experienced at least one legal problem in the past year, the mean number of categories (out of nine) for which the household faced a problem or issue was 2.4. However, if a respondent experienced more than one problem within a particular category, only one problem was counted.

²² The New Jersey study reported that 32.5 percent of lower-income respondents reported at least one new legal problem during the preceding year.

Findings: Legal Help Sought/Received – Unmet Legal Needs

All seven state studies found a similarly large gap between the level of legal needs reported by low-income households and the percentage of those needs for which legal help was received.

The various studies report their findings on this fundamental issue in somewhat different ways, as shown in Table 4. Some studies report a figure for legal help *received*, either by a percentage of overall problems or by a percentage of respondents who obtained help (either *individuals* or *households*, depending on the study). Others report legal help received as a subset of legal help *sought*.²³

Consequently, not all of the percentages shown are able to be compared directly to one another. However, the gap between the overall level of needs identified and the percentage of those for which legal help was received or sought is similarly large in each instance.

Table 4: Legal Help Received/Sought

State	Received legal help (by percentage of problems)
Alabama	15.9 percent of problems, legal assistance received
Georgia	9.1 percent of problems, legal assistance received
	<i>Received legal help (by percentage of households with problems)</i>
Utah	13.0 percent of households with problems received help from an attorney
Nevada	9 percent of households with problems received help from a lawyer for all the problems they identified; 20 percent received help for at least one, but not all of the legal problems they identified.
Virginia	17 percent of households with a legal need used a private lawyer or legal aid to assist them with that problem
	<i>Received legal help (by percentage of households with problems that sought help)</i>
Wisconsin	37 percent of households with legal problems sought help from a lawyer for at least one problem; 27 percent of this group received help from a lawyer for at least one problem; 12 percent of this group received help for all the problems they identified
	<i>Received legal help (by percentage of individuals who sought help or believed they needed help from a lawyer); sought legal help (by percentage of problems)</i>
New Jersey	30.6 percent of respondents who tried to get the help of a lawyer or believed they needed the help of a lawyer were able to get assistance; 19.4 percent of problems, help sought from a lawyer.

Overall, what these studies demonstrate is that only a small fraction of the legal problems experienced by low-income people (less than one in five) are addressed with the assistance of a private attorney or legal aid lawyer.

Findings: Importance of Problems

Several of the state studies also collected data about the respondent's assessment of the seriousness of the problem involved and/or the respondent's understanding of whether a lawyer was necessary to resolve it, yielding data about percentages of the most immediate, serious problems.

- **Utah:** Respondents characterized 55.1 percent of the problems identified as "extremely important" and an additional 27.3 percent as "very important."

²³ Several studies explored the reasons that many people did not seek legal help for their problems. See Appendix C; on the related issue of the lack of awareness of civil legal aid, see Appendix D. For comparable findings in the 2005 Justice Gap Report, see Appendix E, Tables 2005-7 and 2005-8. Of the state studies analyzed there, several report a finding only for legal help *sought*, not *received*.

- **Georgia:** 40.4 percent of respondents reported that the problem had caused “significant trouble” and almost 66 percent replied that their problem had caused some level of trouble.
- **New Jersey:** Respondents with lower incomes rated 58.2 percent of their legal problems as “most serious.”

Comparison of State Findings on Unmet Need 2006-2009 to State Findings on Unmet Need 2000-2005 and 1994 ABA Study

The 2005 Justice Gap Report considered nine state legal needs studies issued from 2000-2005: Oregon (2000), Vermont (2001), New Jersey (2002), Connecticut (2003), Massachusetts (2003), Washington (2003), Tennessee (2004), Illinois (2005) and Montana (2005). These were the only survey-based legal needs studies of low-income people released during this period.

Like those considered in this update, these nine studies were sponsored and funded by a variety of different bar, court and funding entities, and the surveys on which they were based were conducted or overseen by different independent academic or private research entities. Like the 2006-2009 group of state studies, the sample size in all of the studies based on random surveys met the statistical threshold necessary to be able to generalize findings to the state low-income population (and in most instances was well above it). Again, especially given the consistency of findings from study to study, these findings can thus be considered very reliable. See Appendix E, Tables 2005-2 and 2005-5.

The findings of the seven studies considered here are wholly consistent with those of the nine studies reported in the 2005 Justice Gap Report. They are also consistent with those of the 1994 ABA study, which remains the only *national* study ever undertaken of this subject.

- The findings on the average number of legal needs per low-income household per year are within the same range: in the 2006-2009 group, from 1.3 to 3.0; in the earlier group, from 1.1 to 3.5 (See Appendix E, Table 2005-3). The ABA study found an annual average of 1.1 needs per low-income household. Only one state study, Vermont (2001), found a level of need as low as that in the ABA study. The ABA study thus represents the *lowest* figure available for estimating the number of legal needs experienced by low-income Americans.
- The findings on the level of *unmet* legal needs are within the same range: in all seven states, only a small fraction of the legal needs experienced by the household were addressed with the assistance of an attorney—less than one in five. In the 2000-2005 state studies that reported the percentage of total problems identified for which legal help was obtained (the most consistent way of measuring unmet legal need among the studies), the range was from 9 to 18.1 percent. (See Appendix E, Table 2005-4). The ABA study, at the low end of the range of study findings on *unmet* legal needs (i.e., showing a high percentage of *met* legal needs), concluded that roughly one out of every five of the legal needs of low-income people was addressed with the assistance of a private attorney or legal aid lawyer.
- As in the studies considered in 2005, those studies that asked respondents to rank the seriousness of their legal problems found that most people considered a majority of the problems identified to be serious (see Appendix E, Table 2005-6).

Conclusion to Methodology #2

Each of the seven state legal needs studies considered in this section—as well as the nine state studies considered in the 2005 Justice Gap Report—provides a full picture of the legal needs of low-income people in a particular state and the extent to which they are being met or not met. These studies look at the full range of legal needs, including those that never reach an attorney's office or a courthouse, and they consider legal services provided to low-income people from *all* sources, including pro bono attorneys and private attorneys charging full or reduced fees.

The seven new studies add to a body of knowledge that has been building since the ABA's 1994 national study. They confirm the findings of these earlier studies, all of which are consistent with one another, and support the conclusion that the findings of these state studies are generally applicable at the national level.

These studies confirm that only a small fraction of the legal problems experienced by low-income people (less than one in five) are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer.

Methodology #3: Attorneys Per Capita

Legal Aid Lawyers Compared to Private Lawyers

Another perspective on the justice gap is provided by data on the numbers of legal aid attorneys serving the nation's low-income people. For this report, ABA and LSC staff collected data on the number of legal aid attorneys in the country in 2007, the most recent year for which data is available in most categories. A count was sought of *all* legal aid attorneys, not just those in LSC programs.

