

**ACCESS TO JUSTICE COMMISSION  
STATE BAR CENTER  
Friday, April 23, 2010  
Minutes**

**COMMISSIONERS PRESENT:**

Hon. Sarah M. Singleton, Co-Chair	Andrew Montgomery
John Watson	Douglas A. Echols
Joey Moya	
Antoinette Sedillo Lopez	Dorene Kuffer
Levon Henry	Thomas W. Olson
Jessica Perez, State Bar President Elect	Gregory Ireland

**COMMISSIONERS ABSENT:**

Hon. Petra Jimenez Maes, Co-Chair	Hon. Nan G. Nash
Michelle Giger	Bruce Hall
John Arango	Rep. Antonio AMoe@ Maestas
Cisco McSorley	

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

**INTERESTED PARTIES:**

Gloria Valencia Weber (special guest – nominee to LSC Board)	
Kasey Daniel	Craig Acorn
Jennifer Vega-Brown	Liz McGrath
Jodie Schwebel	Leisa Richards
Nita Taylor	Carol Garner
Kerry Cait Winkless-Hall	Rob Mead
Bill Strouse	Angelica Anaya Allen
Renee Valdez	Amanda Hartmann
Gail Evans	Rosalie Fragoso

- 1. Call to Order.** The Access to Justice Commission was called to order at 12:10 p.m. by Commission Co-Chair Judge Singleton.

2. **Introductions.** Meeting attendees introduced themselves and indicated in which working group they are participating.
3. **New LSC Board Nominee.** Judge Singleton introduced UNM School of Law Professor Gloria Valencia Weber as a new nominee to the Board of the Legal Services Corporation. Prof. Valencia Weber is the first Native American appointed to the LSC Board in its history, and she stated that she will bring that unique perspective to the Board if her nomination is confirmed as expected. Native Americans comprise a large percentage of legal services clients in this state (DNA Peoples Legal Services), Arizona and others. She stated that she looks forward to becoming better acquainted with the activities of the ATJ Commission and with the legal service providers, and that she would sit through as much of this meeting as possible before a conflicting appointment. She also described an LSC program she recently attended in Arizona along with Judge Singleton, and she praised that state's pro bono program and recognition ceremonies (for attorneys providing pro bono assistance).
4. **Legislative/Civil Legal Services Commission (CLSC) Report. Budget.** In the absence of John Arango, Bill Strouse stated that CLSC monies came through both legislative sessions relatively unscathed. There was no increase in funding, but as compared to many deeper budget cuts in the state, the Governor imposed a mere 0.75% cut in CLCS funds, apparently to show that there were no exemptions from budget cuts, but basically keeping core funding intact. There was no other harmful legislation (e.g., court fee cuts, etc.) that would negatively impact CLSC funds. However, the Legislative Finance Committee projects that the next three legislative sessions will be quite dismal in a fiscal sense, with state revenue dropping further and deeper cuts imposed. "Efficiency in government" recommendations may call for consolidation of agencies, but should not affect CLSC. RFPs in the total amount of \$4.1 million have gone out to bid.
5. **ATJ in Public Libraries Conference Report.** Rob Mead reported that efforts at the conference in Austin in January to combine access to justice and public librarians to disperse legal information, forms and referrals resulted in formulation of the following goals: expansion of outreach and development of training for library staff to perform "triage" with public questions to increase access to justice and also to alleviate staff concerns of liability. The library and student cooperative arrangement in Farmington with the San Juan Community College was cited as a great example by Judge Singleton, Doug Echols and Rob. Rob's team is developing a training module and applied for a post-conference mini-grant from LSC and the Gates Foundation for the same, but was not successful in getting the grant.

6. **Annual ATJ Report 2010.** Nita Taylor has provided a summary of the local pro bono committee annual reports and of mandatory pro bono hours reporting for the 2009 dues forms to Tina for the annual report. Tina will aim to finalize and file the report within the next two weeks; it will be posted on the ATJ website on the State Bar's site after the Supreme Court approves it (as expected). Next year's format for the report may be streamlined.
  
