



Nevada Supreme Court Access to Justice Commission

Meeting - Friday, March 22, 2024 2:00 PM – 4:00 PM

Join Zoom Meeting

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Meeting ID: 864 8869 1370

- 877 853 5257 US Toll-free
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Meeting Agenda

I. Opening Statements from Co-Chairs & Commission Roll Call	5 minutes	
II. Consent Agenda	5 minutes	Tab 1
• Approval of November 3, 2023 Commission Meeting Minutes		
III. Discussion Items		Tab 2
• Informal Family Law Trials – Judge Gordon	15 minutes	
• Commission Membership Vote	5 minutes	
• 2024 Section Pro Bono Challenge	5 minutes	
• IOLTA	5 minutes	
○ Nevada Bar Foundation research grant		
○ Law firms with \$5 million + accounts		
○ New Platinum Partner rate		
• Service Rule Clarification	10 minutes	
○ Alternate service v. publication		
○ Online alternative to publication		
• Peremptory Challenges	5 minutes	
• Unbundling Feedback	5 minutes	
• Sealed Cases	10 minutes	
• Joint NLS/NNLA Self Help Center	5 minutes	
• DDHS ADSD Legal Grant Redirect	5 minutes	
• Supervised Task Force	5 minutes	
• Legislative and Eviction Diversion Update	5 minutes	
• Court Forms and Translations Update	5 minutes	
IV. Legal Aid Provider Reports	15 minutes	
V. Other Business	5 minutes	



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VI. Informational Items

Tab 3

- Legal Aid Provider Highlights
- Self-Help Center Statistics
- Triannual Provider Call Recap
- Public Awareness

Upcoming Access to Justice Commission Meetings

Meetings are Fridays at 2:00 p.m. – 4:00 p.m.

June 14

November 15

Our Purpose

- Assess current and future civil legal needs.
- Develop statewide policies to improve legal service delivery.
- Improve self-help and pro bono services.
- Increase public awareness of the impact of limited access to justice.
- Investigate and pursue increased funding.
- Recommend legislation or rules affecting access to justice.



ACCESS TO JUSTICE COMMISSION

Access to Justice Commission Meeting Minutes
Friday, November 3, 2023 – 2:00 p.m.

Commission Members Present

Justice Elissa Cadish, Co-Chair
Justice Kristina Pickering, Co-Chair
Connie Akridge
Rachel Anderson
Mark Brandenburg
John Desmond
Diane Fearon
John Fortin
Judge Kriston Hill
Dawn Jensen
Judge Kishner
Ann Walsh Long
Judge Cynthia Lu
Joseph McEllistrem
Victoria Mendoza
Jennifer Richards
Raine Shortridge
Doreen Spears Hartwell
Steven "J.T." Washington
Michael Wendlberger
Peter Wetherall
Judge Nathan Tod Young
Tara Zimmerman

Guests Present

Sarah Bates
Bailey Bortolin
Barbara Buckley
Ciara Clark
Judge Cynthia Cruz
Lisa Evans
Krissta Kirschenheiter
Susan Myers
Jonathan Norman

Staff Present

Brad Lewis



Call to Order/Roll Call/Minutes

The Access to Justice Commission meeting was called to order. Justice Cadish welcomed all, and a roll call was conducted. She asked if changes to the minutes were necessary. Hearing none she requested approval. After being moved by Judge Young and seconded by John Desmond, the minutes were voted unanimously and adopted for the record.

Section Pro Bono Challenge

Justice Cadish briefly shared that the Section Pro Bono Challenge went well. She appreciated that there was full attendance by the winners at the Nevada Supreme Court and Nevada Court of Appeals thank you luncheon.

IOLTA

Justice Cadish updated the Commission on the recent IOLTA Rate Review as Senior Justice Hardesty, the IOLTA Rate Review Committee Chair, could not attend today. She thanked him for graciously agreeing to continue as the Committee Chair. She then outlined the Committee requested a vote of the full Commission to agree to a Committee recommendation to request a grant from the Nevada Bar Foundation to enter into an IOLTA research study with one of two firms nationally who offer this service. It is deemed wise at this time of increased interest rates to scan the national landscape and purchase some data to help analyze optimal rates for the Nevada IOLTA program.

Brad briefly highlighted the details of the request. Peter Wetherall inquired about why there was such a wide range of estimates from the two proposals. Brad shared that one included a variety of long term, continuing analyses along with a dashboard for continued monitoring. However, the focus of this effort will be on a single investigation so we'd expect the finally selected provider to be on the lower end. Justice Cadish asked for a vote which was moved by Doreen Spears Hartwell and seconded by John Desmond. All voted in favor and the motion passed.

