

**Access to Justice Commission
Eleventh Judicial District Local Pro Bono Committee
Annual Report for the Period
[January, 2008] to [December, 2008]**

I. MEMBERSHIP AND ORGANIZATION REPRESENTED

Name of organization: Eleventh Judicial District – McKinley County Local Pro Bono Committee

Chairperson: **Honorable Grant L. Foutz, District Judge, (505) 726-2062** You can reach Judge Foutz via e-mail through his Trial Court Administrative Assistant, Si Benallie, at galdsxb@nmcourts.gov

Members:[names, phone numbers, emails]

George W. Kozeliski, Staff Attorney, 726-5737, galdgwk@nmcourts.gov

Francisca P. Palochak, Deputy CEO 1, 726-5724, galdfpp@nmcourts.gov

Joel Jasperse, Attorney-New Mexico Legal Aid, 722-4417, joelj@nmlegalaid.com

Richard Wade, Attorney, Advocate Law Center, 722-2055, rcwade1@msn.com

Jay Mason, Attorney, Mason, Issacson & Macik, PA 722-4464, mason@mimpa.net

Nita Taylor, Pro Bono Coordinator, NM State Bar, 797-6000, ntaylor@nmba.org

Carol Garner, Attorney, Law Access New Mexico has requested permission to be part of this committee, and that was granted. However, she has been unable to attend any of the meetings this year.

II. MISSION STATEMENT

To identify and coordinate current resources providing civil legal assistance to indigent persons in McKinley County so as to obtain the most effective use of those resources. To identify and develop additional methods and resources which can be used to expand civil legal assistance to indigent persons in McKinley County.

III. NEEDS ASSESSMENT AND PRIORITY AREAS

- a. Briefly describe the process used to determine the priority legal needs of persons of limited means in the district.

Pro Bono committee met and “brainstormed” on these needs at initial meetings in 2007.

- b. List the priority legal needs to be addressed by the district pro bono plan.

Family law - Domestic relation issues involving Pro se litigants as the primary focus. Domestic Violence representation for the secondary focus.

- c. Describe the process by which “persons of limited means” will be established.

All legal and social service agencies in McKinley refer “persons of limited means.” Since McKinley County is one of the poorest counties in New Mexico, many people who come to the Court qualify for these services. Data regarding indigency will be captured by running a report off of the event code for used by the Clerks at District Court when docketing the Order for Free Process on the case management system. The District Court in McKinley County has been operating a monthly pro se session since 1995. There is no method currently in place for determining any type of financial need. The Pro se Sessions are open to the public. The statistics for the Court’s clinics in 2008 indicate that about 44% of people utilizing the clinic had an income of less than \$15,000 per year and another 36% had an income between \$15,000 and \$30,000. Approximately 20% had incomes between \$30,000 up to \$60,000+.

- d. List any significant needs that the district pro bono committee is unable to address.

McKinley County has an Administrative Order in place where anyone who files five or more cases in the McKinley County District Court or advertising in the Gallup Yellow pages is eligible for Court appointments. The Clerk of Court maintains the list and currently assigns Mental Health, Abuse & Neglect, and Domestic Violence cases on a rotation basis. However, when an Albuquerque or Out of State attorney is assigned to one of these cases, they file a Motion to withdraw immediately based on financial burden to travel to Gallup; lack of substantive knowledge of the case type to provide effective representation, etc. and the Court usually grants the Motion to Withdraw. Therefore, the burden to provide Pro Bono services falls upon the Gallup-McKinley County Attorneys and we have very few in this area.

We need to find a way to enforce the Administrative Order so the out-of-town Attorneys are providing Pro Bono representation.

IV. SHORT TERM GOALS AND PRIORITIES (NEXT 6 MONTHS) TO ADDRESS THE PRIORITY LEGAL NEEDS AND TO ENCOURAGE LAWYERS TO PARTICIPATE

- a. Briefly describe the plan to utilize voluntary pro bono attorney resources to address priority legal needs of persons of limited means.

Monthly Pro Se Sessions and to review Final Orders drafted by University of New Mexico-Gallup Legal Assistant students. We ask private attorneys and District Attorneys to volunteer at the Clinics. The District Court provides domestic relations training to anyone who wishes to attend free of charge on a quarterly basis. The first session was in person and the remainder of the sessions will be via DVD.

