

September 22, 2006

MINUTES OF THE MEETING OF THE SUPREME COURT ACCESS TO JUSTICE COMMISSION

The first Regular Meeting of the Supreme Court Access to Justice Commission was convened on September 22, 2006 at the Las Vegas office of the State Bar of Nevada.

The following members were in attendance:

Hon. Nancy Becker
Hon. Elizabeth Gonzalez
Hon. Frances Doherty
Brett Kandt
Sheri Vogel
Kimberly Abbott
Hon. William Voy
Wayne Pressel
Valerie Cooney
Hon. Connie Steinheimer
Ernest Nielsen
Paul Elcano
Hon. Stephen Dahl
Rew Goodenow
John Desmond
Annette Appell

The following members participated by telephone:

Hon. Andrew Puccinelli
Hon. Richard Glasson

The following sub-committee members were in attendance:

Barbara Buckley
Suzy Baucum

State Bar staff present:

Lynn Etkins
Wayne Blevins
Gale Skala

1. CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by the Hon. Nancy Becker, Chair at 9:00 a.m. Everyone in attendance introduced themselves.

2. REVIEW NOTES OF PREVIOUS MEETINGS IN ESTABLISHING ACCESS TO JUSTICE COMMISSION

Goals from the formation meetings were reviewed and discussed and the commission created sub-committees. The commission agreed on the following sub-committees.

ORGANIZATIONAL INTERRELATIONSHIPS

- Relationship between commission and other foundations.
- Where, over time, do we want other foundations to fit in and how do they continue to operate (if they do operate.) What should they be doing? This includes the Nevada Law Foundation, Pro Se Council, Judicial Foundations, Library Commission, Access to Justice Section, etc.

COMMUNITY AWARENESS

- Develop a cost/benefit analysis of access to justice.
- Educate the community.
- What is the state of legal services?
- Educate the legal community.
- Responsible for marketing that information to the community and developing a marketing plan.
- Yearly access to justice report—what should we do and how do we get the message out?
- Legal needs of the community and what the lawyers are doing to address those needs.
- Preparation of reports/white papers.
- Access to justice includes pro bono, legal services and pro se assistance.
- Quantifying the cost of not having access to justice.

FUNDING

- Identify needs of the community, education, IOLTA, grants (state and federal), stable revenue stream, increasing funds to service providers, rule or legislative action, cy pres funds, pro hac vice increase, unclaimed property/class action money and opt-out portion of Rule 6.1.
- Prepare report of the state of funding for legal services and how it is allocated. This should be the first responsibility.

LAWYER PARTICIPATION

- Increasing participation under Rule 6.1.
- Consider senior bar admission and recruitment, inactive reserve attorney concept, corporate lawyers, out of state attorneys practicing in federal court, public attorneys, and the law school. Malpractice issue.
- What constitutes pro bono? Address questions and issues regarding Rule 6.1 and define the aspirational goals.

PROVIDER PROMOTION

- Develop strategies for increasing benefits and salaries for employees.
- Recruitment and retention of staff.
- Loan forgiveness programs.
- Image of public service attorneys.
- Funding including health benefits (bundling into larger health plans), CLE fees, and bar dues.
- Provider coordination.
- Law school.

Chairs for the sub-committees will be selected based on requests. E-mail Lynn your sub-committee preference and if you would be interested in being a sub-committee chair. Sub-committees will work during quarterly meetings, preferably monthly. The first sub-committee meetings should discuss general topics and what you would like to tackle first. At the next meeting, the commission will review the sub-committee work in order to prevent overlapping. Non-members of this commission can be sub-committee members. Please keep minutes of the meetings and define what the committee is doing.

3. NEVADA LAW FOUNDATION REPORT

Suzy Baucum gave the Nevada Law Foundation report.

Pursuant to SCR 216, a major portion of IOLTA funds shall be disbursed for legal related services to the poor to victims of domestic violence and to children protected by or in need of protection by the juvenile court. The remainder shall be spent as the foundation deems appropriate.

