

**ACCESS TO JUSTICE COMMISSION
STATE BAR CENTER
Friday, October 2, 2009
Minutes**

COMMISSIONERS PRESENT:

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| Sarah M. Singleton, Co-Chair | John Watson |
| Andrew Montgomery | Karen J. Meyers |
| Joey Moya | Honorable Nan G. Nash (briefly) |
| Angelica Anaya Allen | Antoinette Sedillo Lopez |
| John Arango | Bruce Hall |
| Levon Henry | Thomas W. Olson |

COMMISSIONERS ABSENT:

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| Honorable Petra Jimenez Maes, Co-Chair | Douglas A. Echols |
| Rep. Antonio “Moe” Maestas | |
| Stephen S. Shanor, State Bar President Elect | |
| Cisco McSorley | Michelle Giger |

STAFF: Tina Sibbitt (AOC/ATJ Staff Attorney)

INTERESTED PARTIES:

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| Kasey Daniel | Janay Haas |
| Stormy Ralstin | Liz McGrath |
| Jodie Schwebel | Conrad M. Rocha |
| Robert Mead | Rosalie Fragoso |
| Nita Taylor | Carol Garner |
| Gloria Molinar | Geoff Nims |
| Bill Strouse | |
| Janet Blair | Angela Campbell |
| Carl Dickens | Patricia Stelzner |
| Pamela Sanchez | Paula Couselo |

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

2. **Introductions.** Meeting attendees introduced themselves and indicated in which working group they are participating. Stormy Ralstin introduced herself as a new attendee and as (Court of Appeals) Judge Linda Vanzi's new law clerk. Angela Campbell announced that the new name of Resources, Inc. is the Domestic Violence Resource Center.
3. **Pro Bono Week: Oct. 25 – Oct. 31.** Nita Taylor reported that the Supreme Court justices and Court of Appeals judges are actively participating in most, if not all, of the local events statewide. Sarah Singleton or Janay Haas are conducting professionalism CLEs at most of the events and many local committees have produced flyers advertising the events. NM Legal Aid has played a major role in locating venues for the events. Sarah Singleton reported that the Governor has issued a proclamation for Pro Bono week, and the last paragraph encourages government attorneys to also provide pro bono service to the extent possible. The Governor's office is also considering further publicity for the week prior to Pro Bono Week; the Court might also want to consider further publicity. The question was raised as to who is being acknowledged by the certificates of appreciation and for what. Nita Taylor said that each committee came up with its own lists and criteria. Tina Sibbitt thanked Charles Padilla and Cynthia Pacheco of AOC for their assistance in producing the 300 plus certificates.
4. **Presentation: New Mexico Justice System Interpreter Resource Partnership and the NM Center for Language Access.** Pamela Sanchez (Jury/Interpreter Coordinator) and Carl Dickens (Training Coordinator) of AOC and Paula Couselo, Director of the Center for Language Access, presented information about their language training and certification program. The program is the result of a partnership of the courts, higher education institutions and state agencies. They also explained how the two levels of certification (certified interpreter or bilingual communicator) could benefit the staff of legal service providers as well as court staff, providing access to the judicial (and medical) systems. Pam Sanchez mentioned that the Department of Justice is more aggressively enforcing the language access requirements (free of charge) of Title VI and the Constitution. Photo ID badges and criminal background checks will be required for certified interpreters. Team interpreting (two hour rotations) for formal hearings is being implemented; judicial education to allow more than one interpreter for one hearing is needed. Court staff can apply for JEC financial aid, while general financial aid is otherwise available for application.

