

**ACCESS TO JUSTICE COMMISSION  
STATE BAR CENTER  
Friday, February 26, 2010  
Minutes**

**COMMISSIONERS PRESENT:**

Hon. Petra Jimenez Maes, Co-Chair	Hon. Sarah M. Singleton, Co-Chair
John Watson	Douglas A. Echols
Joey Moya	Hon. Nan G. Nash
Antoinette Sedillo Lopez	Dorene Kuffer
John Arango	Bruce Hall
Levon Henry	Thomas W. Olson
Jessica Perez, State Bar President Elect	

**COMMISSIONERS ABSENT:**

Andrew Montgomery	Michelle Giger (excused due to Moot Court)
Rep. Antonio "Moe" Maestas	Cisco McSorley
Gregory Ireland	

**STAFF:** Tina Sibbitt (AOC/ATJ Staff Attorney)

**INTERESTED PARTIES:**

Kasey Daniel	
Kay Homan	Liz McGrath
Jodie Schwebel	
Nita Taylor	Carol Garner
Gloria Molinar	Geoff Nims
Bill Strouse	Angelica Anaya Allen
Renee Valdez	Amanda Hartmann
Patricia Stelzner	Kate Mulqueen
Kim Posich	Gail Evans
Andre Shiromani	Stormy Ralstin
Fran Palochak	Rosalie Fragoso

1. **Call to Order.** The Access to Justice Commission was called to order at 12:15 p.m. by Commission Co-Chair Justice Maes.
2. **Introductions.** Meeting attendees introduced themselves and indicated in which working group they are participating. Kasey Daniel introduced Jessica Perez, the new State Bar President Elect, who is automatically a new commissioner for the ATJ Commission.
3. **New Commissioners.** Tina Sibbitt announced that the Supreme Court appointed Gregory Ireland and Dorene Kuffer as new commissioners, terms to expire December 31, 2012.
4. **Legislative/Civil Legal Services Commission (CLSC) Report. RFPs.** Commissioner Arango reported that a Request for Proposal for new legal service provider services will go out next week, followed by six weeks to prepare proposals, evaluation committee recommendations on May 15, and new four year contracts commencing July 1, 2010. **Strategic Plan for CLSC.** Mr. Arango had reported at the last meeting that LFC had requested that the CLSC produce a Strategic Plan. In the past, DFA had submitted an equivalent document. The CLSC submitted a condensed version of the ATJ's State Plan (System Planning Work Group), as the CLSC funds the ATJ State Plan. The condensed version limits the CLSC Plan to CLSC funding issues and does not include non-CLSC providers. **Budget.** Kim Posich reported that in last year's legislative session, provider lobbying efforts managed to preserve the \$2 million recurring appropriation. Similar efforts in the 2010 legislative session also would have preserved the funding if the budget bill had passed. The Special Session starts next week. Kim gratefully acknowledged the assistance of Bill Strouse and Juliana Koob of the SW Womens Law Center, and the supportive attitude of the Senate Finance Committee.
5. **ATJ in Public Libraries Conference Report.** Tina Sibbitt reported that she had conducted faculty sessions on FAQs and legal information vs. advice at the ATJ in Public Libraries Conference/Training in Austin, TX in January. The Gates Foundation and Legal Services Corporation had partnered to fund this conference. Rob Mead, an Albuquerque public librarian and an attorney from Law Access NM had successfully submitted a team application to attend. Seventeen teams were chosen to attend out of a total of 43 teams that had applied. Mini-grants will be awarded by LSC to teams to pursue library projects; Rob Mead could not attend today and will report further at the next meeting. A major product of the conference was material to be provided at a session of the Public Library Association Meeting in March 2010 in Portland, Oregon and also at the Equal Justice Conference in May. The session will provide tools and training to help public libraries serve as gateways to justice and governmental institutions, with collaboration of courts, law libraries, and legal aid programs. It will introduce information and tools and training on how public librarians can appropriately

help their patrons use these tools. It will also introduce the national network of state ATJ commissions and how public libraries can and should participate.

6. **Annual ATJ Report 2010.** Suggestions were made to move concluding language of the draft report to the introduction. Nita Taylor presented her summary of the 2010 annual reports of the local pro bono committees. She will provide a summary paragraph to Tina for the annual report and she will also revise the summary report per suggestions for Tina to attach to the report as an appendix. Nita emphasized the importance of Pro Bono Week to the local committees. Justice Maes stated that the Justices had travelled to these events on their own dime and were happy to do so when possible, and were completely on board and supportive of pro bono efforts statewide. Nita will also supply Tina with a summary of mandatory pro bono hours reporting for the 2009 dues forms. A motion was made by Commissioner Sedillo Lopez for the Commission to approve the Annual ATJ Report 2010 as amended, with Commissioner Judge Nash seconding. The motion passed unanimously.
  
