

September 21, 2007

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

The fifth regular meeting of the Supreme Court Access to Justice Commission was convened on September 21, 2007 in Las Vegas at the State Bar of Nevada.

The following members were in attendance:

Hon. Michael Douglas, Co-Chair
Hon. Stephen Dahl
Kimberly Abbott
Wayne Pressel
Valerie Cooney
Paul Elcano
Cam Ferenbach
Brett Kandt
Hon. Elizabeth Gonzalez
Sheri Vogel
Hon. William Voy
Annette Appell
Ernest Nielsen
Tom Warden
Lynn Etkins, Executive Director

The following members appeared by telephone:

Hon. James Hardesty, Co-Chair
Hon. Connie Steinheimer
Hon. Frances Doherty
Hon. Andrew Puccinelli
Hon. Richard Glasson

The following sub-committee members participated:

Barbara Buckley
Suzy Baucum

The following members were unable to participate:

John Desmond

The following guests participated:

Kimberly Farmer, Executive Director, State Bar of Nevada
Nancy Allf, President, State Bar of Nevada

CALL TO ORDER

The meeting was called to order by Justice Michael Douglas, Co-Chair at 10:00 a.m.

APPROVAL OF MINUTES

A motion was made and seconded approving the minutes from the June 29, 2007 meeting. The motion passed.

STRUCTURE OF COMMISSION

Standing Committee Assignments

The Commission reviewed the Standing Committee Assignments.

Other members/Committee Application

Justice Douglas asked the members to think of people to participate on the sub-committees. Justice Douglas will contact the Chair of the State Bar Young Lawyers Division and ask them to have a representative participate on the Commission. At the Large Law Firm meeting, we will ask the law firms to participate on sub-committees. The Commission discussed the need for a PR person to work on getting our message out. We should invite the Self-Help Center directors in the North and South to participate. Paul Elcano spoke to Beth in the North and Kim Abbott spoke to Amber in the South. Other suggestions: Scott Nielsen and/or Leslie Pittman. Valerie Cooney also has names of people to participate.

The Commission agreed to circulate the application to members of the bar in order to get new member participation. Lynn Etkins will disseminate the application through the State Bar. We also may want to target retired attorneys, public lawyers and the Boyd Alumnae group.

Additions/Changes to Commission membership

The Nevada Law Foundation should be added as a voting member of the Commission. Judge Dahl is now the representative of the Nevada Judges Association which means the Clark County Bar Association needs a new representative. Karl Nielsen, the President elect might be a good choice. Judge Dahl will speak to him.

Tom Warden and Barbara Buckley will brainstorm about potential names for a PR person and bring the information back to the Commission at the next meeting.

501(c) (3) Status

Lynn Etkins advised the Commission that we have formed a corporation, Access to Justice, Inc. Jones Vargas is handling the incorporation and non-profit status for the Commission on a pro bono basis. The bylaws need to be created and the attorneys have sent a draft copy. Brett Kandt and Ernie Nielsen offered to assist Lynn Etkins in reviewing these documents. The non-profit status is a longer process which should be completed sometime in 2008. Because of the delay with the non-profit status, the pro bono foundations will keep their status until the Commission has become a 501(c) (3) corporation.

COMMUNICATIONS STANDING COMMITTEE

Legal Needs Assessment

Brett Kandt gave the report. He explained to the Commission the recommendation of the two companies for the legal needs assessment. The Commission discussed how the assessment will not address all issues such as homelessness, mental

illness and child abuse. There may be money to add a senior component to this assessment from a grant through the Division of Aging. Nevada Legal Services and Washoe Senior Law Project have applied for this grant. One of the requirements of the grant is that a needs assessment be completed for seniors in Nevada. Lynn Etkins will speak to the companies about making this part of the assessment. The committee which reviewed the proposals will continue on to work with Lynn Etkins on this legal needs assessment.

Gene Kroupa & Associates will be responsible for the telephone survey portion at a cost of \$58,820. Social Entrepreneurs will be responsible for the focus groups, cost/benefit analysis, strategic planning and completing the report with the Commission at a cost of \$52,293. A motion was made and seconded to enter into contracts with these two agencies at these prices. The motion passed. The AOC will sign the contact with these companies. Lynn Etkins is working on the SJI grant for matching funds with the AOC.

Judge Gonzalez said she would ask the District Court Judges Association to donate money to the legal needs assessment.

Loan Repayment Assistance Program-CCBA Rule Change

Judge Dahl gave the report. The Clark County Bar Association has \$100,000 which has been set aside for an endowment for a loan forgiveness program to benefit legal services attorneys in Clark County. Currently, Rule 6.1 allows lawyers to “buy-out” of their pro bono obligations by donating money directly to a legal services provider which does pro bono work. There has been discussion about changing Rule 6.1 to allow donations to foundations which support pro bono, such as the Nevada Law Foundation and the Clark County Bar Foundation (only for the loan forgiveness program.) There have also been discussions about having the CCBA handle the loan forgiveness program statewide. There is ongoing concern about fundraising and everyone going after the same dollars. Barbara Buckley, Judge Dahl and Lynn Etkins have been playing with language for the rule change. Justice Hardesty endorses the concept, but the Commission will need to see an amendment proposal. A motion was made and seconded to approve a rule change done and approved by the legal service providers. The motion passed.