5. **Legislative/Civil Legal Services Commission (CLSC) Report. Budget.**

Commissioner Arango reported that the Governor held an Open House event about two weeks ago. Legal service providers and Sarah Singleton visited with Governor about how increased, not decreased, funding levels for legal services are critical in current depressed economic times due to increased legal problems for low income people because of the economy. As a result, the Governor sent a letter to DFA urging that legal services funding not be cut. Mr. Arango stressed that these visits with the Governor are quite effective and should be highly utilized. Mr. Arango also reported that according to Jimmy Rodriguez of DFA, the final amount cut from the legislative appropriation for FY2010 is over \$625,000, a decrease of 25.4%. The Medicaid deficit is projected to be \$40 million, which will increase to \$300 million in FY2011. Planning is critical for October's special session, which involves a minimum cut of 3% vs. a possible maximum cut of 10% (if education is not cut). Overall projections for FY2011 are much, much worse. **Strategic Plan for CLSC.** Mr. Arango reported further that LFC requested that the CLSC produce a Strategic Plan. In the past, DFA had submitted an equivalent document. First attempts were to submit the ATJ's State Plan (System Planning Work Group) as such a Strategic Plan, as the CLSC funds the ATJ State Plan. Upon review, the ATJ State Plan covers much more than the CLSC funding issue and also includes non-CLSC providers. The CLSC will be working on a Strategic Plan. **DFA Issues.** CLSC built up surplus funds over 5-6 years. There have been payment problems and attempts to spread out the surplus, in addition to gross underestimates of funds produced by filing fees. Proposals include switching from accrual basis (projections) to a cash basis and asking for restoration of half of the \$625,000 cut in the legislative appropriation (this cut was offset by a higher than projected level of filing fees). Problems arise in that the budget only involves solid cash transfers from AOC, and such transfers have proven to be hard to project.

6. **Discussion of Pro Bono Coordinator Funding.** The funding for the position currently held by Nita Taylor runs out in June 2010. Nita Taylor reported that the sixteen local pro bono committees are at various levels of maturity in terms of meeting the Ten Step Plan. Many of the Phase I committees are up and running on their own and probably no longer need a coordinator. With Phase II and III committees, Nita's role continues to be to ensure that the committees hold regular meetings, but could perhaps be prepared to function without a coordinator in 6 months or so. Commissioner Watson stated that Nita is a conduit between the ATJ Commission and the local committees, critical to information flow; Rob Mead said that Nita's role is essential; Jodie Schwebel (3rd Judicial District) stated that the 3rd's local committee is not mature and continues to require Nita as a conduit and to keep the "passion;" Commissioner Anaya Allen stated that Nita's role (administrative) is quite different than that of the NMLA Private Lawyer Involvement coordinator (educational) (currently Janay Haas). Sarah Singleton pointed out that the pro bono project has had

a long “ramp-up“ time and that success is hard to measure. The Commissioners voted “No” (4 to 3) to continuing this subject to the November meeting and gathering more information. On the subject of measuring the success of pro bono programs, Ms. Anaya Allen stated her belief that such programs have never significantly contributed to the provision of legal services to low income people, that the foreclosure seminars were well-attended more because lawyers needed the CLE credit than resulting pro bono cases, and questioned the worth of pro bono programs that were not self-sustaining after one year. Ms. Singleton disagreed, citing her own personal experience in successfully mediating several foreclosure cases; Pat Stelzner stated that the 2nd’s VAP has been very helpful to SCLO. Conrad Rocha of Law Access proposed that the statewide coordinator project be continued for one more year, during which assessment tools should be developed and that local committees must be up and running at the end of that year; Bill Strauss and Commissioner Lopez agreed. Mr. Rocha stated that of 300 attorneys in the VAP, 100 have taken cases; Rose Fragoso added that cases for people over 200% of the poverty level are harder to place. Commissioner Meyers cited the former pro bono success of LREP and NMLA’s domestic violence project.

Commissioner Lopez moved that the Commission support the extension of funding for the statewide Pro Bono Coordinator position for one more year through FY2011; Commissioner Olson seconded. The motion passed unanimously. Discussion of elements of tools to measure pro bono program success continued, including dispute as to role of NMLA, Law Access, the local court or whichever entity is doing case screening and the need for more availability and consistency of services statewide.