7. **Limited License Rule.** Judge Singleton reported that according to a report sent to her by Supreme Court Clerk Kathleen Gibson, since adoption of the Limited License Rule 15-301.2 on August 29, 2008, seven limited licenses have issued (5 Emeritus attorneys and 2 non-admitted attorneys). The employment of two Emeritus attorneys was terminated by Legal Services and one Emeritus attorney and one non-admitted attorney took and passed the NM Bar Exam. One non-admitted attorney's license will expire in January 2012 and two Emeritus attorneys are practicing under this rule. Discussion ensued as to possibly leaving the rule's effect open-ended rather than limited to three years due to the problem of trained attorneys leaving their employ with a legal service provider in order to avoid the bar (Levon Henry). Several providers agreed that the current rule helps recruit, but not retain, attorneys. Dorene Kuffer also suggested that legal services providers be included in the current limited license Rule 15-301.1 for government attorneys, so that brand new attorneys licensed elsewhere could be recruited to work for a legal service provider in NM without having to first pass the NM bar. Dorene also raised perceived problems of emeritus attorneys not being treated as full members of the Bar. Legal service providers are to send to Joey Moya any data they have about recruitment and retention problems they are experiencing under the current limited license rules. Joey Moya and the rules group will prepare proposed rule changes for the Commission to consider at its next meeting to address these issues.
  
8. **Measuring the success of pro bono programs.** Rosalie Fragoso, Attorney Project Administrator for the Volunteer Attorney Pool (VAP) in the Second Judicial District, discussed the content of her email to Judge Singleton as to measuring the effectiveness of this and other pro bono programs, such as the local pro bono committees. A copy of her email and report was available as a handout. Discussion

ensued as to measuring effectiveness by the number of people helped, the hourly rate and money worth of total attorney hours provided, cases closed, and CLSC and LSC-mandated standards. Commissioner Sedillo Lopez added that a secondary purpose of the VAP is to provide attorney training, and that such training in immigration matters and implications is needed due to ongoing volunteer lawyers' misapprehensions such as that immigrants cannot appear in U. S. civil court matters. Judge Singleton suggested that internal evaluation criteria of the local pro bono committees be sent to Nita, who will then evaluate the same along with Judge Nash and Rob Mead as to appropriateness and comparability. Further discussion was had as to how much money in lieu of pro bono hours (on the dues form) should be contributed by high dollar firm lawyers as compared to low-salaried legal service provider attorneys (Liz McGrath) and how confusing the dues reporting form is anyway (Kasey Daniel). These questions are submitted to the Pro Bono Committee for further evaluation.

**9. Foreclosure Docket Day in the 13<sup>th</sup> JDC.** Geoff Nims reported on this recently-launched experiment, which is held once a month on a Friday and results in large numbers of defendants with limited options filling the courtroom. United South Broadway is present, but its ability to take on new cases is maxed out until July. Other assistance/volunteers may or may not be available. With a usual default rate of 85-90%, the high appearance rate seems effective, but it is unclear if this approach changes the ultimate outcome. Angelica Anaya Allen reported that in many cases, USB involvement exposes predatory loans and forces the lender to negotiate in good faith to modify loans and to properly account, but other than brief advice, USB has no resources to help additional or ineligible people at this point. She also reported that 25% of defendants helped by USB lose their home anyway, but might get a delay of move-out to enable them to find another place to stay. USB and the 3<sup>rd</sup> Judicial District are exploring videoconference participation in such docket days, and Albuquerque is moving to informational workshops rather than docket days. Angelica also reported that USB and others are conducting CLE sessions to train and recruit pro bono attorneys; a handout of the related Bar Bulletin article was provided. Possible videotaping and broadcasting of these sessions was discussed. She also reported that a foreclosure consultant fraud prevention act was passed in the recent legislative session. Geoff Nims will continue to update the Commission on this experiment.

**10. New E-filing Policy in the 13<sup>th</sup> Judicial District.** Dorene Kuffer reported provider concern as to the application and fees of this policy to pro se or NMLA-represented litigants. Discussion ensued as to how this issue was addressed in the planning stages by surveys indicating that attorneys who desired the e-filing program would be willing to pay higher fees in order to cover costs for low income party filers in exchange for the convenience of e-filing. Joey Moya reported that the pilot project will not apply to domestic relations cases or to SRLs, but he will talk with the 13<sup>th</sup>'s

staff attorney Crystal Hyer and court administrator Greg Ireland about how free process works in the system. Dorene Kuffer will talk with Legal Aid in Nevada about how the system works there.