The count shows that despite the expansion of non-LSC funded programs since the mid-1990s, a majority of attorneys serving the poor still work in LSC-funded programs: there were 4,231 lawyers in LSC-funded programs (this figure includes all lawyers in the program, including those funded with state, private and other funds) and an estimated 3,700 in programs that do not receive LSC funding. The LSC-funded network thus remains the major source—and in many areas, the only source—of civil legal aid for low-income Americans.

The number of legal aid attorneys available to serve the poor provides a simple demonstration of the justice gap when compared to the number of attorneys serving the general public. The number of attorneys in private practice can be presumed to reflect a market response to the legal needs of the U.S. population. Nationally, there are *well over ten times more* private attorneys providing personal legal services to people in the general population²⁴ than there are legal aid attorneys serving the poor. While there is only one legal aid lawyer (including all sources of funding) per 6,415 low-income people in the country, this report estimates that there is one lawyer providing personal legal services (that is, services aimed at meeting the legal needs of private individuals and families) for every 429 people in the general population.

Methodology

ABA and LSC staff collected data on the number of legal aid attorneys in the country in 2007. "Legal aid attorneys" were not limited to those in LSC-funded programs; rather, the number of full-time-equivalent attorneys working in all programs providing free civil legal services to low-income people was sought. Reports from LSC-funded programs (not limited to federally-funded attorneys) were used as a starting point. Additional information was sought from state IOLTA programs or other contacts in each state, with special priority given to states with substantial non-LSC funding. For states where it was not possible to obtain actual attorney counts, ABA staff made projections based on resource data from the ABA Project to Expand Funding for Legal Services (PERLS), an initiative of the ABA Standing Committee on Legal Aid and Indigent Defendants. The ratio of legal aid attorneys to low-income people was calculated from the U.S. Census Bureau's Current Population Survey estimate of the low-income population for 2007, using 125 percent of the federal poverty guidelines as a definition of low-income.

For comparison, ABA estimates for the number of attorneys in private practice in the United States were obtained for the year 2007.²⁵ This yielded a count of 849,862 attorneys in private practice.

²⁴ The general population as used in this report excludes people at or below 125 percent of the federal poverty guidelines, which makes them eligible for LSC-funded legal services.

²⁵ This was calculated as follows: The American Bar Association periodically conducts a census of lawyers by polling state bar associations or licensing agencies for a count of resident, active attorneys. Figures for 2007 indicate that there were a total of 1,130,136 attorneys in the 50 states that year. The American Bar Foundation (ABF) collects statistics indicating the percentage of lawyers in each type of employment – private practice, federal judiciary, federal government, state judiciary and state government, etc. In 2005 (the most recent year for which such calculations are available) 75.2% of lawyers were in private practice.

A rough estimate of the number of attorneys providing personal legal services to the general population was made based on information from the American Bar Foundation, which has found that 68 percent of attorneys in private practice are solo practitioners or in firms of ten attorneys or fewer.²⁶ These attorneys are those most likely to specialize in meeting the personal legal needs of private individuals and families. While some of these solo practitioners and small firm attorneys provide criminal defense or services falling outside the area of personal legal services, this is offset by the many attorneys in larger firms who do provide personal legal services in addition to corporate services. This analysis indicates that there are roughly 577,906 attorneys in the U.S. providing personal legal services to the general population.

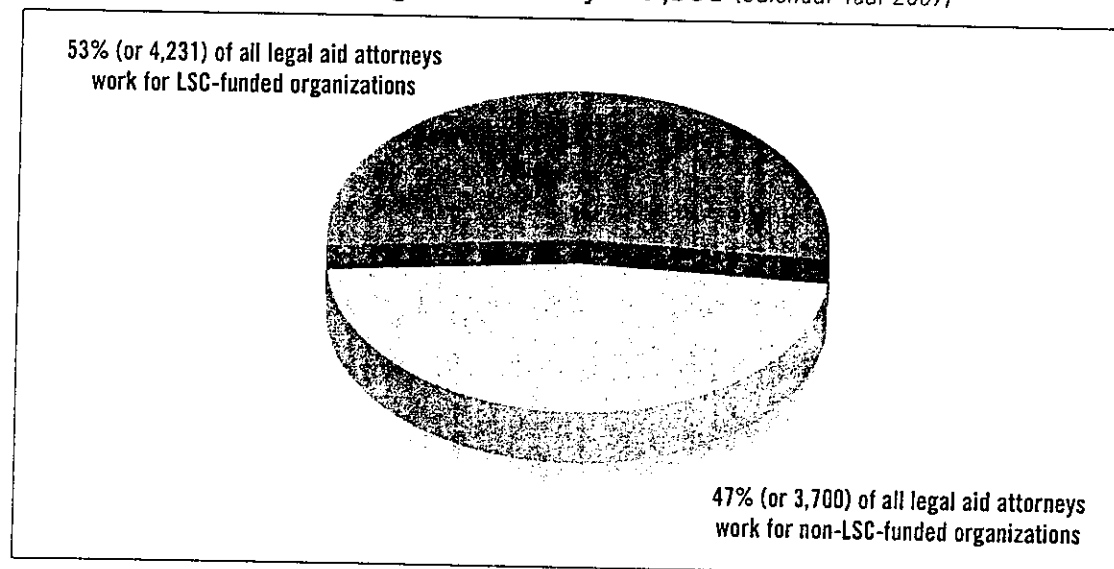
The attorney figures were compared to the population of the United States from the 2007 Current Population Survey to obtain the ratio of private attorneys per capita in the general population.

Findings

As shown in Table 5, roughly 53 percent of all legal aid attorneys work in LSC-funded programs. The LSC network thus remains the major source of civil legal aid for low-income Americans. In many areas, the LSC-funded program is the only provider of civil legal aid.

Comparing the estimated number of legal aid attorneys in the nation in 2007 (7,931) to the number of people estimated to be living at 125 percent of poverty or lower by the Current Population Survey for 2007 (50,876,000) yields a ratio of one attorney per 6,415 low-income people.

Table 5: Total Number of Legal Aid Attorneys—7,931 (Calendar Year 2007)