7. **Annual Reports.** Working Group chairs are to send Annual Reports (for 2009) to Tina by Jan. 10, 2010.
8. **Housekeeping: ATJ Commission Meetings.** The November 2009 meeting is cancelled. All proposed 2010 meeting dates were confirmed (all Fridays at noon at the State Bar):

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| Feb 26 | Classroom |
| April 23 | Boardroom |
| June 4* | Boardroom |
| Sept 3 | Classroom |
| Nov. 5 | Classroom |
| Dec. 17 | Boardroom |

*The June 4 meeting is the same day as the Annual Legal Services CLE/Conference; Kasey Daniel is the coordinator for the latter and will explore the possibility of a reception or CLE involving information exchange between the Commission and conference attendees. Kasey Daniel also handed out information on videoconferencing at the State Ba (available in the Boardroom only); inquiry will be made as to interest for ATJ meetings.

9. Reports from Working Groups

a. Pro Bono/Communication/Outreach. Local committees will produce annual reports.

b. Resource Development Group (RDG). Joey Moya reported that the Cy Pres Rule is being addressed by the Civil Rules Committee, and a final decision should be made in two weeks or so. The Committee was concerned that the cy pres awards were limited (in the proposed changes) to only two groups. Chair Tom Olson reported that the Needs Gap Analysis for this year was not completed, needs group study and might be attempted again next year.

c. System Planning. Chair Kasey Daniel reported that the legal service provider peer review program might be coordinated through the AOC/ATJ staff attorney. Survey results should be ready by the February ATJ meeting. The three court neutrality memos will be analyzed.

d. Legislative/Rules. Chair Joey Moya reported that the group continues to conduct its annual review of the **standard free process rule and forms**, including recommended approaches or solutions to inconsistent compliance with the current rule and forms, such as denial of free process requests by applicants already screened and qualified as indigent by legal service groups who are proceeding pro se. In some of those courts, local rules remain that are inconsistent or non-compliant with the standard rule and form. Possible solutions are insertions in the local rules or clarification that all courts must comply with the standard rule. **Limited License Rules.** Joey reported on his meeting with the chair of the Board of Bar Examiners to follow up on possible suggestions the chair may have had for easing the requirements for the emeritus attorney limited license requirements in Rule 15-301.2 NMRA. The Board chair did not have specific suggestions but noted that very few, if any, emeritus attorneys had applied for the limited license and wondered whether the requirements were too onerous. The Board chair indicated that he did not oppose loosening the requirements for an emeritus attorney limited license but could not predict the reaction of other Board members. Joey also discussed with the Board chair whether he would anticipate any opposition from the Board if the Commission requested that legal services attorneys be included in the one-year limited license provisions for government attorneys under the current Rule 15-301.1 NMRA because the current limited license provisions in Rule 15-301.2 for out-of-state attorneys is limited to lawyers with three or more years experience, and legal aid has not been successful recruiting out-of-state lawyers with three or more years of experience but believes they could successfully recruit brand new lawyers from out-of-state if they had the benefit of the one-year limited license provisions in

Rule 15-301.1. The Board chair also indicated he would not be opposed to such a request but could not predict the position of other Board members.

The Commission discussed whether the emeritus rule provisions needed to be changed. Commission members observed that the cost of applying for an emeritus limited license might be too expensive and it is actually only slightly more expensive for an emeritus attorney to return to full active status. Some Commissioners were of the view that lower fees or less onerous CLE requirements might encourage more emeritus applications but others were of the view that emeritus attorneys simply might not be aware of the opportunity under the current rule. Tom Olson will follow up to check the position, if any, of the Senior Lawyers Division on proposed rule changes or the need for publicity regarding the emeritus attorney limited license rule. With regard to the possibility of requesting that legal services attorneys be included in the current one-year limited license rule for government attorneys, the Commission discussed whether such a request might create a backlash from the Board and jeopardize continued support for the current three-year limited license rule. The Commission voted to proceed with a request for a change to Rule 15-301.1 to include legal services attorneys.

e. Self-Represented Litigants. Chair Tina Sibbitt reported that Pro Bono Week has been the focus of most efforts and that she will conduct training for Metro Court on Rule 23-113 in October. Forms Subgroup Chair Carol Garner reported that the Technology Innovation Grant in which Legal Aid and Law Access NM have partnered continues and that New Mexico currently stands about in the middle of states as to progress on interactive forms.

10. **Adjourn.** There being no further business the meeting was adjourned at 3:15 p.m.