

June 29, 2007

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

The fourth regular meeting of the Supreme Court Access to Justice Commission was convened on June 29, 2007 in Squaw Creek, CA at the State Bar Annual Meeting.

The following members were in attendance:

Hon. Michael Douglas
Hon. James Hardesty
Hon. Connie Steinheimer
Hon. Frances Doherty
Hon. Stephen Dahl
Kimberly Abbott
Wayne Pressel
Valerie Cooney
Paul Elcano
Cam Ferenbach
Brett Kandt
Lynn Etkins, Executive Director

The following members appeared by telephone:

Hon. Elizabeth Gonzalez
Sheri Vogel
John Desmond

The following sub-committee members participated:

Barbara Buckley
Suzy Baucum
Bob Kortland
Nancy Becker (by telephone)

The following members were unable to participate:

Hon. Andrew Puccinelli
Hon. Richard Glasson
Hon. William Voy
Annette Appell
Ernest Nielsen

CALL TO ORDER

The meeting was called to order by Justice Michael Douglas, Co-Chair at 11:05 a.m.

1. APPROVAL OF MINUTES

A motion was made and seconded approving the minutes from the April 20, 2007 meeting.

2. REORGANIZATION

The WCATJ Foundation voted to be inactive, but not dissolve. The members felt that they would like to meet once a year and keep their 501(c) (3) status in case they need to reactivate in the future. The EJD PBF has agreed to consolidate into the ATJ Commission. The Board of Governors voted to suspend the ATJ Section for one year and re-evaluate next year about whether or not to sunset the Section.

The Supreme Court will need to revise Rule 15 regarding the make-up of the Commission. The Nevada Law Foundation needs to be added and the issues of the ATJ Section and the Foundation representation need to be addressed.

Judge Dahl suggested that members of the county bars be part of the Public Relations Standing Committee since they already do public relations work.

A motion was made and seconded and the Commission adopted Chart #1, with the following changes:

- Addition of the Executive Director.
- Removal of the sub-committees under Legal Services Delivery Standing Committee.
- Creation of a 7 person Standing Committee for Legal Services with at least all 5 Executive Directors.
- The Development Standing Committee will comprise of members from the North, South and the Rurals.

Each Standing Committee can break down into sub-committees as they deem appropriate. The District Representatives pursuant to the organizational chart should be Commission members.

The current sub-committees will be folded into the Standing Committees. Lynn will provide a summary of how that will work at the September meeting.

Justice Hardesty asked all Commission members to advise Lynn as to which Standing Committee they would like to be on and the Justices will make the appointments. Each Standing Committee should meet at least once before the next Commission meeting. Please bring names of additional people you would like to be part of your Standing Committees to the September meeting.

Executive Committee

It was suggested to Lynn that the Commission might want to create an Executive Committee for any business that needs to be done in between Commission meetings. The Commission decided that an Executive Committee was not necessary because we have two Supreme Court Co-Chairs who are responsible for this Commission who can make any executive decision necessary.

Fiscal Agent

Lynn looked into whether the Commission could use the Nevada Bar Foundation as a fiscal agent for fundraising. Although the mission of the Nevada Bar Foundation and the AJC are similar, the auditors at the State Bar felt it was not a good idea to combine these activities. The Commission voted to create a 501(c) (3) corporation/foundation. Cam offered Lionel Sawyer & Collins to do this on a pro bono basis. A motion was made and seconded and the AJC will form a 501(c) (3) entity. Lynn will work on this with a tax attorney and advise the Commission of the status at the next meeting.

3. LEGAL NEEDS ASSESSMENT

Lynn updated the Commission on the status of the legal needs assessment. There were 6 companies that bid on this project. Two were rejected because of price and the other four were asked for more information. The committee wants to do a telephone survey, focus groups, strategic planning and a cost/benefit analysis, if cost allows.

The Commission reviewed the fundraising efforts for this project. As of today, we have raised \$66,400 and the Nevada Law Foundation will discuss donating \$25,000 to this project.