7. **Pro Bono Week 2010 and General Update.** Nita Taylor reported that Pro Bono Week 2010 will again be the last week of October. She thinks that Commission involvement will not be required to the extent it was last year. Tina Sibbitt stated that the number of certificates of appreciation from the Supreme Court should be sharply reduced from the 300+ of 2009, suggesting that awards be limited to the lawyer in each district with the most pro bono hours/cases. Nita responded that she was well aware of the burden to justices and to clerks posed by last year's large number of certificates, and asked if a signature stamp could be used instead. However, the certificates are, by custom, hand-done. Nita also suggested using some of the "best practices" from the local districts, such as the "Traveling Trophy" concept. She also recommends allowing each district to develop their own plan for Pro Bono Week again, but also states that the local committees are open to direction from ATJ. Nita also reported favorably on a student project in the 11<sup>th</sup> Judicial District that brought Denver law students to Aztec to assist people under the supervision/mentoring of a volunteer attorney in a Spring Break Service Project. She also reported on leadership changes in the local committee for the 7<sup>th</sup> JDC (Hearing Officer Michelle Ritt Martinez is now the chair) and for the 9<sup>th</sup> JDC (J. Hartley has passed the chair on to J. Drew Tatum and Robert Orlick).

## 8. Reports from Working Groups

- a. **Pro Bono/Communication/Outreach.** Co-chair Rob Mead reported that the "slimmed down" version of the annual report form for the local pro bono committees worked much better this year. Discussion ensued on "best practices" and on how success of pro bono efforts should be measured, with different opinions as to criteria: number of service hours, difficulty of case (Kasey), number of cases, letters of appreciation from service providers (Rob), no certificates for just doing the minimum number of hours required (Antoinette). Nita again stated her opinion that the local committees should decide themselves what types of pro bono service they want to recognize. All agreed that the recognition of pro bono service by appellate judges was **CRITICAL** to the local committees. Nita also mentioned that publicity efforts are an

important best practice, noting that the 3<sup>rd</sup> JDC raised \$3000 (according to Jodie Schwebel) for ads, etc. Greg Ireland reported what he thinks are “best practices” from his 13<sup>th</sup> JDC as were reported in the 2008 annual report, and Judge Singleton cited the Order to Show Cause Day in the 1<sup>st</sup> JDC as a positive effort, wherein volunteer family law attorneys attend, talk to people and write up any agreements that are produced. Judge Singleton estimates a high rate of agreements among the 20-30 cases set for that day every month. Judge Singleton also stated that the “best practices” list should be comprehensive, listing ALL the best practices from every year. Discussion continued on the details of conducting such a pro se docket day. Once the “best practices” list is finalized, letters of appreciation from the co-chairs will again be sent to the local committees. The list will also be posted on the website, with an introductory explanation that the list is not mandatory and requesting any input.

- b. Resource Development Group (RDG).** Chair Tom Olson reported that he will be conducting a presentation on the emeritus rule at the State Bar Convention and that he and Tina still need providers to respond to the email request for legal service provider contact information. The UNM Law School received a sizeable cy pres fund award, and Bill Strouse reported that NM Legal Aid received two small ones. Tom reported that discussions continue about the fee side of the Pro Hac Vice rule vs the grant – making side, while the federal court continues to have “slow-parked” the issue of its own Pro Hac Vice approach with the federal clerk to see if the federal court can channel any such funds to its own uses rather than to the State Bar’s fund. Referring to a written report submitted by Michelle Giger (including a list of 2010 grantees), Tom reported that the comparability requirement for IOLTA has allowed the fund to maintain its levels in the current economic crisis, but without the “bump-up” in the fund amount that was originally expected from the new requirement. Discipline may result for non-compliant attorneys who do not work to comply after notification; Judge Singleton noted that some banks refuse to cooperate, so it takes an attorney time to find a bank that will.
- c. System Planning.** Chair Liz McGrath distributed a draft of the group’s report on the status of state plan implementation, with attachments and notes and an analysis of provider survey responses. Commissioners and legal service providers are to review and send any