Justice Cadish and Justice Pickering both commented on the recent Bank of Nevada meeting held at the Southern Nevada Senior Law Program. Both felt it made an impact and was a great opportunity to both get to know the new CEO of Bank of Nevada, Robert Cerminaro, and also thank them for their leadership position in the Nevada IOLTA program.

Legislative and Eviction Diversion Update

Barbara Buckley reported that while funds for rental assistance are available, getting rental assistance to landlords before an eviction has been slow and difficult. The Civil Law Self Help Center is busy with most pro se litigants requesting eviction forms. The eviction and housing bills sought by legal aid and passed were vetoed. The eviction diversion program targeted to seniors and the disabled has had very few successes. Justice Cadish shared that Chief Justice Stiglich and Justice Bell have been assisting to get eviction diversion on track. A pilot 2.0 version is to soon be in operation.



Lisa Evans asked about the availability of rental assistance in Reno/Sparks and Ms. Buckley suggested she connect with Jonathan Norman. Ms. Buckley noted the cost of housing, especially in Reno, is a hurdle to keeping people housed.

Commission Membership

Doreen Spears Hartwell, ATJC Nominating Chair, referred to and reviewed the nominations for new members of the Commission. Justice Cadish asked for a discussion and vote. Hearing no objections, Justice Cadish asked for a motion. Judge Kishner moved that the slate be adopted, it was seconded by John Desmond, and all voted in favor. Judge Cynthia Cruz will replace Judge E. Alan Tiras as the appointee of the Nevada Judges of Limited Jurisdiction, Ciara Clark will replace Constantine Arhontas as the appointee of the UNLV Public Interest Law Association President, and Lisa Evans replaces Tara Zimmerman as the new executive director of Northern Nevada Legal Aid.

Judge Cruz suggested she may be able to help with evictions. Ciara Clark noted that PILA's 25th Annual Silver State Auction would be held on February 29th, 2024. She noted Senior Justice Hardesty will receive the Silver Staircase award for lifetime achievement and Priscila Venzor, Legal Aid Center's 2021 Melanie Kushnir Access to Justice Fellow, will receive the Silver Student award. Justice Cadish welcomed all and introduced Lisa Evans as the new NNLA executive director.

Unbundling

To create awareness of the pilot unbundling rule and gain feedback, a CLE was held on September 26. Justice Cadish and Justice Pickering participated, along with others. One key discovery was a question over whether an order needed to be entered to finalize the case. Additional feedback will be consolidated for review.

Sealed Cases

The unbundling discussion quickly morphed into a discussion about sealed family law cases. Justice Pickering noted that some issues have arisen with pro bono attorneys accepting appellate cases because the records are sealed. Ms. Buckley indicated the sealing of all custody and paternity cases has become a significant issue. It is difficult to evaluate if it's even a case legal aid would accept, and hard to get a pro bono attorney to accept when they know nothing about the case. Judge Kishner added that she is uncertain precisely what to do when there are calls to her department asking for a case to be unsealed. What is the process for getting access? A local rule in the Eighth Judicial District Court seems to be at issue and guidance is needed for how self-represented litigants can get access and how judges can know how to properly comply with requests to unseal.

Justice Pickering said that parsing through these details is important if issues are at hand. Michael Wendlberger said self-represented litigants don't even have access to their own files.



It was suggested that we should form a committee to investigate this. Judge Kishner said she would be happy to be involved but suggested a family court judge also join. John Fortin, Doreen Spears Hartwell, and Michael Wendelberger also agreed to serve on the committee. Justice Pickering suggested that she can only be marginally involved due to pending litigation but would like to have a full understanding of the issues at hand.

Limited Practice Rule

The Commission's proposed ADKT to allow limited practice for law school graduates was ordered on October 19. Ms. Buckley thanked the Justices and the Commission, and shared clarification on proposed Rule 1.8(e) that the intention is modest gifts and humanitarian aid from legal aid organizations. Justice Pickering asked about the origin of the language, was it the ABA model rule? A discussion ensued it was determined that it could be extended to criminal matters, for example, appropriate clothing for a court appearance. Judge Lu commented that, as a former public defender there are times when assistance is warranted. Judge Cruz shared that the Office of Appointed Counsel struggled with having proper attire and transportation for incarcerated individuals.

Medica Legal Partnerships

While there is interest in MLPs, it may not be statewide or appropriate in the current resource mix with all legal aid providers. Jennifer Richards shared that her four-year appointment to the Nevada Department of Health and Human Services was coming to an end and that she joined Northern Nevada Legal Aid where her duties would involve the NNLA MLP with NNHOPES. Jonathan Norman noted that committee discussions included the recognition that the potential volume inflow may be difficult to accommodate for many programs. However, different models could be used. For example, instead of embedding staff at medical facilities legal aid could train existing onsite staff to refer clients based on agreed parameters. Regardless, advancing will be difficult without cornerstone funding.

