



**Nevada Supreme Court
Access to Justice Commission
State Bar of Nevada**

Carson City: AOC Conference Room
Supreme Court Building, 2nd floor
201 S. Carson St.
Carson City, NV 89701

Las Vegas: AOC Conference Room, 17th Floor
Regional Justice Center
200 Lewis Ave., 17th Floor
Las Vegas, NV 89101

MINUTES
Tuesday, April 28, 2009
1- 5 pm

Commission members in attendance:

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

Abbott Kimberly
Cooney Valerie
Doherty Hon. Francis
Elcano Paul
Ferenbach Cam
Johnson AnnaMarie
Nielsen Ernest
Vogel Sheri Cane
Warden Tom

Marzec Kristina Executive Director, Commission

Non-voting members in attendance:

Candelaria Amber Director, Eighth Judicial District Family Law Self Help Center
Etkins Lynn Legal Aid Center of Southern Nevada

Members by phone:

Gonzalez Hon. Betsy
Puccinelli Hon. Andrew
Steinheimer Hon. Connie

Guests:

Baucum Suzan Executive Director, Nevada Law Foundation
Eglet Robert Vice-Chair, Nevada Law Foundation
England Kathleen President-Elect, State Bar of Nevada
Farmer Kimberly Executive Director, State Bar of Nevada

Members unable to attend (excused absences):

Desmond John
Kandt W. Brett
Thronson David

1. Minutes 2.05.2009

Approved with minor modifications.

2. Change in Nevada Legal Services Phone Number

Anna Johnson advised that Nevada Legal Services' toll free phone number was being changed today because a third party business (of ill repute) had hijacked the number. The new NLS toll free number, 866-432-0404, will be posted on its website.

3. Discussion items

Senior Law Programs. Sugar Vogel reported the Division of Aging Services recently agreed to include legal services in the definition of "core essential services". The City of Las Vegas is pursuing with the Division a grant to fund the elder abuse investigation unit; status should be available in June. She is hopeful about recent conversations with the City opening a dialogue about supplanting, which will set the stage for program growth funding decisions as the economy recovers.

Ernie Nielsen advised the Senior Law Project is included in the Washoe County budget for 2010, and as such, will not be outsourced in the coming year. A county advisory group continues to seek input on a few initiatives. The Senior Law Project is to continue discussions on organizational issues and develop solutions that make sense for delivery of services. Also, in the past, the Project's funding was always outside general county funding. The senior program needs continuing to grow, and the entire Department of Senior Services budget is currently under funded. These issues will continue looking forward.

Anna Johnson reported that LSC increased funding in 2009, for NLS 200K. There are currently empty positions that can now be filled. Further, if the congressional funding for LSC is passed, it will be the largest increase in history and a huge boon for NLS programming. The Bill also would remove all restrictions on outside funding and some on LSC funding (as to class action suits and attorney fees). That section may pass easier than the \$435 million appropriation requested. LSC will make its final site visit to NLS for 2009 the week of May 18.

Kimberly Farmer reported the Board of Governors leadership was in Washington for ABA Law Day and supported the pending LSC legislative initiatives. There was strong support from Senator Reid and women's groups.

Paul Elcano reported no significant changes for Washoe Legal Services.

Valerie Cooney reported all funding sources for VARN are stable, no news to report at this time. A visit is expected from LSC regarding VARN's pro bono coordinator position.

Lynn Etkins reported Legal Aid Center of Southern Nevada is very busy, with dramatic increases in programs for foreclosure assistance. It received a grant from NCLC on Consumer Credit Services loan modifications.

Justice Douglas noted AB 149 (creating a foreclosure mediation program) seemed on track to pass this summer. This Commission should consider as a side issue the administrative support role that can be filled in assisting people with general information (do they qualify for the program as a baseline issue), and, preparing people who will be meeting with a mediator to have all the necessary documents available to most effectively utilize this resource.

Judge Puccinelli reported the AB 149 working group spent several hours working on a flow chart and formulating the attendant rules for the program. Forms are being developed. David Thronson stated the Boyd Law School is looking into ways to support the program.

Standardized Service Provider Statistic Reporting. Justice Douglas thanked the providers for the funding and service reports each has submitted at his request to date. The request for standardized service delivery reporting is to develop one set of statewide numbers. No one wants to impact what the providers are doing, but we need to have basic delivery statistics that show how the state is doing. Going forward with funding and resource requests on a state-wide level mandates that the Commission

have available current statistics showing existing funding, allocation to specific services, and future needs based on that information.