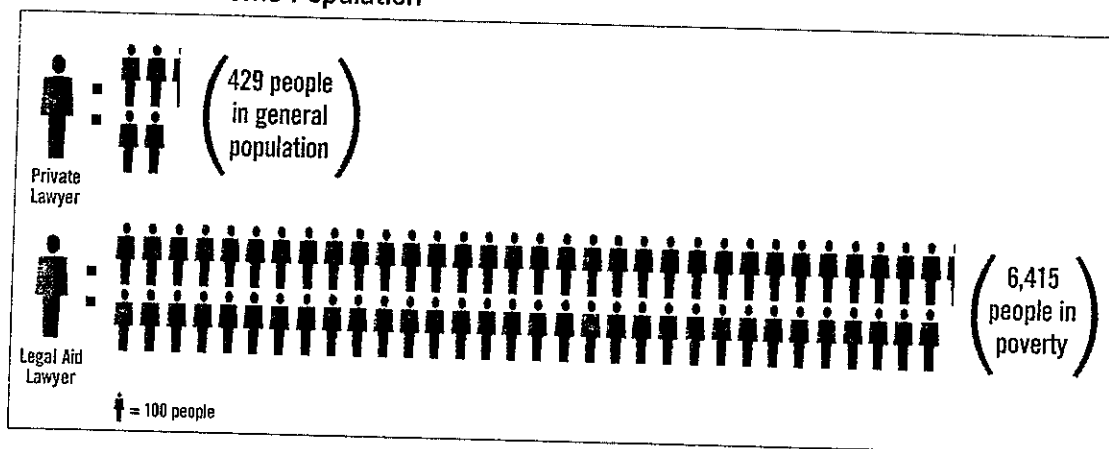


In contrast, nationally, as calculated above, there were roughly 577,906 attorneys providing personal legal services to the general population numbering 247,826,000 in 2007. This yields a ratio of one attorney per 429 people in the general population—well over ten times the ratio of legal aid attorneys to the population they serve.²⁷ The difference between the level of resources available to the general population and those available to the low-income population is enormous.

²⁶ Calculated as follows: ABF calculated that in 2005 (the most recent year for which figures are available), 48.4% of the lawyers in private practice were solo, and that 38.8% of the lawyers in firms were in firms of 2-10 lawyers. Thus, of the estimated 849,862 lawyers in private practice, about 581,482, or 68%, were in firms of 1-10 lawyers.

²⁷ If all 849,862 attorneys in private practice are considered, not just those providing personal legal services, the ratio becomes 1:292.

Table 6: Comparison of Private Lawyers to General Population and Legal Aid Lawyers to Low-Income Population



Changes from 2005 Justice Gap Report

The 2005 Justice Gap Report considered the number of legal aid attorneys in 2002, compared to the number of attorneys serving the general population in 2000, the most recent year for which figures were available.

Between 2002 and 2007, the number of attorneys working in LSC-funded programs increased by 10 percent, from an estimated 3,845 to an estimated 4,231. The number of attorneys working in non-LSC-funded programs increased from an estimated 2,736 to an estimated 3,700. The overall estimated increase was 1,350, from 6,581 to 7,931, roughly 20 percent.

However, due to the growth of the U.S. poverty population, there was little change in the ratio of legal aid lawyers to the low-income population: the 2002 ratio was 1:6586; the 2007 ratio was 1:6415. The percentage of lawyers working in LSC-funded programs has fallen slightly, from 58 percent to 53 percent.

Conversely, lawyers have grown in relation to the general population: the ratio of lawyers providing legal services to the general population in 2007 was 1:429, compared to 1:525 in 2000. The gap between the services available to the general public and the services available to low-income people has increased.

Pro Bono Efforts

Although this methodology does not include a count of the private attorneys who provided pro bono services to low-income individuals and families, pro bono assistance is essential to helping close the justice gap.²⁸ Since the 2005 report, LSC has undertaken a major initiative to increase the involvement of private attorneys in LSC-funded programs. The LSC Board of Directors adopted a private attorney action plan, "Help Close the Justice Gap, Unleash the Power of Pro Bono," which included a call to grantees to adopt resolutions that recognize and celebrate the involvement of private attorneys in the delivery of civil legal services. LSC provided guidance in 2007 to grantees on resources and innovative approaches available to more effectively integrate private attorneys into the

²⁸ Pro bono services have been taken into consideration in the other two methodologies in this report. The contribution of pro bono attorneys is reflected in Methodology #1, at note 15, and Methodology #2 takes into consideration legal help provided by all attorneys, legal aid and private, pro bono and paid.

delivery of civil legal assistance.²⁹ LSC recommended that grantees develop long-term relationships with large law firms, corporate and government attorneys and offer support to small firms, solo practitioners and judicare attorneys so that they may more effectively provide services. In addition, the guidance encourages grantees to engage law schools and law students in pro bono services. Just as importantly, the American Bar Association has for many years sought to stimulate and support pro bono contributions by private lawyers. Pro bono has always been and will continue to be an important resource in closing the justice gap.³⁰ But pro bono efforts by private attorneys alone will not be enough to meet the legal needs of low-income individuals and families across the nation. Legal aid programs will need to have both the additional resources necessary to employ more staff and to enhance their efforts to engage the private bar in providing pro bono services.

Conclusion to Methodology #3

Nationally, on the average, there is one legal aid attorney (including those funded by *all* sources) available to serve 6,415 poor people. This ratio has not changed significantly since the 2002 figure reported in the last report. In comparison, there is one private attorney providing personal legal services for every 429 people in the general population.

Despite the expansion of non-LSC-funded programs in the past decade, a majority of attorneys serving the poor still work in LSC-funded programs. The LSC network thus remains the primary source of civil legal aid for low-income Americans.

²⁹ "Guidance to LSC Programs for the Development of Enhanced Private Attorney Involvement," LSC Program Letter 07-2, December 20, 2007. See: www.lsc.gov/program/program_letters.php

³⁰ In 1985, LSC adopted 45 CFR 1614, which requires each recipient of LSC funds to devote an amount equal to at least 12.5 percent of those funds to involving members of the private bar in providing services to eligible clients. Some of these funds go toward supporting pro bono programs either directly or through sub-grants with third-party organizations, such as bar associations. The infrastructure supported with these funds leverages public funding to involve thousands of private lawyers nationwide who donate pro bono services to address the legal problems of the poor.

New Data on Unrepresented Litigants

In the 2005 study, the Justice Gap Committee explored the possibility of obtaining data from courts and administrative agencies about the percentage of litigants who appear without representation in particular categories of cases typically involving low-income people. LSC conducted a pilot project involving four states to test the feasibility of collecting such data. However, the pilot states were able to provide only isolated bits of data, and the 2005 Justice Gap Report identified analysis of court data as a methodology that should be considered in future efforts.

Since the 2005 Justice Gap Report, more data has become available on this subject. In 2006, the National Center for State Courts issued a compilation of reports on “self-represented”—or more accurately, unrepresented—litigants in lower state courts (the category of courts in which low-income people appear most frequently), as well as appellate state courts, and federal courts.³¹ In addition, reports from several states provide information about the income levels of unrepresented litigants.

In the spring of 2009, the Self-Represented Litigation Network, a coalition of major national organizations including the Conference of Chief Justices, Conference of State Court Administrators, National Association for Court Management, and LSC, hosted by the National Center for State Courts, conducted a survey of judges and self-help programs to determine the impact of the current economic downturn on the number of unrepresented litigants.³²

Based on their own observations and currently available data, many judges, court administrators, members of the legal aid community, and commentators have raised concerns about unrepresented litigants, arguing that most people who appear in court without an attorney do so because they cannot afford one, and that the outcome for the litigant (as well as the impact on the courts) can be negative. A number of reports from state Supreme Court task forces and similar entities have called for increased funding for civil legal assistance as one response to the crisis in the courts caused by unrepresented litigants.