Legal Kiosks in Libraries

Susan Myers reported that 1280 kiosk sessions were completed at participating libraries. This does not include non-library website visits. There were no video hearings or meetings. Nevada's kiosks have been well used compared to many other states.

Court Forms and Translation

Ann Walsh Long reported that common, mostly family court forms have now been translated into Spanish, Tagalog, Mandarin, and Vietnamese.

Dues Check Off

The main attempt to strengthen and increase voluntary dues check off during license fee renewal this year is to provide an easy way for people who do not renew themselves an option to donate outside the renewal process. Also, an automatic thank you is now sent upon donating.



Reports

- *Legal Aid Center of Southern Nevada* – Evictions continue to be the number one issue being seen. Another trending issue has been violence involving students. Legal Aid Center believes it's a good use of Commission time and engagement to address court processes and procedures that are part of delivering on access to justice goals.
- *Southern Nevada Senior Law Program* – 52 attorneys from 48 law firms have helped SNSLP to expand pro bono programs and offerings to seniors by 24% in 2023. The DHHS ADSD grant to assist SNSLP conduct outreach to the Hispanic community has driven better service to Nevada's large Latino market. Ms. Fearon reported great success with the pro bono event in October.
- *Nevada Legal Services* – Peter Wetherall shared that the NLS Champions of Justice Events went well and they took an opportunity to thank all other providers this year for the combined efforts. NLS has also seen an uptick in evictions and adult guardianships. He commended the North Las Vegas Justice Court for improving their eviction services, noting efficiencies and expansion of services.
- *Northern Nevada Legal Aid* – Lisa Evans reported on new NNLA hires including Jennifer Richards, supervising attorney of the NNLA senior law center, who will also oversee the MLP. Krista Kirschenheiter was brought on a bit earlier as director of operations and human resources. Lee Elkins was also hired as impact litigation and strategic advocacy director. Jon Sasser has acted as a housing and consumer advisor with evictions putting a strain on resources. Tara Zimmerman continues with NNLA as an executive team member. A formal announcement for a new self-help center at the Reno Justice Center is forthcoming.
- *Volunteer Attorneys for Rural Nevadans* – Victoria Mendoza reported that an ADSD grant helped to update VARN's case management system to *Legal Server*. Several pro bono outreach events have been held including five Lawyer in the Lobby sessions, two family law events, two senior events and one general law event. So far in 2023 VARN has serviced approximately 500 clients. Staff retention has been difficult with VARN losing two lawyers since June. One lawyer has since been hired. VARN has seen more domestic violence cases starting this summer, including some more severe cases.
- *John Desmond* reported that he has been working with Ms. Buckley on Supervised Legal Practice and a meeting of all legal aid providers including Brad was held this fall. More is forthcoming.
- *Bailey Bortolin* shared that perhaps a poll regarding access to justice barriers in court could help to legal aid providers identify court processes needing improvement.

Informational Items

Informational items included the following. Details upon request from the Commission:

- Legal Aid Provider Highlights
- Self-Help Center Statistics
- Triannual Provider Call Recap
- Nevada Bankers Association *The IOLTA Report*
- Public Awareness

INFORMAL FAMILY LAW TRIALS

(1) **Applicability.** Upon the consent of all parties and the court, an Informal Family Law Trial (IFLT) may be held to resolve any or all issues in actions brought under NRS Chapter 125, 125C, or 126. This rule applies to both pre-judgment and post-judgment proceedings.

(2) **General.** An IFLT is an alternative trial procedure to which the parties, their attorneys, and the court voluntarily agree. Under this model, the court may admit any relevant and material evidence, even though such evidence might be inadmissible under formal rules of evidence, and the traditional format used to question witnesses at trial does not apply. In most cases, the only witnesses will be the parties. Other relevant witnesses may be called only at the discretion of the court.

(3) **Election.** All parties must elect an IFLT and waive a traditional trial.

(a) At any time prior to the scheduling of a traditional trial, the court may offer the parties the option of electing an IFLT and must explain the process.

(b) If the parties elect to use an IFLT in place of a traditional trial, the court must obtain all parties' consent in writing using the approved trial process selection form. See Form 1 in the Appendix of Forms.

(c) The court may decline to utilize the IFLT procedure at any time and direct that a case proceed in the traditional manner of trial even after an IFLT has been commenced but before judgment has been entered.

(d) A party who has previously agreed to proceed with an IFLT may file a motion to opt out of the IFLT provided such motion is filed not less than 21 calendar days before trial. This time period may be modified or waived by the court upon a showing of good cause.

(4) **Trial Procedure.** The IFLT shall be conducted as follows:

(a) At the beginning of an IFLT the court should have the parties affirm on the record that they understand the rules and procedures of the IFLT process.