**11. NMLA Private Bar Involvement Plan.** Dorene Kuffer discussed an email previously sent to the ATJ entire group requesting comment on NMLA's private attorney involvement plan (PAI). Celia Ludi had emailed questions, but was not present at this meeting. Andre Shiromani had also emailed comments, but was out of the room during this discussion. Dorene stated that Janay Haas had collected all comments and would finalize the plan. Dorene also said that she would discuss Andre's comments with him. No other comments were made about the plan.

## 12. Reports from Working Groups

- a. **Pro Bono/Communication/Outreach.** Chair Judge Nash reported that there was nothing further than Nita's summary report of the local pro bono committees. Nita will write a letter about "best practices" and information will be posted on the website.
- b. **Resource Development Group (RDG).** Chair Tom Olson reported that the federal court was reviewing its position on Pro Hac Vice rules based on information presented by Tom, Richard Spinello and Kasey Daniel. However, the federal court seems more interested in channeling any such funds to its own uses rather than to the Bar's fund; the federal clerk is researching the issue. In general, discussions are being had on the state level about increasing the PHV fee, but NM is already on the high end of such fees. Tom Olson approached the Senior Lawyer Division about volunteer service and the Emeritus rules, and will keep pursuing perceived impediments.
- c. **System Planning.** Liz McGrath reported that her subgroup will provide a draft evaluation of state plan implementation by the April commission meeting. Providers did respond to a survey and the results are being compiled and analyzed. Dorene Kuffer reported that the first legal service provider peer review visit, coordinated through the AOC/ATJ staff attorney, went well. The atmosphere is more networking and idea-sharing than compliance-oriented. The main issue so far is that there is not sufficient time for maximum information exchange. Discussion followed to the effect that the current state plan requirement of hosting and visiting within a certain time period and that further specification of that requirement in CLSC funding

requirements is not necessary. The latter already require funded entities to participate in ATJ activities. Visit reports are to be provided to all CLSC-funded providers. Dorene is to provide an overall summary at the end of the program. Renee Valdez stated that her Metro Court self help staff visit the providers for information and referral purposes.

- d. **Legislative/Rules.** Chair Joey Moya reported that the group continues to conduct its annual review of the **standard free process rule and forms**, and the summons form. Joey is to coordinate an email blast plus hard copy of the most recent federal poverty guidelines to judges and court administrators. The Civil Rules Committee approved a draft of the Cy Pres Rule that adds donee entities beyond those in the ATJ Commission-approved draft, i.e., nonprofit entities addressing the interests of the relevant class, and also the law school (clinic). The Rule now goes to the Court. The Commission voted to approve the Rule as changed.
  
- e. **Self-Represented Litigants.** Carol Garner reported on her attendance of the LSC Technology Innovation Conference in Austin and that New Mexico currently stands about in the middle of states as to progress on interactive forms. Chair Tina Sibbitt submitted draft divorce forms prepared by her and Joey Moya. She reported that not many states offer contested divorce forms and these forms represent a recognition that: (1) SRLs currently attempt to use existing Supreme Court-approved uncontested forms for contested cases, jamming court files with incomprehensible documents; (2) SRLs cannot properly fill out current version which front-load detailed information in the petition and response, so these forms anticipate a court process to assist them to proceed with the case and with closing documents; (3) existing court-approved documents are sufficient to close the case with court process assistance; and (4) if approved by the Commission today, these forms can go through the review processes in time to meet the TIG grant deadline for interactive versions by NMLA and LANM. Joey Moya explained how the proposed forms fit into the existing rules and forms, and which sections will be replaced, as well as introducing the revised rules. Discussion commenced, and positive statements about the forms were made by Jodie Schwebel (3<sup>rd</sup> Judicial District self help paralegal), Commissioner Lopez (UNM Law School), and Doug Echols and Fran Palochak of the 11<sup>th</sup> Judicial District. Judge Nash moved that the Commission vote to approve the forms to start the process of Supreme

Court review and approval; Doug Echols seconded; the motion passed unanimously. Any additional comments from the ATJ group are to be submitted to Joey by Monday, March 1.

13. **Other Business.** Kasey Daniel reported on upcoming CLE sessions aimed at promoting limited representation and ADR solutions to court dockets swelled by the economic challenges of today. Sarah Singleton submitted Pro Bono Week declarations to Kasey to be displayed by the State Bar. Kasey Daniel announced awards of the Pro Hac Vice fund decided today by the Board of Bar Commissioners.

14. **Adjourn.** There being no further business the meeting was adjourned at 3:30 p.m.