comments on the same to Liz, with the goal of generating recommendations based on the report and establishing resources such as model referral protocols, as well as standard methods of measuring progress in the delivery of legal services. The State Plan is a “roadmap” for funding of legal service providers through the CLSC, IOLTA, and Pro Hac Vice funds. Liz suggested that the providers work on modification of measuring progress with the CLSC; this issue will be on the agenda for the August ATJ meeting, with a possible invitation to the CLSC to attend. ---- Dorene Kuffer reported that the legal service provider peer review visits, coordinated through the AOC/ATJ staff attorney, are proceeding quite smoothly and are very beneficial. Tina Sibbitt reported that she had joined in on the recent visit to NMCLP, that excellent information was exchanged, and that all providers should try to attend such visits if at all possible, space allowing.

- d. **Legislative/Rules.** Chair Joey Moya reported that the group is submitting its proposed revisions to the limited license Rule 15-301.1 (public employee), adding legal service organizations, and Rule 15-301.2 (legal service provider limited license for emeritus and non-admitted attorneys), eliminating the three year expiration. The group also submitted suggested revisions to the district court summons form to make it more SRL-friendly. The group also proposed amendments to the uniform free process rule and attorney’s certificate supporting indigency and free process to streamline the procedure for granting free process to SRLs who are income-qualified to receive training through a legal service provider to file their own case. Judge Singleton asked the rules group to review whether the forms should request gross instead of net income because her impression is that the federal guidelines are based on gross income. Joey is to coordinate an email blast plus hard copy of the most recent federal poverty guidelines to judges and court administrators, and perhaps the subject can be addressed at a judicial conclave. Commissioner Dorene Kuffer moved that the Commission approve all the proposed amendments and ask Joey to submit all of the proposals to the Supreme Court for consideration; Commissioner Doug Echols seconded the motion; the motion carried by a unanimous voice vote. Rules group member Gail Evans raised as a potential ATJ issue whether attorneys should be required to have malpractice insurance because the negative effects from incompetent attorneys who are uninsured fall heavily on

agricultural workers who have no recourse. Rob agreed that this issue is heard a lot in the Law Library. Joey mentioned that the Supreme Court recently adopted a rule amendment requiring attorneys to disclose to a client that they don't maintain malpractice insurance at a certain level. Joey also asked whether the Client Protection Fund could provide some relief in these cases but others stated that the fund only reimburses clients for attorney theft, not for malpractice. Discussion continued as to penalties, enforcement and remedies, and no decision was made to pursue this issue further at this time since the Court recently addressed the topic of uninsured attorneys and is unlikely to revisit the issue in the near future. Gail also raised the pursuit in other states of "civil Gideon" laws or the right to counsel in civil cases involving fundamental human rights, and that there is an ABA model act and asked whether ATJ was interested in investigating this as a potential project. Judge Singleton opined that such legislation might result in a mandate of what legal services must do. Discussion ensued and the Commission agreed to have Gail head up a subcommittee with Kasey, Rob and Joey to research this issue and provide the Commission with more information at a future meeting.

- e. **Self-Represented Litigants.** Carol Garner and Dorene Kuffer reported that progress continues with name change and cover sheet on the TIG grant project with the goal of June for interactive versions by NMLA and LANM. Chair Tina Sibbitt reported that the Supreme Court approved the divorce forms submitted by this group at ATJ's last meeting to go to the Civil Rules Committee and DR Task Force for further review.

9. **Other Business.** Kasey Daniel reported on the upcoming Legal Services training that overlaps with the June 4 ATJ meeting. Commissioners will lunch with providers and all are free to attend the afternoon training sessions. Working groups can meet if they desire.

14. **Adjourn.** There being no further business the meeting was adjourned at 3:15 p.m., and some working groups met afterwards.