The following excerpts from reports by state blue-ribbon commissions in Iowa, New Hampshire, and Massachusetts all address the link between overburdened legal aid programs and the rise in unrepresented litigants, as well as the potentially overwhelming challenges that unrepresented litigants face in presenting their cases and the resulting impact on the court system.

- “Because of their unfamiliarity with the law and court procedures, pro se litigants have trouble negotiating the court system and require judicial staff to spend additional time explaining and assisting litigants through the process.... Legal services programs serving low-income Iowans are forced to routinely turn away large numbers of applicants for services due to limited staff or are only able to provide clients with advice over the telephone or through a pamphlet.

³¹ “Self-Represented Pro Se Statistics Memorandum,” September 25, 2006, National Center for State Courts, <http://www.ncsconline.org/wc/publications/memos/prosestatmemo.htm#other>. The states from which lower state court data was reported (the most relevant data for the purposes of this report, as noted above), were California, Florida, Iowa, New Hampshire, Massachusetts, Utah, Washington, and Wisconsin.

³² Surveys of judges and self-help programs were distributed by e-mail to contacts of the Self-Represented Litigation Network. Contacts included judges and others who had attended the Harvard Judicial Conference on the Self-Represented in 2007, the key contacts in every state of the Network, and those included in a national directory of self-help centers. There were approximately 100 responses for each of the two surveys. For additional information on the Self-Represented Litigation Network, see www.srln.org.

Although the increase in pro se litigants may be attributable to many factors, the limited and decreasing availability of legal services to low-income Iowans is clearly a significant factor.... While there are measures that can be taken and have been recommended to permit better access to the courts for pro se litigants, representation by a competent attorney is still the best alternative. However, decreased access to an attorney forces many desperate litigants to approach the legal system pro se. Consequently, additional funding must be obtained to improve the likelihood that those who are not financially able to hire a private attorney can access an attorney either through a legal services program or through a pro bono project.”

*Report of the Joint Iowa Judges Association and
Iowa State Bar Association
Task Force on Pro Se Litigation, May 2005*

- “Recommendation #7: The State of New Hampshire should fully fund legal services staffing for traditional civil legal services.

The Commission recognizes that the current network of civil legal assistance is excellent, and in many ways a model in terms of the quality of representation and level of cooperation among providers. That being said, the system is woefully overburdened.... The Commission urges that this system be fully funded.... The rise in the number of pro se litigants presents many challenges: pro se parties are not trained in the law and hence often do an inadequate job of representing themselves. Justice is therefore compromised, resulting in pro se litigants being deprived of their full rights. The increase in the number of untrained litigants also undermines the smooth functioning of the courts by introducing delays and inefficiencies, adding further to legal costs for all.”

*New Hampshire Citizens Commission on the State Courts,
Report and Recommendations, June 2006*

- “Studies have shown that, even though there may be other contributing factors, the primary reason for the growth in self-representation is lack of financial resources. Because of budget constraints, legal services programs are forced to turn away many of those eligible for free legal assistance.... Given the current economic downturn, there is every reason to expect that still more individuals will find it necessary to bring or defend civil cases of great personal importance—involving family, housing, employment, and financial issues—without the benefit of counsel.”

*Assessing the Needs of Self-Represented Litigants in Our Courts,
Final Report and Recommendations
Massachusetts Supreme Judicial Court Steering
Committee on Self-Represented Litigants, November 2008*

Unrepresented by Necessity

Currently available data bears out these concerns, indicating that the vast majority of people who appear without representation do so because they are unable to afford an attorney, and that a large percentage of these are low-income people who qualify for legal aid.³³ For example:

³³ Indeed, some people who represent themselves have received advice or written information about how to do so from a legal aid program; in many instances, these people actually need an attorney, but the legal aid program is able to provide them only with these limited services. See discussion above at note 8.

- A 2005 study of unrepresented litigants in New York City Family and Housing Courts found that 57 percent had incomes under \$20,000 per year and 83 percent had incomes of under \$30,000 per year.³⁴
- A 2003 California Report to the Legislature found that more than 90 percent of the 450,000 people who use court self-help programs in the state each year earn less than \$2,000 per month.³⁵

Growing Number of Unrepresented Litigants

Although there is no national compilation of statistics on unrepresented litigants in court, data from some court systems shows extremely high numbers, often clustered in those courts in which low-income people are particularly likely to appear, such as family and housing courts:

- The state lower court data collected in the 2006 compilation from the National Center for State Courts demonstrates high numbers of people proceeding without representation in a number of states.³⁶ For example:
 - A New Hampshire report found that one party was pro se in 85 percent of all civil cases in the district court and 48 percent of all civil cases in the superior court. In superior court domestic relations cases, almost 70 percent of cases had one pro se party, while in district court domestic violence cases, 97 percent of the cases have one pro se party.
 - A Utah study found that 49 percent of petitioners and 81 percent of respondents in family law cases were unrepresented.
 - A California study found that 67 percent of petitioners and 80 percent of respondents in family law cases were unrepresented; in unlawful detainer (eviction) cases, over 90 percent of defendants and 34 percent of petitioners at filing were unrepresented. In domestic violence restraining order cases, litigants are reported to be pro se over 90 percent of the time.
 - A Wisconsin study reported that 70 percent of litigants in family cases were unrepresented.
- More recently, the 2008 Massachusetts Supreme Judicial Court Steering Committee on Self-Represented Litigants Report estimated that at least 100,000 litigants were currently representing themselves in civil matters. In the Probate and Family Court, as many as 80 percent of family law cases involved at least one unrepresented party. In the housing court, self-representation is the general rule among tenants and is increasing among landlords. Based on past experience and nationwide trends, the report predicts that these numbers will only increase in the future.³⁷

³⁴ "Self-Represented Litigants: Characteristics, Needs, Services: the Results of Two Surveys," Office of the Deputy Chief Administrative Judge for Judicial Initiatives, December, 2005, Table 4, p. 4.

³⁵ "A Report to the California Legislature: Family Law Information Centers: An Evaluation Of Three Pilot Programs," Judicial Council of California; Administrative Office of the Courts, 2003.

³⁶ Self-Represented Pro Se Statistics Memorandum, September 25, 2006, National Center for State Courts, <http://www.ncsconline.org/wc/publications/memos/prosestatsmemo.htm#other>.