In 2009 IOLTA funding was roughly \$1.83 million and dues check off was roughly \$151,000. As we attempt to expand our message to the public, it is important to recognize how the numbers will be received. We spend about \$15.39 per poor person if we look at the needs assessment, versus an average of attorney fees at about \$300 per hour.

Marketing. The second phase of the marketing program this year needs to tell our story. Justice Douglas noted that in the Rurals we found in our first committee meeting that we have more resources than we knew. NLS has regular monthly meetings that appear to have fallen through the communication gaps. These are hands-on, live attorney meetings available to the general public in the area. The providers should work together to provide resources for the press with good works and good outcome stories to get the interest of both potential funding sources and the general media. People want to see what the needs are and how the money is ultimately helping real people.

Mandatory Reporting. Both the State Bar (regarding mandatory docs in general) and the Commission (with regard to 6.1 only) have work groups looking at current 6.1 reporting and whether change might be warranted. Some topics discussed to date have been how the numbers are used; if attorneys are reporting accurately; whether attorneys understand the form; should the form be further limited; dues add on; and if aggregate or pooled reporting should be available for law firms. Any changes for the following year need to be submitted by August in the current year. We may be short on time for this year but look to a meaningful change for 2011.

Cam Ferenbach stated there are housekeeping changes needed in Rule 6.1, so this is probably a good time to address everything. For his part, he supports reporting as a firm.

Chief Justice Hardesty noted his position that we should increase the contribution to a mandatory \$100 per lawyer rather than the \$500 opt-out and that the large law firms were open to it in our large law firm meetings. The membership however has generally expressed reluctance in terms of any mandatory requirement. There does seem to be support for pooling or pro rate reporting of service hours. This past year it appears we had about a 3% drop in dues check off contributions, which given the economy is not too bad. However, as the economy improves this must improve. Government lawyers and transactional lawyers don't or can't generally go to court, so increasing the available options is supported.

Kimberly Abbott stated in the case of mandatory reporting, the historical position has been this is part of the rules of professional conduct and an *individual* responsibility. While all efforts to help lawyers increase service is laudable, we should be cautious of shifting the focus too much away from that cornerstone and the ABA Model Rule.

David Thronson opined requiring a written firm pro bono policy with some flexibility might be an option. Paul Elcano noted his position that we have mixed metaphors right now. The rule should be either entirely mandatory or entirely voluntary. We need to decide what's reasonable and move forward.

There followed extensive discussion on the history of pro bono reporting and the purpose behind mandatory requirements. Kathleen England noted that every time the form is changed, it does have a fiscal impact on the State Bar. Justice Douglas stated further Commission discussion should be had to determine what we really want and the efficacy of the current form. A great deal of time and effort went into enacting mandatory reporting and the current requirements. Lynn Etkins noted since enactment it has clearly increased awareness and volunteerism, and encouraged a dialogue about pro bono from the members.

Deferred action. Kimberly Farmer to provide the 2008 pro bono statistics as soon as available (which should be within the next few weeks, responses are still coming in and being entered). Kristina to run a line-item report on last year's pro bono reporting and start working with the pro bono coordinators to get a picture of how our current system is working. The Executive Directors will meet to discuss the Chief Justice's proposals regarding dues add on and other rule change issues.

Once that takes place, tentative working group: Valerie Cooney, Amber Candelaria, Suzan Baucum, Kim Abbott, David Thronson, a State Bar Designee, Chris Reade, Kristina, and at least one private bar representative. Revisit next Commission meeting.

Expanding Commission Composition. Rule 15 has some housekeeping needs. In addition, we need to consider expansion both through potential voting slots, and, non-voting appointments allowed under the current language. The Nevada Law Foundation should be added as a voting member. We need to consider self-help centers, the private bar, specialty bars, the federal bar and government lawyers generally, and law students/faculty in general. Justice Douglas appointed Lynn, Anna, and Kristina to a working group to report back next Commission meeting.

Ghostwriting Standing Advisory Opinion. The Court will be discussing at its *en banc* administrative conference in June the proposed revisions to Ethics Opinion 34 pertaining to ghostlawyering. The current Chair of the Ethics and Professional Responsibility Committee, Jeffrey Stemple, submitted the revised opinion including *inter alia* an exemption for the legal service providers (submitted jointly by General Counsel David Clark and the Executive Director Committee).

Rural Services Delivery. The first meeting of this committee was held this morning and will meet again in July or August. The AOC has done a great deal of work on a related project under ADKT 424 mandating technology in the courts and is also participating on this committee. Providing for infrastructure is the greatest hurdle and will take time and money. The pilot program is moving well, the AOC has launched the first handful of rural courts and installed the necessary hardware and will move on to phase two for a second batch of courts. We learned that in the rurals, people will wait weeks to meet with a live person if that is an option. Everyone wants a live body. Nevada Legal Services has been going out to various rural locations monthly with a live attorney, and that information needs to be disseminated.¹ At the next meeting resources will be pooled with a view towards putting together a rural community “available resources” information pamphlet that will be disseminated to the rural courts and made available on-line.