SCR 217 states that the rate of interest shall not be less than the rate paid by the depository institution to regular non-attorney depositors. Interest rates received from financial institutions is tiered from a low of .10% to 4.72%.

Reasonable Fees: NLF is charged reasonable fees by institutions. Bank of America charges \$2 per account. Cal Fed is higher (\$10-\$20) but we have a small number of accounts with them and we discourage attorneys from participating with them.

Banks receive CRA credit from the NLF for not charging fees.

Negative netting is not really a problem in Nevada.

Since 1987, Nevada IOLTA grants have totaled \$4.5 million.

2006 GRANTS

Legal Services	\$132,000
Pro Bono	\$ 78,000
Domestic Violence	\$ 55,000

CASA	\$ 19,000
Seniors	\$ 30,000
LRE	\$ 22,000
Mediation	\$ 8,500
Disabled	\$ 10,000
Total Grants	\$359,000

In 2005, small IOLTA programs (like Nevada) had grants ranging nationwide from \$40,000 (Wyoming) to \$357,000 (Oklahoma). Oklahoma is bordering on becoming a medium sized program. Nevada granted \$264,500.

Participation rate is estimated at 80%. When the opt-out provision was changed in 1992, participation jumped from 17% to 80%-85%. The number of active bar members determines the percentage rate. We need to determine the accurate number of attorneys with trust accounts (excluding government attorneys, public interest lawyers and active attorneys that don't have trust accounts) in order to back them out of the equation to enable us to get a more accurate reflection of the participation rate.

NLF has \$350,000 in reserve account (1 year of funding) and \$350,000 in an investment account which is untouched. No IOLTA funding went to the NLF building.

NLF wishes to open the lines of communication between all service providers.

Cy pres funds were discussed and whether or not there needs to be a bill draft or rule change to address this issue. Cy pres funds are given to many other IOLTA programs around the country. Suzy will provide a petition she drafted a few years back on this issue for Rew and Barbara to review. Lynn will attempt to get a hold of Washington's recent petition on the same issue.

4. APPOINTMENT OF NON-ATTORNEYS TO COMMISSION

The state bar suggests that the commission include representatives from the federal bar and pro bono programs including bankruptcy and immigration appeals.

The commission needs to appoint two non-lawyer members to fill vacancies. The commission discussed appointing one person from the north and one from the south. The commission discussed having a client representative as well as having a diverse commission. The commission also acknowledged that it might be more important to find someone who can donate their time regardless of where they live in Nevada.

Judge Gonzalez will contact Tom Warden.

Rew will contact Jerry Hall.

Judge Voy will contact Thom Reilly.

Please email Justice Becker suggested names within one week.

5. UNLV LAW SCHOOL DISCUSSION

Annette Appell discussed law school programs which increase access to justice awareness. The Community Service program is done in conjunction with CCLS and NLS. First year law students to help educate the community in different areas of the law. This has helped over 10,000 Nevadans in its first 5 years. The law school also has clinical programs including Child Welfare, Immigration, Juvenile Justice, Capital Defense, Education and VAWA. The law school also partners with CCLS for a pro bono mentorship program. The law school also has an Externship program where law students work in government, public interest, judicial internships, and legislative positions. The law school works with recent graduates to help them get jobs in the community. They see a need to help immigrants and created the Nevada Immigrant Resource Project.

6. OTHER DISCUSSION ITEMS

- a) Lynn will send everyone rosters with contact information of all participants.
- b) Judge Glasson requested that the commission discuss dealing with pro per litigants in the rural community. They have approximately 20 small claims cases per year. They need ideas on how to help the rural communities including the municipal and justice courts.
- c) The state bar will look into the status of the mandatory pro bono reporting.

7. NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 12:00 p.m. The next meeting will be January 12, 2007 from 10:00-1:00 at the State Bar office in Reno, Nevada.

By: Lynn Etkins
Statewide Access to Justice Coordinator