See Attachment A, McKinley County Pro Bono Plan, for further discussion.

- b. Briefly describe the plan to encourage more lawyers in the district to provide voluntary pro bono service and/or contribute to a civil legal aid organization.

At the present time we have no plan to encourage attorneys in the District to provide pro bono service and/or contribute to a civil legal aid organization. We have very few attorneys in the area and know they are providing this service through rotation on Court appointments.

V. LONG TERM GOALS AND OBJECTIVE (NEXT 2 YEARS) TO ADDRESS PRIORITY LEGAL NEEDS AND TO ENCOURAGE LAWYERS TO PARTICIPATE:

- a. Briefly describe the plan to develop activities and programs to expand the utilization of voluntary pro bono attorney resources to address the civil legal needs of persons of limited means in the district.

Preparation of a script with an overview of the domestic relations process to be put into DVD/video or other form accessible to attorneys as a training tool.

Creation of a Self-Help Center at the District Court, staffed with a paralegal, and managed by the Staff Attorney.

Provide training on forms availability, how to complete the forms, and the Court process to local librarians.

See Attachment A, McKinley County Pro Bono Plan, for further discussion.

- b. Briefly describe the plan to address obstacles to voluntary pro bono service by lawyers in the district and describe long term recruitment plans.

With the severity of the economic downturn, the limited number of private attorneys in the Gallup-McKinley County area and their caseloads are at capacity, the only way to assist indigent litigants, is to provide more training tools (i.e. how-to videos) and a Self Help Center, so these litigants have represent themselves in an effective manner.

Steps must be made to reach out to the private attorneys that are practicing in the Gallup McKinley County District Court to inquire as to how they see their role in providing Pro Bono assistance. Similarly, we must reach out to the large number of government attorneys who cannot provide traditional pro bono services. In McKinley County, there is a very small percentage of the bar who are in private practice. Most of the attorneys work for governmental agencies and are unable to accept individual cases on a pro bono or reduced fee basis. We do not foresee the private bar providing direct representation beyond what they are doing now through Court Appointments. We would like to see the out-of-town private attorneys and government attorneys provide expert assistance in the development of training tools for pro se litigants/or provide monetary assistance to legal services.

VI. FUNDING REQUIREMENTS

- a. Briefly describe 2009 funding requirements for resources needed to further implement your pro bono plan, and the resulting detriment to your program without such funding. (There is no guarantee that funding can be made available.)

The preparation of reports, staff time in putting together meetings, preparation of minutes of meetings, long distance calls and needed correspondence have all been donated by the Eleventh Judicial District Court and the State Bar.

Currently the Eleventh Judicial District Court absorbs the costs of coping brochures, hand-outs for seminars, or forms for clinics, and conducting the pro se sessions. However, for FY 09, the hours of operation of Pro Se sessions have been cut by one hour. They are currently held from 5:00 to 7:00 p.m., rather than the 5:00 to 8:00 p.m. time.

Due to the economic condition of the State of New Mexico, the FY 10 budget did not include additional monies to provide Pro Bono Services.

We anticipate the opening of a Self-Help Center to require initial start up costs of \$102,000 (This would be for salary and benefits for a Paralegal (\$62,000); Capital outlay of \$35,000 (desks, work stations, phones,

computers, computer wiring, software purchases, copy machine, and fax machine) and \$5,000 for supplies. Recurring costs would be approximately \$85,000 per year (Salary Supplies, and miscellaneous expenses)

VII. RESOURCES COMMITTED BY THE DISTRICT PRO BONO COMMITTEE PARTICIPANTS

- a. List the participant and nature of resources committed to the district voluntary pro bono attorney plan by all legal assistance providers that are to participate in the district pro bono plan and provide coordination and administrative support to pro bono attorneys in the district.

David Jordan, Attorney at Law, Joel Jasperse, NMLA; B.W. Freyburger, Attorney at Law, Doug Decker, County Attorney; District Attorneys Office; Harry Kassakhian, Attorney at Law; Richard Wade, Attorney at Law; Brad Keeler, Attorney at Law; and Henry Howe, government attorney, volunteer at the monthly Pro se Sessions, on a rotation basis.