Website. Kristina reported on several available domain names and host service providers for the potential stand-alone Commission website to serve as the state-wide central resource. Anna offered to turn over NevadaLawHelp.org for this purpose (which NLS has already paid for and is supported through ProBono.net). Moved and approved. Administrative authority request will be submitted for Kristina. Once that is set up, tentative work group of Kristina, Jon Sasser of the Nevada Justice Association, and Amber Candelaria to expand content. Estimated 6 months for public launch.

Statewide awards. The statewide awards subcommittee gave its report and recommendations for honorees at the State Bar Annual Convention, as was approved at the last Commission meeting. After extensive discussion and debate, it was moved and approved to cancel this year’s program and overhaul the entire selection and celebration process with a view towards a large, splashy event in 2010.

Mortgage foreclosure. Ernie reported on the efforts of the 16-person working group meeting for the past 6 weeks on AB 149. David Houston is the LACSN representative on this group. Process underway to solicit attorney interest as mediators. Also a huge component is the amount of legal assistance that will be needed for people who won’t qualify.

Self-help. Amber reported that this Friday the Eighth Judicial District judges will be considering a filing fee increase for Hot Docs. The program will work in conjunction with Lexis/Nexus to automatically populate a large variety of forms based on user input on a questionnaire. Eventually e-filing will be available. The Family Law Self-Help Center is being remodeled to add 12 kiosks. The program will be accessible from home or the kiosks. Plans are to start with the most popular forms with budgeting for all forms in the family law library. David Thronson reminded that the law school clinic needs to be updated with the new forms as they come on-line. Lynn Etkins noted she is now the point of contact on that issue.

Justice Douglas noted that as information is developed from the Access to Justice Campaign initiatives, public libraries must be included in the loop.

¹ Schedule provided post-meeting and attached hereto.

4. Roadman to Justice Symposium

Justice Douglas gave a brief overview of the symposium. What happens in Congress with LSC funding will obviously have a big impact on service delivery. Focus continues to be on unmet legal needs, cost efficient strategies, and legal information support services. Incorporating non-lawyer assistants as part of the solution is an interesting trend in national discussions. Large law firm furloughs was also a hot topic. Anna Johnson noted that LSC has a website set up for programs that want to bid on furlough lawyers and she agreed to forward the information to Kristina for distribution to the providers. The program offers a \$54K stipend benefits, and matching funding. Congress will decide the Casey Amendments (removing restrictions as mentioned *supra* on class actions/attorney fees) and increasing LSC funding to catch up with inflation (trying to get the program funding to pre-1982 relative equivalency).

National Pro Bono Week. Kristina and Justice Douglas urged the providers to immediately turn their attention the National Pro Bono week (last week in October) and asked for a commitment of at least one program per provider. Subject to be followed up at the next Legal Services Delivery meeting. Kristina directed everyone to the ABA website for ideas and noted she and Kim Abbott were available to discuss any ideas or questions in the interim.

5. Nevada Law Foundation Report

Robert Eglet gave the Nevada Law Foundation report. The Silver Ball raised about \$92,500 in colleague pledges. It looks like the revenue from that event will be around \$68K when expenses are factored in. There were additional fundraising efforts and commitments in about \$400,000 in cash equivalency, plus 2-3 thousand hours in service pledges. They are still crunching the numbers to get the final tallies and will be following up with all the lawyers and firms who pledged. The IOLTA campaign has succeeded in getting about 20 law firms to move their IOLTA to preferred interest banks. Robert offered to make the media tape from the Silver Ball available for Pro Bono week, noting it can be easily edited as needs require.

Justice Douglas noted that the strategic planning meetings held in December and January resulted in a change in focus and direction that needs to be supported and continued.

Robert provided red-line proposed rule changes on SCR 216 (expanding the Nevada Law Foundation to provider for additional fund raising efforts, removing lifetime term limits), SCR 6.1 (regarding dues add on and other issues), and, NRS 38 regarding Jury Fees. There was extensive discussion on these proposals, particularly the NRS 38 amendments. Concern expressed on the impact his would have on indigent litigants in particular, and, the flow of the non-refundable fee directly to the Foundation. No action taken; deferred to next meeting with requests for more information on what research the NLF based the recommendations regarding NRS 38.

6. Executive Director's Report

Paul reported that Executive Directors had one meeting and scheduled a second. Work remains in progress on a joint-proposal for an IOLTA percentage split formula. They remain hopeful they can come to an accord.