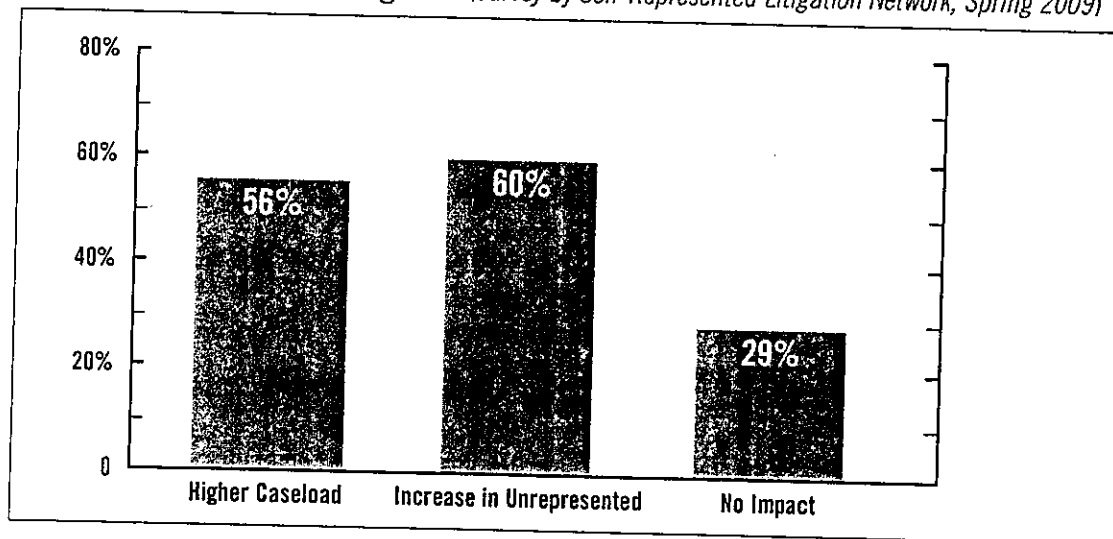
³⁷ "Assessing the Needs of Self-Represented Litigants in Our Courts, Final Report and Recommendations," Massachusetts Supreme Judicial Court Steering Committee on Self-Represented Litigants, November 2008.

■ The 2008 District of Columbia legal needs study reported that 98 percent of both petitioners and respondents in the Domestic Violence Unit of the DC Superior Court were unrepresented; approximately 77 percent of plaintiffs in divorce/custody/miscellaneous cases in Family Court were unrepresented; more than 98 percent of respondents in paternity and child support cases were unrepresented; 97 percent of respondents in housing court cases were unrepresented.³⁸

Recent Increases as a Result of the Economic Crisis

While recent national court data on unrepresented litigants is not available, in a survey conducted in the spring of 2009 by the Self-Represented Litigation Network, 60 percent of the judges responding reported more unrepresented litigants in their courtrooms in that quarter than in the corresponding quarter of the previous year.

Table 7: Percentage of Judges Reporting an Impact of the Economic Crisis on Unrepresented Litigation (Survey by Self-Represented Litigation Network, Spring 2009)



Unrepresented Litigants and the Justice Gap

The rising level of unrepresented litigants in state courts raises critically important questions relating to LSC's mandate of providing equal access to justice for those who cannot afford to pay an attorney. There is a growing body of research indicating that outcomes for unrepresented litigants are often less favorable than those for represented litigants.³⁹ Coordinated collection and analysis of data as well as additional research would be helpful to provide national information on how many people are appearing in court without representation, how many of them are doing so because they cannot afford or otherwise obtain counsel, the types of cases involved, and the impact of lack of representation on case outcomes.⁴⁰ To the extent that litigants are proceeding without counsel because they cannot afford an attorney, and the outcome of their case is being compromised by lack of representation, equal justice is at risk.

³⁸ "Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community," District of Columbia Access to Justice Commission, with the assistance of DLA Piper LLP, 2008.

³⁹ For a compilation of these studies, see Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed*, Fordham Urb. L.J. (forthcoming 2009).

⁴⁰ Specifically, key areas for potential research are: national figures on self-represented/unrepresented litigants, by state, court and case type, distinguishing between those who receive support services and those who receive none; the consequences of not having the full representation of an attorney and how these consequences vary by case type; and the additional cost necessary to address the needs of the currently under-represented.

Conclusion:

Providing Necessary Access to Civil Legal Assistance

The challenge confronting the nation in providing equal access to justice is large, urgent and complex, as the research and analysis in this report shows. The serious shortage of civil legal assistance identified in the 2005 Justice Gap Report still exists. The progress that has been made in providing civil legal assistance to the nation's poor remains at risk because of a depressed economy and the competition for scarce government funds.

Legal aid clients are the most vulnerable among us and are as diverse as our nation, encompassing all races, ethnic groups and ages, including the working poor, homeowners and renters facing foreclosure or eviction, families with children, veterans, farmers, people with disabilities, victims of domestic violence and victims of natural disasters. Three out of four clients are women—many of whom are struggling to keep their children safe and their families together. According to the U.S. Census Bureau, nearly 54 million Americans are eligible for LSC-funded services. They are at or below 125 percent of the federal poverty guidelines, an income of \$27,563 a year for a family of four.⁴¹

The data in this report shows that:

- There is still a substantial justice gap. For every client served by an LSC-funded program, one person who seeks help is turned down because of insufficient resources. That was the conclusion of the 2005 Justice Gap Report, and the research for this report reaffirms that finding.
- There is now a substantial body of knowledge demonstrating that only a fraction of the legal problems experienced by low-income individuals is addressed with the help of an attorney. State studies, sponsored by equal justice commissions, state bar associations and legal aid programs, have drawn this conclusion, contribute to a body of work building since 1994, and reinforce a key finding of the 2005 Justice Gap Report.
- Nationally, on average, only one legal aid attorney is available to serve 6,415 low-income people. In comparison, there is one private attorney providing personal legal services for every 429 individuals in the general population.
- Most people who appear in state courts without an attorney do so because they cannot afford one, and the vast majority are low-income individuals who qualify for legal aid. The number of unrepresented litigants, particularly in family and housing courts, is increasing—a critical issue for courts and for LSC as it strives to ensure equal access to justice for all Americans.

As part of its mission, LSC has a responsibility to communicate to the public and the Congress on what is required to secure *necessary access to civil legal assistance*.

Accomplishing this goal will require a multifaceted approach which will include partnerships among federal and state governments, the organized bar, individual lawyers, private funders and concerned private parties. LSC adopted an action plan in 2007—“Help Close the Justice Gap, Unleash the Power of Pro Bono”—to encourage greater private attorney involvement in the delivery of civil legal assistance. The LSC Board of Directors approved a resolution in support of enhanced private attorney involvement and urged LSC-funded programs to adopt similar local resolutions to encourage pro bono services by the bar. More than 100 programs have done so. Across

⁴¹ Federal Register, Vol. 74, No. 19, January 30, 2009, page 5620.

the nation, the creation of Access to Justice Commissions has energized efforts to increase state funding and pro bono support for civil legal aid. LSC has encouraged justices of state Supreme Courts and leaders of state bar associations to support the provision of high-quality civil legal services to low-income populations. LSC also has encouraged its grantees to help close the justice gap by carrying out their duties in the most efficient and economical way. In addition, LSC has urged grantees to enhance the services supported by federal funding through the use of technology and increased collaborations with courts, law schools and community group. Legal services programs at the state and local levels have increased funding for civil legal aid as a result of monetary contributions from lawyers, the public, business entities and private foundations.

