

**Montana Supreme Court Access to Justice Commission**

**September 23, 2015**

**Capitol Building**

**Room 172**

**12:00 p.m. – 4:00 p.m.**

**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Judge Greg Pinski, Rep. Kim Dudik, Judge Winona Tanner, Sen. Nels Swandal, Judge David Carter, Ed Bartlett, Judge Kurt Krueger, Matthew Dale, Michele Robinson, Randy Snyder, Aimee Grmoljez, Melanie Reynolds, Andrew King-Ries, and Alison Paul.

**Commissioners Absent:** Jennifer Brandon and Andy Huff.

**Others Present:** Justice Jim Shea, Jason Smith, Chris Manos, Kate Kuykendall, Beth McLaughlin, Jamie Iguchi, Christine Mandiloff, Patty Fain, Kay Pace, Michelle Potts, Lisa Mecklenberg Jackson, and Krista Partridge.

**Call to Order:** 12:32 p.m.

Justice Baker welcomed new Commission members and thanked outgoing members for their service: Representative Kim Dudik, replacing Chuck Hunter; Judge Greg Pinski, replacing Judge David Ortle; and Ed Bartlett, replacing Jon Bennion. She also noted that Andrew King-Ries will be replaced by Dean Paul Kirgis at the next Commission meeting, and thanked Andrew for his service. She also welcomed Justice Shea and Jason Smith, the State Director of Indian Affairs. She then asked for comments or corrections to the March meeting minutes. Randy Snyder noted that he had opposed the motion to approve the voluntary pro bono activity statement process and asked that the minutes be corrected to reflect his vote.

**Randy Snyder moved that the March minutes be adopted as corrected and Sen. Swandal seconded. The motion passed without objection.**

**Court Workload Report and Court Help Update**

Beth McLaughlin provided an update on the increasing workload for courts across the state and the need for additional judges to handle the workload. She noted that a workload study revealed that 17-18 additional judges are needed, and although urban counties have seen the largest increase in caseloads, some rural districts are served by only one judge who must travel vast distances to multiple counties each week. A sharp increase in abuse and neglect cases in 2015 has impacted court schedules significantly because those cases take priority. Beth stated that the Court Administrator's office will be looking at the judge shortage issue for the next legislative session. Beth also introduced Kay Pace, the new Court Services Director.

Jim Taflan presented an update on the Court Help program. He reported that there are Self-Help Law Centers (SHLC) in Billings, Bozeman, Helena, Missoula, Kalispell, and Great Falls, and that since the inception of the program over 46,000 contacts have been made seeking help at the centers. He pointed out that demand for SHLC services is growing rapidly, and that permanent funding was authorized during the 2015 legislative session. He noted that the Court Help Program is looking into establishing a statewide toll-free phone number for assistance, and expanding its online and social media presence. Senator Swandal asked if the SHLC does mediation, and Jim replied that the program provides information only, but can offer referrals to mediators when appropriate.

### **Montana Justice Foundation Update**

Michele Robinson presented an update on the Montana Justice Foundation (MJF). She stated that the search for a new Executive Director to replace Amy Sings In The Timber is currently underway. Kate Kuykendall is the Interim Executive Director until the replacement is hired. She also reported that MJF received \$280,000 as part of a Bank of America national settlement. Kate Kuykendall added that the settlement was distributed to IOLTA programs across the country, and that the MJF Board has approved granting the funds to Montana Legal Services in order to start a Consumer Fair Debt Collection program. The funds will be used to hire an attorney and paralegal to pursue cases for low-income consumers with claims under the Fair Debt Collection Practices Act. Andrew King-Ries asked for details on the Executive Director search process, and Justice Baker answered that MJF is advertising nationally and statewide, and that the deadline for applications is October 16. She stated that MJF hopes to have the new Executive Director hired by the end of the year.

### **Montana Legal Services Association Update**

Alison Paul provided an update on Montana Legal Services Association (MLSA). She explained that MLSA is the only statewide provider of free civil legal assistance, and is funded through a variety of grants from the Legal Services Corporation, Corporation for National Service, Montana Justice Foundation, and many others. MLSA does not receive state funding except through the Supreme Court filing fee, but that she's excited about the possibility of state funding for legal aid during the next legislative session. She reported that MLSA's contract for Foreclosure Assistance through the Attorney General's office will end next year, but plans to move the foreclosure staff to the Fair Debt Collection program that will be funded by MJF. She also noted that MLSA receives a number of federal grants to provide assistance to domestic violence (DV) survivors, and with this funding has added two Tribal Advocates, an attorney to serve the Bakken region, and will soon be adding an attorney in Bozeman under a federal DV grant received by the HAVEN shelter. Senator Swandal asked about MLSA's malpractice insurance carrier, and Alison replied that MLSA's Complete Equity Insurance also covers pro bono attorneys and mediators.

### **Impact of Civil Legal Aid**

Michelle Potts presented “The Economic Impact of Civil Legal Aid to the State of Montana,” a report funded by the Montana Justice Foundation, and prepared by MLSA in consultation with Professor Scott Rickard, Director of the Center for Applied Economic Research at MSU-Billings. She explained that the report is aimed at policymakers and legislators and illustrates the return on investment of civil legal aid dollars spent in Montana. The report includes the direct financial benefits to low-income Montanans, indirect impacts including the boost to local economies through new dollars brought into the state, the value of legal services provided, and the cost savings in prevention of domestic violence, foreclosures, evictions, and increased Court effectiveness. In total, the report concludes that the total economic impact of MLSA’s statewide legal services is over \$9.6 million, and that for every dollar spent on legal services in 2013, \$3.15 flowed into the Montana economy. Michelle asked that the Commission provide a cover letter to be sent out with the report to legislators and other state policymakers. Aimee Grmoljez suggested that the report should also be presented at the next meeting of the Law & Justice Interim Committee and that enough copies of the report should be set aside for distribution to newly elected legislators.