There has been some misconception in the legal community at large that the EDs took a position that other legally-related services should be defunded. For the record, it is important to clarify it was always the ED's position that those programs should remain funded, but that it should be done through fundraising and that in the interim of any transition to that end, existing funding levels would be maintained from IOLTA as in the past.

7. Reminder of 2009 Commission meetings

July 10, 2009 1-5

October 9, 2009 1-5

Location: videoconference by the AOC.

Meeting adjourned at 6 pm.

POST-MEETING ADDENDUM

**NEVADA LEGAL SERVICES'
2009 OUTREACH SCHEDULE**

Senior Centers - January

<u>Date</u>	<u>Location</u>
1/14/09	Overton, Nevada Jim Boyles Senior Center
1/14/09	Mesquite, Nevada Mesquite Senior Center
1/21/09	Alamo, Nevada Alamo Senior Center
1/21/09	Caliente, Nevada Olsen Senior Center
1/21/09	Ely, Nevada White Pine Senior Center
1/22/09	Elko, Nevada Elko Senior Center
1/23/09	Winnemucca, Nevada Winnemucca Senior Center
1/23/09	Fernley, Nevada Fernley Senior Center
1/26/09	Carson City, Nevada Carson City Senior Center
	Gardnerville, Nevada Douglas County Senior Center
1/26/09	Yerington, Nevada Yerington Senior Center
1/27/09	Fallon, Nevada Churchill County Senior Center
1/27/09	Hawthorne, Nevada Mineral County Care and Share
1/27/09	Pahrump, Nevada Pahrump Valley Senior Center
	February
2/11/09	Mesquite, Nevada

Mesquite Senior Center

2/12/09 Ely, Nevada
White Pine Senior Center

2/12/09 Eureka, Nevada
Eureka Senior Center

2/13/09 Austin, Nevada
Austin Senior Center

2/17/09 Carson City, Nevada
Carson City Senior Center

Gardnerville, Nevada
Douglas County Senior Center

2/18/09 Tonopah, Nevada
Tonopah Senior Center

2/18/09 Laughlin, Nevada
Laughlin Senior Center

2/18/09 Searchlight, Nevada
Searchlight Senior Center

2/25/09 Pahrump, Nevada
Pahrump Valley Senior Center

March

3/11/09 Mesquite, Nevada
Mesquite Senior Center

3/13/09 Amargosa, Nevada
Senior Center

3/16/09 Carson City, Nevada
Carson Senior Center

3/17/09 Carson City, Nevada
Carson Senior Center

Gardnerville, Nevada
Douglas County Senior Center

3/18/09 Austin, Nevada
Austin Senior Center

3/18/09 Eureka, Nevada
Eureka Senior Center

3/19/09 Hawthorne, Nevada
County Care & Share

3/19/09 Tonopah, Nevada
Tonopah Senior Center

3/25/09 Pahrump, Nevada
Pahrump Valley Senior Center

3/25/09 Las Vegas, Nevada
Veteran's Stand Down

April

4/8/09 Mesquite, Nevada
Mesquite Senior Center

4/13/09 Ely, Nevada
White Pine Senior Center

4/14/09 Wells, Nevada
Wells Senior Center

4/15/09 Carlin, Nevada
Carlin Senior Center

4/15/09 Fallon, Nevada
Fallon Senior Center

4/16/09 Carson City, Nevada
Carson Senior Center

Gardnerville, Nevada
Douglas County Senior Center

4/29/09 Pahrump, Nevada
Pahrump Senior Center

In addition to the Senior Centers, Nevada Legal Services has conducted outreach the last Wednesday of each month at the NOTO Resource Center in Pahrump and the third Wednesday of each month at the Family Resource Center in Fallon.

The following is the regularly scheduled outreach that will take place for the rest of the year:

Mesquite Senior Center
Second Wednesday Every Month

Pahrump Senior Center
Last Wednesday of Every Month

Pahrump NOTO Resource Center
Last Wednesday of Every Month

Ely Senior Center
Once Every Month-Schedule Determined by Senior Center

Elko Senior Center
Once Every Month – Schedule Determined by Senior Center

Carson City Senior Center
Once Every Month-Schedule Determined by Senior Center

Tonopah Senior Center
Once Every Two Months-Schedule Determined by Senior Center

Fallon Family Resource Center
Third Wednesday of Every Month

Douglas County Senior Center
Fourth Tuesday of Every Month

All other outreach is conducted as requested by the community organizations. NLS continually contacts various organizations in the rural counties, letting them know we would be happy to come out and conduct outreach.