Since the 2005 Justice Gap Report, many state legislatures have recognized the need to help close the justice gap in their states. During this period, 25 states and the District of Columbia adopted new or increased funding for civil legal aid. Overall state legislative funding rose by 63 percent.⁴² In 2005, seven states had no state legislative funding for civil legal aid; in mid-2009, there are only two. In addition, during these years, many state IOLTA programs also adopted new revenue enhancement measures that increased funding for civil legal aid.

However, these legislative and IOLTA increases only benefited the particular states involved. The current economic recession—and in particular, low interest rates and shortfalls in many state budgets—is placing many of these gains at risk.

The federal government plays a vital role in providing a pathway to equal justice for all, consistent with its role in maintaining the formal civil justice system and providing an orderly forum for the resolution of disputes. LSC serves as the primary conduit for the federal government's share of civil legal assistance. It establishes the federal funding baseline, supporting and ensuring a backbone of civil legal aid providers throughout the country.

The findings in this report suggest a phased approach to addressing the unmet need. As a first, critical goal, there must be enough funding to serve all of those *currently* seeking help from LSC-funded programs. This requires a doubling of LSC funds and a doubling of the state, local and private funds that also support LSC grantees.

The long-term goal must be to develop resources sufficient to meet the civil legal needs of all eligible low-income persons. Pro bono efforts need to be expanded substantially in the years ahead, but even expanded pro bono contributions will not be enough to address a major portion of the unmet need. As we observed in our 2005 report, to fund these needs, the federal share must grow to be five times greater than it is now, or \$1.6 billion. IOLTA and other state, local and private funding sources also will have to grow to address the overall needs.

In order to keep faith with our national commitment to equal access to justice, it is essential that the nation move toward the necessary funding levels and a renewed commitment to pro bono efforts in firm, measured strides that are designed to close the justice gap as quickly as possible. Without such meaningful steps, the nation's promise of equal justice for all will ring hollow for the nation's poor.

⁴² Based on resource data from the ABA Project to Expand Resources for Legal Services (PERLS), an initiative of the ABA Standing Committee on Legal Aid and Indigent Defendants.

Appendices

Appendix A

Other State Studies of the Legal Needs of Low-Income People Excerpts: Estimates of Unmet Legal Needs

Achieving Access to Justice for Hawai'i's People (2007)

A Report of the Access to Justice Hui, Hawai'i Justice Foundation, Hawai'i State Bar Association, and the Judiciary of the State of Hawai'i, with the American Civil Liberties Union of Hawai'i, Domestic Violence Action Center, Legal Aid Society of Hawai'i, Na Loio – Immigrant Rights and Public Policy Center, Native Hawaiian Legal Corporation, University of Hawai'i Elder Law Program, Volunteer Legal Services Hawai'i, and William S. Richardson School of Law

To calculate the percentage of legal needs that were being met, results from two surveys were utilized.

- The first survey was one completed by twenty-nine social service providers who serve over 550,000 people in the state each year. They were asked to estimate the number of their clients who had problems in thirteen legal areas and estimate what percentage had their legal needs met. According to social service providers, the average of met legal needs was 14.68 percent.
- The second survey was conducted with seventy-eight potential clients who contacted the Legal Aid Society of Hawai'i and Volunteer Legal Services Hawai'i. The average of met legal needs was 31 percent.

These two figures were averaged together, for an estimate that one in five low- and moderate-income residents, or 22.84 percent, has his or her legal needs met.

Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community (2008)

District of Columbia Access to Justice Commission, with the assistance of DLA Piper LLP

Estimating the Magnitude of Unmet Legal Needs

It is extremely difficult to calculate the precise level of the low-income community's unmet legal needs.⁵⁴⁶ Nationally, studies have indicated that about 80 percent of low-income residents' legal needs are unmet.⁵⁴⁷ Prior studies in the District have estimated that the figure in the District is closer to 90 percent.⁵⁴⁸ Whatever the actual figure, it is clear that the unmet need is substantial. The DC Courts' *pro se* statistics provide one snapshot of the unmet need. For example, in 2005:

- Almost 45 percent of formal probate matters, 98 percent of the small estate matters and 60 percent of the trust matters before the Probate Division of DC Superior Court involved *pro se* plaintiffs.

- About 98 percent of both petitioners and respondents in the Domestic Violence Unit of the DC Superior Court proceeded *pro se*.
- Approximately 77 percent of plaintiffs in divorce/custody/miscellaneous cases in Family Court were *pro se*.
- More than 98 percent of respondents in paternity and child support cases were *pro se*.
- About 97 percent of defendants who had to appear in Landlord/Tenant Court were *pro se*.⁵⁴⁹

We recognize that not everyone wants or needs full representation to address his or her legal problems. Many issues presumably could be resolved through brief advice or by giving the person materials relevant to the issue. Nonetheless, the *pro se* statistics from the DC Superior Court, which take into account representation from legal services providers, government attorneys and pro bono lawyers, indicate that thousands of people enter the DC Courts every year without a lawyer at their side. It is difficult to imagine a person of means making the same decision if given the choice.

Furthermore, it is likely that the matters that actually make it into court represent only a fraction of the existing legal needs in the community. As our study found, community-based organizations almost universally felt that the low-income community lacks knowledge about their legal rights, and an understanding of how to vindicate those rights. It is unlikely that those who do not know about their rights will ever go to court to seek resolution of a legal matter. Even those people who know about their rights and legal resources may be reluctant to bring matters to court without the advice or presence of counsel.⁵⁵⁰

⁵⁴⁶ Several other states have attempted to calculate the legal needs of the low-income community by relying on telephone surveys of low-income households. These studies found that low-income households have, on average, between 1.1 and 3.5 legal needs per year. See Echols, *supra* note 19, at 32.

⁵⁴⁷ *Id.*; LSC, "Documenting the Justice Gap in America" (2005).

⁵⁴⁸ DC Bar Foundation, *supra* note 21; Cunningham, *supra* note 70.

⁵⁴⁹ See Appendix 11.

⁵⁵⁰ See *supra* Section IV.C. to D.

Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana

A Report by Indiana Legal Services, Indiana Bar Foundation, Indiana State Bar Association (2008)

Of survey respondents with incomes below 125 percent of the federal poverty level, 86 percent reported having at least one legal problem in 2008.

The ratio of attorneys to Hoosiers living below 125 percent of the federal poverty level (FPL) is approximately *one attorney per 8,850 potential clients*. If Hoosiers with incomes between 125 percent of FPL and 200 percent of FPL are also considered, the ratio increases to approximately *one attorney per 16,100 potential clients*. In contrast, the ratio of private attorneys providing paid civil legal services to the general Indiana population was found to be about *one attorney per 688 potential clients*.

Information gathered from pro bono plan administrators and by Indiana Legal Services during preparation of this Final Report corroborates this discrepancy, suggesting that as many as 62 percent of those income-eligible applicants applying to plan administrators, and 75 percent of those income-eligible applicants applying to Indiana Legal Services, were unable to receive attorney representation necessary to fully meet their legal needs.