**Judge Krueger moved to authorize the Commission to provide a cover letter for the Economic Impact Report. Matt Dale seconded the motion. The motion passed without objection.**

Alison Paul stated that MLSA would develop a mailing list and draft cover letter for Justice Baker to send on the Commission’s behalf.

### **The Wyoming Experience: Chief Justice Jim Burke, Wyoming Supreme Court**

Justice Baker introduced Chief Justice Jim Burke of the Wyoming Supreme Court and thanked him for his willingness to share his insight on Wyoming’s successful effort to achieve state funding for civil legal aid.

Chief Justice Burke complimented Montana and the Access to Justice Commission on its efforts and progress, and stated that what Montana is doing without any state funding is amazing. He noted that he wasn’t always a believer in the Access to Justice movement, but that as a member of Wyoming’s Access to Justice Commission, he came to understand the issue and level of need. It became clear to him and the rest of the commission that their primary goal should be to seek out state funding for civil legal aid.

Chief Justice Burke described the keys to Wyoming’s successful state funding effort:

- Made the issue understandable to a wide spectrum of the community and got them involved.
- Made a concerted effort to involve the private bar.

- Took a broad approach to communication and education of state government agencies.
- Held public hearings around the state and made sure to include real people with stories rather than a lot of charts and graphs.
- Instilled a sense of mission in the Access to Justice Commission by having every member attend almost every public hearing.
- Video-taped every public meeting and produced a movie that was distributed to every member of the legislature.
- Took advantage of the fact that federal LSC funding was pulled from the Wyoming Legal Aid program and brought home the fact that civil legal aid should not rely solely on federal funds.

Justice Baker thanked Chief Justice Burke for his remarks and pointed out the powerful scene at the conclusion of Wyoming's public meeting video. After hearing the emotional public testimony at the first meeting in Cheyenne, the Chief Justice pledged, "We've heard you and we'll get it done." Ed Bartlett asked the Chief Justice if fees were part of Wyoming's state funding, and he replied that fees make up 100% of the funding source – they added on to an existing court automation fee. Andrew King-Ries asked whether Wyoming encountered a barrier in the belief that attorneys should take care of this need without state funding. Chief Justice Burke stated that this wasn't a significant issue, but that when it came up, he pointed to all the efforts that the private bar had already undertaken. Chief Justice Burke reiterated that you can't assume that anyone understands or cares about the issue just because you do, and that you need to have an answer for every single question because most of the questions are fair. Aimee Grmoljez asked how the funding is managed and allocated. Chief Justice Burke explained that the funds are managed through the court budget and that an entity called "Equal Justice Wyoming" was created to make grants, and to coordinate pro bono and self-help programs. Wyoming Legal Aid applies for and receives the largest portion of funding. He also noted that communities are partnering in the effort by providing office space, and that there are legal aid offices in five cities.

### **Public Forum Series Update**

Patty Fain and Matt Dale presented an overview of the strategy and schedule for the statewide listening sessions and provided a poster-sized handout for participants and organizers. The series of forums will take place in 7 communities across the state over the course of the next year, beginning in Kalispell on October 21, 2015, and concluding in Helena in October 2016. The goal of the forums will be to gather information, build awareness, promote pro bono services, advocate for funding, and provide education on the issues. There will be 30 minutes of public comment at each session and the goal for the organizers will be to get 50-75 people in attendance at each session, including community leaders, legislators, and local public officials. Matt asked for help from Commissioners in getting the word out and sending invitations and stated that they have lots of boilerplate language available to facilitate this effort. Justice Baker said that we

urgently need community leaders to be invited to the first two meetings. Randy Snyder pointed out that this isn't the first time that meetings like this have been held and asked for clarification on the goal of these meetings. Matt stated that state funding for legal aid is the ultimate goal. Justice Baker added that another goal is a final report to the Court so that we can better determine what is needed in each community and figure out answers to all the questions that will be asked when approaching the legislature for funding. Aimee Grmoljez stated that any time you have a captive audience, you should ask for an action item. She suggested that the first four meetings should give us a very good idea of how the legislative proposal should be formulated, and that the forum moderator should be very clear to those in attendance that we will be coming back with a request for funding. Justice Baker noted that we will be making a decision on a firm proposal for funding at the June 3, 2016 Commission meeting.

### **Committee Updates**

- **Committee on Self-Represented Litigants:** Michele Snowberger had to leave, but Kate will send out the Committee's written report to the Commission.
- **Policy and Resources Committee:** Matt Dale is now the Chairperson of this committee.
- **Communication and Outreach Committee:** Melanie Reynolds is now the Chairperson of this committee.
- **Law School Partnerships Committee:** Hilary Wandler is now the Chairperson of this committee.

**Justice Baker thanked the outgoing committee chairs for all of their hard work during the past three years.**

### **Other Business & Wrap-up**

Justice Baker opened the floor for public comments. There were no public comments.

**Justice Baker adjourned the meeting at 2:50 p.m.**