All private attorneys, including those mentioned above, receive Court Appointments on Abuse & Neglect or Mental Health cases and are paid a reduced fee of \$30 per hour, up to \$750 for each case, by the Administrative Office of the Courts.

The New Mexico Legal Aid has an office in Gallup and has three licensed attorneys. They provide legal services to persons of limited means in accordance with the priorities set out by New Mexico Legal Aid.

DNA Legal Services, Inc., Crownpoint, New Mexico also has an office. They provide legal services to persons of limited means in accordance with the priorities set out by New Mexico Legal Aid.

- b. Where more than one legal aid provider organization exists within the district, describe the plan for cooperation and coordination that avoids duplication among such providers.

N/A in McKinley County.

VIII. SUPPORT FOR PRO BONO ACTIVITIES

- a. In implementing the district pro bono plan, the following support services are available (check all available). Please provide brief description of activities for all checked responses.

Providing intake, screening and referral of prospective clients.

The Court is currently requiring this for free process. We can capture data reflecting those that qualify for free process that are actually accessing the Court system. For all other services, we use only the data we capture at the Pro se Session, and that can be provided.

Matching cases with individual attorney expertise, including establishment of specialized panels.

Providing resources for litigation and out-of-pocket expenses for pro bono cases.

Providing legal education and training for pro bono attorneys in specialized areas of law useful in providing pro bono legal services.

Providing the availability of consultation with attorneys who have expertise in areas of law with respect to which a volunteer lawyer is providing pro bono legal service.

Volunteer lawyers at Pro se sessions provide consultation on a variety of issues. The majority of these issues are Domestic Relations in nature.

Providing malpractice insurance for volunteer pro bono lawyers with respect to their pro bono legal service.

Establishing procedures to ensure adequate monitoring and follow-up for assigned cases and to measure client satisfaction.

Recognizing pro bono legal service by lawyers.

Other.

- b. Describe any other significant services being provided for pro bono activities.

The attorneys on this committee who have donated a great deal of time effort and ideas. Other than the activities of the committee the District Court holds a Pro se Session once a month. It is held after hours with clerks, CSED caseworkers, and attorneys providing pro bono consultations. The Court expects to continue this but there may be

other issues. For example, the cuts in the CSED budget have already limited the time CSED caseworkers can be available to assist in the clinic.

There are no other services known.

IX. PRO BONO SERVICE OPPORTUNITIES

a. The district pro bono plan offers the following opportunities through which lawyers can participate in providing pro bono legal service to persons of limited means (check all that apply): Please provide brief description of activities for all checked responses.

b.

Representing clients through case referral.

Interviewing prospective clients.

Several attorneys have assisted with intake at DNA Legal Services.

Acting as co-counsel on cases or matters with legal aid providers and other pro bono lawyers.

Providing consultation services to legal aid providers for case reviews and evaluations.

Providing limited representation.

Providing pro se assistance.

The District Court has a once-a-month evening clinic for pro se litigants in domestic cases. This is staffed, on a pro bono basis, by attorneys. CSED also participates by providing one or two case workers to meet with litigants about child support issues.

Conducting a clinic for self-represented litigants.

Attorneys do this both through the Court clinic listed above and also through the clinics at Legal Services. We expect to provide more such opportunities as our clinics come together.

Participating in policy, systemic advocacy, and activities which improve the law and the legal system.

Several attorneys, the staff attorney at the District Court, and Judge Foutz, participated in the traveling Court of Appeals program by

visiting schools, meeting with students, and attending the argument with students.

- Providing training to staff of legal aid providers and other pro bono attorneys.

Eleventh Judicial District Court Hearing Officer Cindy Gray provided a 2-hour Domestic Relations seminar in January 2009 (Rescheduled from December 2008, as the December seminar was cancelled due to snow) Fourteen attorneys attended as well as Court clerks. The contents of this seminar will be scripted and put on a DVD for future use.

- Making presentations to groups of persons of limited means regarding their rights and obligations under the law.

- Providing legal research.

- Providing guardian ad litem services.

- Providing mentoring to law students and new lawyers.

- Providing public education.