The insufficient number of pro bono and public service attorneys representing the poor in comparison to the need for legal assistance was a theme throughout the responses to the various surveys, questionnaires, and focus groups making up the Study.

The report also compares certain demographic data from 2008 and 1999—the last year a similar study was done—and found that Indiana’s poverty population has grown by 35 percent over the time period.

Appendix B

Table: Methodological Variations in State Legal Needs Studies 2006-2009

	Sample Size (low-income) ¹	Primary survey type	Phone interviews supplemented with in-person?	Definition of low-income (as percentage of poverty)	Household or individual
Virginia	1043	phone	no	125 125-184	household
Utah	1185	cluster sampling	n/a	125 ²	household
Wisconsin	1122	phone	no	125 125-200	household
Nevada	1000	phone	yes (focus groups)	125 125-200	household
Alabama	500	phone	no	125	household
Georgia	1027 ³	phone	Yes (204 supplemental field interviews)	150	household
New Jersey	2412 ⁴	phone	no	200	individual

Explanation of Survey Types

- **Random telephone survey:** This methodology employs Random Digit Dialing (RDD) to place telephone calls. Parties who agree to participate in the survey are asked questions about their income to determine if they are low-income. Low-income respondents are interviewed. The sample will not reflect the responses of low-income people who do not have telephones or are not willing to respond to questions by telephone. The telephone survey is often supplemented by in-person interviews with low-income people likely to be in these categories.
- **"Cluster sampling" survey:** This methodology uses census data and other sources of information to identify the principal sub-populations of low-income people in the state according to demographic categories and characteristics (e.g., immigrants, homeless people, senior citizens, disabled people, African-Americans, Native Americans, Latinos, migrants, etc.). A sufficient number of people within each cluster group is interviewed to ensure reasonable levels of reliability. Within cluster groups, interviewees are selected as randomly as possible. Interviews are generally conducted in person. In addition to the cluster groups, other respondents in the general low-income population are also surveyed. The results from the various cluster groups are weighted to reflect their proportion of the low-income population as a whole. The survey is deemed to achieve maximum reliability at about 1,500 interviews.

¹ When generalizing sample estimates to a large or unknown population, the larger the sample size the more confidence can be attributed to the survey findings as representative of the population as a whole. The statistical rule of thumb is that 400 surveys provide a confidence interval of less than +/- 5 at a 95 percent confidence level, meaning that 95 percent of samples of the same size would generate an estimate within 5 percent of the estimate produced by the given sample, for estimates that are proportions or percentages.

² Text says 129 percent, but this can be presumed to be a typographical error.

³ An additional 516 moderate-income people (incomes 150-300 percent of poverty) were also surveyed.

⁴ An additional 400+ moderate-income people (incomes 200-400 percent of poverty) were also surveyed.

Appendix C

Table: Reasons Given for Not Getting an Attorney ⁵	
Virginia	<p>Reasons for taking no action, by percentage of respondents with a problem who took no action:</p> <ul style="list-style-type: none"> • Not a problem (just the way things are): 20.5 • Don't know: 17.9 • Nothing could be done: 16.8 • Didn't want hassle: 15.1 • Didn't know who could help: 5.5
Utah	<p>Reasons for not seeking legal help, by percentage of respondents with a problem who did not seek legal assistance:</p> <ul style="list-style-type: none"> • Didn't know who could help: 32.8 • Too much hassle: 22.1 • Worried about cost: 20.6 • Thought nothing could be done: 18.7 • Not a legal problem (just the way things are): 17.3 • Afraid/intimidated (feared retaliation): 6.4 • Help not needed yet (wait and see): 5.3
Georgia	<p>Reasons given for not seeking legal help, by percentage of respondents with a problem who did nothing:</p> <ul style="list-style-type: none"> • Didn't know the problem was legal in nature: 18 • Believed nothing could be done about the problem: 16.7 • Didn't want the hassle: 7.5 • Didn't know where to go for help: 7.1 <p>Of households with a legal problem, 73 percent did not know that the problem was legal in nature.</p>
New Jersey	<p>Major reasons given for not seeking legal assistance (no percentages reported):</p> <ul style="list-style-type: none"> • Didn't think I needed a lawyer • Couldn't afford a lawyer • Tried to resolve on my own • Didn't think it was necessary • Problem not important enough • Didn't think there was anything to be done about the problem

⁵ For some states, additional reasons with very small percentages are omitted in this table.

Appendix D

Table: Awareness of Free Legal Aid/Lawyer Referral (bold figures represent data from most closely comparable questions)	
Utah	23.6 percent were aware of a free legal assistance program; About 20 percent believed they were eligible for free legal assistance
Wisconsin	37 percent were aware of free legal assistance 56 percent of people with income less than 125 percent of poverty guideline believed they were eligible for free legal services 28 percent of people with income between 125 and 200 percent of poverty guideline believed they were eligible for free legal services
Nevada	33 percent are aware of free civil legal services
Alabama	20 percent were aware of free legal assistance
Georgia	47.7 percent were <i>not</i> aware of legal services or attorney referral services

Appendix E
Tables from 2005 Justice Gap Study

Table 2005-1: Unable to Serve (Table 1 in 2005 Justice Gap Report)		
Type of Legal Problem Categories	Unable to Serve Twelve Month Projections	Calendar Year 2004 Cases Closed
Consumer	129,798	107,040
Education	12,234	6,830
Employment	46,122	18,986
Family	504,312	383,484
Juvenile	15,804	8,291
Health	24,660	27,780
Housing	143,904	218,688
Income	59,634	113,252
Individual	34,998	12,267
Miscellaneous	114,372	44,449
Total	1,085,838	901,067

Table 2005-2: State Legal Needs Studies Released 2000-2005
(Table 2 in 2005 Justice Gap Report)

State	Released	Sponsor/Funder	Survey/Analysis By
Oregon	2000	Oregon State Bar Judicial Department Office of the Governor	Sociology Department, Portland State University/D. Michael Dale
Vermont	2001	Committee on Equal Access to Justice	ORC Macro
New Jersey	2002	Legal Services of New Jersey	Schulman, Ronca, & Bucuvalas, Inc./ Poverty Research Institute of Legal Services of New Jersey
Massachusetts	2003	Massachusetts Legal Assistance Corporation	Schulman, Ronca, & Bucuvalas, Inc.
Connecticut	2003	Connecticut Bar Foundation	Institute for Survey and Research, University of Connecticut
Washington	2003	Supreme Court Civil Equal Justice Funding Task Force	Social and Economic Research Center, Washington State University/ Sociology Department, Portland State University/D. Michael Dale
Tennessee	2004	Tennessee Alliance for Legal Services	Office of Research and Public Service, University of Tennessee College of Social Work
Illinois	2005	Chicago Bar Association Illinois State Bar Association Chicago Bar Foundation Illinois Bar Foundation Lawyers Trust Fund of Illinois	Metro Chicago Information Center
Montana	2005	Montana State Bar Equal Justice Task Force	Sociology Department, Portland State University/D. Michael Dale