Logo Contest

The Commission reviewed the submissions and referred the matter to the Communications Standing Committee. Paul Elcano said that red and blue are the best colors for marketing.

DEVELOPMENT STANDING COMMITTEE

IOLTA Petition update

Suzan Baucum gave the report. The Board of Governors scheduled public hearings on the new comprehensive IOLTA plan. The hearings are at the end of September. The Board of Governors will vote on their support of Comprehensive IOLTA at their October meeting.

Jury Fees—NRS 355.210

A motion was made and seconded that the potential for funding under this statute was worth the Commission’s time to investigate. Judge Voy, Judge Gonzalez and Judge Dahl abstained from the vote. The motion passed.

Paul Elcano will continue to review the matter in the North, Valerie Cooney will review the matter in the Rurals and Wayne Pressel will review the matter in the South. Ernie Nielsen will also help with this. Suzy Baucum said that the interest from these accounts could be transferred to the Nevada Law Foundation in the same way the IOLTA interest is transferred. There is approximately \$3.6 million dollars in the North that is currently earning interest. The Commission should explore a series of alternatives and examine the alternatives on how this money could be redirected to benefit legal services. Those examining the matter will investigate into this further and report back at the next Commission meeting.

LEGAL SERVICES STANDING COMMITTEE

Large Law Firm Initiative

Kim Abbott gave the report. Kim Abbot reminded the Commission that our meetings large law firms are scheduled for October 16 in Las Vegas and October 23 in Reno. Justice Douglas said we should bring our wish list with us and let the firms take whatever parts of it they want. We should ask the firms to open Nevada trust accounts that contribute to IOLTA. We should try to get firm associates involved in the Commission. Should we have annual meetings for the firms, quarterly site visits by the Commission to discuss the firms' problems or concerns? What are the firms doing in other jurisdictions? What are the barriers for providing pro bono service? Justice Douglas reminded the group that we also have to decide how to approach those firms that did not show up to the meeting. Why didn't they come?

One firm is using the model one attorney doing all of the pro bono for the firm. Does the firm get credit? Does each attorney in the firm get credit for the one doing the work? How do they fill out their mandatory reporting form? Should we encourage taking cases in a team approach? Some national firms determine how much pro bono they are going to do based on a percentage of their billable hours.

We need to give them a thumbnail sketch of the state, such as how many poor people we have and how much money we spend on legal services. Much of their business is probably going to their "home" state. We need to create a package about Nevada...here are the needs and here is how you can help. Lynn Etkins ran some statistics at the beginning of the year and determined that there was 1 attorney for every 467 Nevadans (non-low income) and 1 legal aid attorney for every 10,000 Nevadans living in poverty.

Cam Ferenbach said his firm uses pro bono cases to train younger associates. Wayne Pressel said that Ballard Spahr is working with NLS on larger projects on a pro bono basis, not taking individual cases. Wayne Pressel thinks we need to find other ways to have the firms help us besides taking individual cases. The meeting should be personalized with emotional content. Give any thoughts about additional agenda items to Kim by October 10, 2007.

Emeritus Rule

Kim Abbott gave the report. The Commission liked the plan, but suggested that the CLE requirement be eliminated and that the language be changed to "any necessary training to be provided by the legal services provider." The Commission wants to make it as easy as possible for retired lawyers to do pro bono work. A motion was made and

seconded to support a rule change for the Emeritus Program. The motion passed. Lynn Etkins will forward this information to the Board of Governors to review at their October meeting. Lynn Etkins will draft an ADKT Petition for this rule change and present it to the Board of Governors at their December meeting.

Mandatory Pro Bono Reporting Results

Lynn Etkins provided the Commission with the results from the 2006 Mandatory Pro Bono Reporting.

Mandatory Reporting Form 2007

The Commission reviewed and approved of the new format for the 2007 Mandatory Pro Bono Reporting Form.

\$500 Opt out letter

The committee which revised the Mandatory Reporting form also asked the Commission to send a letter to members of the bar asking them to pay the \$500 pro bono opt-out on their bar dues statement. The Pro Bono Foundations sent a similar request in the past. Justice Douglas asked Lynn to submit the letter as amended to the State Bar so it would be included in the 2008 bar dues statement. The Commission also thought it would be a good idea to send out an email advising lawyers that time is running out, but there is still time to take pro bono cases and give contact info for pro bono. Finally, the Commission wants to send out letters to attorneys once the Commission becomes a non-profit organization to advise the bar and ask for donations.

Legal Services Executive Directors Meeting Report

Paul Elcano gave the report. The Executive Directors met yesterday and decided to review the statewide delivery of legal services, primarily in the rurals. They also discussed the new health insurance statute which allows legal services providers to join PERS. The Executive Directors also discussed the possibility of a retirement plan for legal services staff. The Commission suggested that legal services look into 401(k) contributions with matching money as an alternative. Clark County Legal Services already has such a plan.

OTHER

Nevada Legal Services 25th Anniversary

Wayne Pressel advised the Commission that Nevada Legal Services was going to celebrate their anniversary with two symposiums on October 17 and October 19. A flyer about the event was provided to all Commission members.

NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 1:00 p.m. The next meeting is scheduled for Friday, February 1, 2008 in Reno Las Vegas at the Northern Nevada Bar Center.

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