Pamphlets and Brochures and how-to videos to be produced in 2009.

- Providing assistance in the formation and operation of legal entities for groups of persons of limited means.

- Participating in Bar committees or on boards of pro bono committees or legal service programs.

- Serving as a mediator or arbitrator at no fee to the client-eligible party.

- b. List other pro bono service opportunities provided under the district pro bono plan:

There are no others.

- c. Describe the activities which encourage the division of responsibility of pro bono activities among the courts, the local bar association, the private bar, legal aid providers, and the public:

All pro bono activities are managed by Court Staff and this Committee. We are not large enough, in terms of the number of attorneys here, to use the courts, public, private bar or local bar association. We do use the local bar association meetings as a means to keep the local attorneys advised of on-going programs and to educate in changes in the law.

- d. Describe the activities under the pro bono plan designed to encourage lawyers who cannot or do not choose to contribute their time to pro bono legal service to persons of limited means to make monetary contributions in order to satisfy their pro bono professional responsibility:
We have not done this.

X. NUMBER OF PERSONS BENEFITTED BY PRO BONO EFFORTS

- a. Provide the number of persons seeking pro bono assistance during the report period.

No Statistics are provided.

- b. Of the persons seeking pro bono assistance, provide the number who actually received appropriate legal assistance, and describe the nature of assistance provided, such as:

Referral to pro bono private attorney

No statistics are available. However the Court appointed attorneys for 42 cases in 2008, and all parties were indigent.

Referral to legal aid service provider

This data is not captured. However, Legal Aid was appointed to 2 Cases in which the parties were indigent.

Referral to clinic

Statistics are not being kept. However, based on the number of flyers we make each month and hand out, we refer approximately 50 per month to our Pro se Sessions.

- c. Of the persons who received appropriate legal assistance, what is the total number of persons who benefitted from the assistance, for example, if the client needed help defending against an eviction and four persons lived in the dwelling, then four people would have benefitted from the legal assistance.

We have no way of tracking this information.

- d. Describe the logistics of operations, e.g., tracking calls, doing a conflict-of-interest check, screening for income eligibility, making appropriate referrals (to pro bono attorneys, to legal aid providers, to social service agencies, etc.), following up on referrals to ensure clients don't fall through the cracks, tracking the number of cases opened and closed during the reporting period, etc.

No Statistics available. We do not have the staff or resources to provide this Service.

XI. PRO BONO ATTORNEY INVOLVEMENT

- a. Provide a list of lawyers who signed up to participate in the program to provide pro bono legal service to persons of limited means, and a list of lawyers who actually provided legal assistance to a person of limited means.

We have not asked attorneys to sign up to participate in the program. However, the following have provided assigned to the Pro Bono Program or have represented persons of limited means:

Cindy Gray	- Domestic Relations training for Attorneys.
Paul Barber	- Court Appointments
Ted Barudin	- Court Appointments
Scott Borg	- Court Appointments
Bruce Boynton	- Court Appointments
Forrest Buffington	- Court Appointments
John Chapela	- Court Appointments
Doug Decker	- Volunteer Pro Se Session
Bobbie Franklin	- Court Appointments
B.W. Freyburger	- Court Appointments/Volunteer Pro Se Sessions
Robert Ionta	- Court Appointments
Lynn Issacson	- Court Appointments
Joel Jasperse	- Court Appointments/Volunteer Pro Se Sessions
David R. Jordan	- Court Appointments/Volunteer Pro Se Sessions
Harry Kassakhian	- Court Appointments/Volunteer Pro Se Sessions
William Keeler	- Court Appointments
Bradley Keeler	- Court Appointments/Volunteer Pro Se Sessions
Sampson Martinez	- Court Appointments
James Mason	- Court Appointments/Pro Bono Committee Member
Patrick Mason	- Court Appointments
Sandra Nemeth	- Volunteer Pro Se Sessions

- Robert F. Rosebrough - Court Appointments**
Daniel Rosenfelt - Court Appointments
Steven F. Seeger - Court Appointments
William Stripp - Court Appointments
Michael A. Venegas - Court Appointments
Richard Wade - Volunteer Pro se Session
- b. Provide a list of lawyers who participated in conducting clinics.
- None have been provided.