Table 2005-3: Legal Needs
(Table 3 in 2005 Justice Gap Report)

	Average number of legal needs in preceding year per low-income household
Oregon	3.2
Vermont	1.1
Connecticut	2.7
Washington	2.9
Massachusetts	2.4
Tennessee	3.3
Illinois	1.7
Montana	3.5
	Average number of new legal needs in preceding year per low-income individual experiencing at least one problem
New Jersey	1.8

Table 2005-4: Legal Help Received/Sought as a Percentage of Legal Need
(Table 4 in 2005 Justice Gap Report)

	<i>Received legal help (by percentage of problems experienced by household)</i>
Oregon	18.1 percent of problems, help received from private bar or legal aid attorney
Washington	12 percent of problems, help received from private bar or legal aid attorney
Montana	16.4 percent of problems, help received from private bar or legal aid attorney
Vermont	9 percent of problems, help received from private bar, legal aid, courts, or other legal source
Illinois	16.4 percent of problems, legal assistance received
	<i>Received legal help (by percentage of individuals with problems)</i>
New Jersey	16 percent of individuals with problems received legal help
	<i>Sought legal help (by percentage of problems experienced by household)</i>
Connecticut	10 percent of problems, help sought from private bar, legal aid, family/friend, other
	<i>Sought legal help (by percentage of problems experienced by individual)</i>
New Jersey (2002)	11 percent of problems, legal help sought
	<i>Sought legal help (by percentage of households with problems)</i>
Massachusetts	16.4 percent of households (no more than; could be less) with a legal need sought legal help from private bar or legal aid
Tennessee	29.2 percent of households that identified their <i>biggest</i> legal problem sought legal help from private bar or legal aid

Table 2005-5: Methodological Differences in State Legal Needs Studies
(Appendix B in 2005 Justice Gap Report)

	Sample Size (low-income)	Primary survey type	Phone interviews supplemented with in-person?	Definition of low-income (as percentage of poverty)	Household or individual
Oregon	1011	cluster sampling	n/a	125 125+-200	household
Vermont	436	phone	yes, but results not incorporated with phone survey figure	187.5	household
New Jersey	1013	phone	no	200	individual
Massachusetts	1800 200	phone	yes	125 125+-184	household
Connecticut	400	phone	no	125	household
Washington	1333	cluster sampling	n/a	125	household
	427 ⁶	phone		125 125+-200	
Tennessee	824	phone	yes	125	household
Illinois	1645	phone	no	150	household
Montana	860	cluster sampling	n/a	125 125+-200	household

⁶ The Washington study was based primarily on in-person interviews. However, a telephone sample was conducted for comparative purposes. In addition to the 427 low-income respondents, the telephone survey also included 383 respondents with incomes between 200 and 400 percent of poverty, to compare the responses of the low-income group to those with a slightly higher income level.

Table 2005-6: Importance of Problems as Ranked by Respondents (Data reported on p. 11 in 2005 Justice Gap Report)	
Montana	Respondents characterized 53 percent of the problems identified as "extremely important" and 91 percent as "important."
New Jersey (2002)	84 percent of people with a legal problem thought the problem was highly serious and important; 52 percent thought that they needed a lawyer to help with the problem.
Washington	Respondents characterized 56 percent of their legal problems as "extremely important" and 93 percent as "important."

Table 2005-7: Reasons Given for Not Getting an Attorney⁷ (Appendix C in 2005 Justice Gap Report)	
Oregon	Reason for not getting a lawyer's help, by percentage of respondents with a problem who did not seek legal assistance: <ul style="list-style-type: none"> • Nothing can be done: 17 • Not a legal problem: 12 • Nowhere to get help: 12 • Too much hassle: 12 • Worried about cost • Afraid/intimidated 11 • Turned to other help: 7
New Jersey	Reason for not getting a lawyer's help, by percentage of respondents who perceived a need for legal help but did not seek it: <ul style="list-style-type: none"> • Could not afford: 56 • "Other reasons included the belief that the problem was not important enough to pursue, the fear of retaliation, and the belief that nothing could be done." No further breakdown given.
Connecticut	Reasons for not seeking legal assistance <i>from legal aid program</i> , by percentage of problems: <ul style="list-style-type: none"> • Did not know legal aid was available: 30 • Legal aid does not help with this problem: 10
Washington	Reason for not getting an attorney, as a percentage of households with a legal problem (more than one reason could be cited): <ul style="list-style-type: none"> • Thought nothing could be done: 27.9 • Didn't know who could help: 24.1 • Worried about cost: 22 • Not a legal problem just the way things are: 21 • Afraid or intimidated: 10 • Turned to someone else: 7.8
Massachusetts	Main reason did nothing, by percentage of all legal encounters for which households took no action: <ul style="list-style-type: none"> • Not a problem, just the way things are: 30 • Nothing could be done: 18 • Did not know who could help: 8
Tennessee	Reason for not taking action to resolve their most difficult legal problem, by percentage of households reporting no action: <ul style="list-style-type: none"> • Just the way things are: 17.6 • Nothing can be done: 16.8 • Didn't know where to go: 12 • Too much hassle: 12
Illinois	Reason for not having a lawyer, by percentage of household experiencing at least one problem: <ul style="list-style-type: none"> • Thought they could handle it on their own: 33 • Hiring a lawyer would be too expensive: 26 • A lawyer would not help resolve the situation: 9
Montana	Montana: Reasons for not seeking legal help, by percentage of respondents with a problem who did not seek legal assistance: <ul style="list-style-type: none"> • Thought nothing could be done: 19 • Did not see problem as legal: 23 • Didn't know who could help: 20 • Worried about cost: 19 • Too much hassle: 16 • Afraid: 10 • Didn't want public dispute: 9

⁷ For some states, additional reasons with very small percentages are omitted in table.

Table 2005-8: Awareness of Free Legal Aid/Lawyer Referral
 (Appendix D in 2005 Justice Gap Report)
 (bold figures are most closely comparable)

New Jersey	26 percent were aware of free legal services 8 percent were aware of lawyer referral services
Washington	40.8 percent were aware of free legal services
Tennessee	21.2 percent know of a place that gives free legal help 29 percent know of any place that helps you find a lawyer.
Illinois	23 percent were aware of the availability of free legal assistance.
Montana	48.5 percent were aware of free legal services 53.6 percent believe they are eligible for free legal services
Oregon	47 percent <i>not</i> aware of lawyer referral 39 percent <i>not</i> aware of legal aid 37 percent said <i>not</i> eligible for or didn't know if eligible for legal aid.
Connecticut	for 30 percent of cases, the reason that respondent gave for not taking action was that they did <i>not</i> know that legal aid was available (this figure is not comparable to others because it is linked to the problem and other options were given)



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