4. LEGAL SERVICES FUNDING

The Commission reviewed the statewide information provided.

5. LEGAL SERVICES SUMMIT

Paul Elcano gave the report from the Legal Services Summit held in June. The main areas reported on were Dispute Resolution and Pro Bono Opt Out funding.

Dispute Resolution:

A two tier process was discussed:

- (1) Meeting with all providers to discuss the dispute and, if unresolved;
- (2) Non-binding mediation.

It was agreed unanimously to follow tier 1. Five providers agreed to non-binding mediation, Nevada Legal Services voted no.

Pro Bono Opt Out Funding:

The providers from both Pro Bono Foundations in the South agreed that the money that was distributed from the State Bar to the Foundation should be continued to be distributed with the current formula.

Eighth Judicial District

25% Senior Law Project
25% Clark County Legal Services
25% Clark County Pro Bono Project
25% Nevada Legal Services

Washoe County

25% Senior Law Project
25% Washoe Legal Services
25% WLS Pro Bono Project
25% Nevada Legal Services

The providers in the North did not agree. Nevada Legal Services wants a larger share of the proceeds in the North. Washoe Legal Services made no comment.

The group thought that this meeting was helpful and decided to meet again on September 20, 2007 from 1-5.

6. MANDATORY PRO BONO REPORTING RESULTS

The Commission reviewed the interim results. The State Bar has not yet addressed the issue of how to obtain the remaining reports which were not turned in and whether or not they are going to assess the \$100 fine. The Commission asked if we could review the form for next year. Justice Hardesty asked whether or not we could add a box so lawyers can put down where they gave their donation to and only have the legal service providers as described in Rule 6.1. The form should be more explicit, “how many hours did you donate to VARN?” “You gave x amount of dollars to WLS.”

Mandatory Reporting has increased pro bono awareness, pro bono hours and financial contributions. It is difficult to get the data you want from the form in order for it to be a useful tool. Maybe we have to do a better job educating lawyers about the form and why we need the data. We can use bar journals, bar meetings and explain what we are trying to do. The vast majority of attorneys are trying to fill out the form correctly.

These results, although probably on the high side, still show that a majority of the lawyers are not doing their fair share of pro bono work.

7. CCBA LRAP Program

Justice Douglas handed out a letter he received from Judge Dahl about the \$100,000 that the CCBA is using for their new Loan Repayment Assistance Program. Judge Dahl is asking the Supreme Court to change the pro bono rule to allow the \$500 to be counted towards this program. This matter will be calendared for September’s meeting.

The Commission thanked the CCBA for taking a leading role on this project. The Commission is still working on a statewide program which will help legal services across the state.

8. Comprehensive IOLTA Petition

Suzu Baucum drafted a petition to change IOLTA from opt-out to mandatory. The figures from the State Bar indicate that approximately 4723 attorneys are NOT exempt from having trust accounts and only 3718 have given trust account information to the State Bar. The Nevada Law Foundation believes that we will increase funds for legal

services by taking this next step. A motion was made and seconded and the Commission voted unanimously to support and sign on the petition for mandatory IOLTA with the Nevada Bar Foundation. Suzy will now calendar this for the next Board of Governor's meeting in August to get the State Bar's support.

In other related business, Justice Hardesty advised that there is approximately \$30 million dollars of legally related money, including jury fee deposits that may be earning interest and may be going into the county general fund (both Washoe and Clark). Judge Gonzalez agreed to look into this in the South and Paul Elcano agreed to look into this in the North. The Commission agreed that the interest earned on this might be treated as IOLTA interest and maybe should go to fund legal services in the state. We will calendar this for next meeting for further discussion.

OTHER

The Commission did not have time to discuss items 9 and 10. Item 9 will be dealt with via email and item 10 is for informational purposes only.

NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 1:05 p.m. The next meeting is scheduled for Friday, September 21, 2007 in Las Vegas at the State Bar office.

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