(b) The court may ask the parties or their lawyers for a brief summary of the issues to be decided.

(c) The plaintiff, or moving party, will be allowed to speak to the court under oath concerning all issues in dispute. The party is not questioned by another party or any lawyers, but may be questioned by the court to develop evidence required by any statute or rule.

(d) The parties are not subject to cross-examination. However, the court shall ask the defendant, or non-moving party or their counsel if there are any other areas the party wishes the court to inquire about. The court will inquire into these areas if requested and if relevant to an issue to be decided by the court.

(e) The process in subsections 4(c) and 4(d) is then repeated for the other party.

(f) Expert reports, if any, will be received as exhibits. Upon the request of either party, the expert will be sworn and subjected to questioning by counsel, the parties, and/or the court.

(g) Non-expert witnesses are not allowed to testify unless the court orders otherwise based on a showing of good cause. Testimony from lay witnesses if permitted by the court may be given in person or in the form of affidavit or unsworn declaration under the penalty of perjury.

(h) The court may receive into evidence any exhibits offered by the parties. The court will determine what weight, if any, to give each exhibit. Absent good cause, a party may not offer an exhibit, affidavit, or unsworn declaration that was not timely disclosed pursuant to the Nevada Rules of Civil Procedure, local rules, or any applicable court orders. The court may order the record to be supplemented after the IFLT.

(i) Declarations, letters, or other submissions by the parties' minor children will not be admitted, but records and/or reports from court ordered child interviews may be admitted.

(j) The parties or their counsel will be offered the opportunity to respond briefly to the statements of the other party.

(k) The parties or their counsel will be offered the opportunity to make a brief closing statement.

(l) At the conclusion of the case, the court shall render judgment. The court may take the matter under advisement but best efforts should be made to issue prompt judgments.

(m) The court may modify these procedures as justice and fundamental fairness requires.

(n) The court may put reasonable time limits on any person's testimony or argument.

(5) Judgment and Appeals. The court's final judgment will have the same force and effect as if entered after a traditional trial and may be appealed under the provisions of the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure.

DISTRICT COURT
COUNTY, NEVADA

Plaintiff/Petitioner

vs.

Case No: _____

Dept. No: _____

Defendant/Respondent

FAMILY COURT TRIAL PROCESS SELECTION

Parties in a domestic relations case have a choice about how they want their trial to be conducted:

- (1) Traditional trial. Both parties can call witnesses and question witnesses called by the other party. Nevada Rules of Evidence apply.
- or*
- (2) Informal Family Law Trial (IFLT). The ability to call witnesses may be limited for both parties. Nevada Rules of Evidence do not apply. Both parties must select IFLT or a traditional trial will be conducted. Check with your court for more information about the IFLT process.

I choose to proceed under the rules for:

TRADITIONAL TRIAL

INFORMAL FAMILY LAW TRIAL (IFLT)

- ✓ I agree to waive the normal question-and-answer manner of trial
- ✓ I agree the court may ask me questions about the case
- ✓ I agree to waive the rules of evidence in this IFLT
- ✓ The court may consider any document or physical evidence a party submits
- ✓ Both parties can tell the court anything they feel is relevant

I understand that:

- ✓ My participation in this IFLT process is strictly voluntary and no one can force me to agree to this process
 - ✓ The court will decide how much weight to give to documents, physical evidence, and testimony that is entered as evidence during the IFLT
 - ✓ I am confident I understand the IFLT process
- I have not been threatened or promised anything for selecting the IFLT process

I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Date

Signature

Name (printed)

Contact Address

City, State, ZIP

Contact Phone

INFORMAL FAMILY LAW TRIALS IN NEVADA

Is it the Right Choice for Your Case?

A new type of trial is now available for family law cases: an Informal Family Law Trial (IFLT). This type of trial differs from a Traditional Trial in several ways. If you are interested in an IFLT trial, please read the information below.

Family law cases include divorce, separation, unmarried parents, and modification cases about child custody, parenting time, and child support. You may choose the type of trial that you think is best for your case.

What is an Informal Family Law Trial (IFLT)?

In an Informal Family Law Trial (IFLT), you and the other person speak directly to the judge about the issues in dispute, such as child custody and dividing property or debts. A question-and-answer format is not used. Only the judge asks questions of each person. This happens even if you or the other person has a lawyer. Usually, other witnesses are not allowed to testify. You can, however, ask the court to let an expert witness testify, such as a doctor, counselor, appraiser, or custody evaluator.

The Rules of Evidence do not apply in an IFLT. This means you can tell the judge everything that you think is important. You also can give the judge any documents or papers you want the judge to review. The judge will decide the importance of what you and the other person say and the papers you each give to the judge. In an Informal Family Law Trial, lawyers are only allowed to:

- say what the issues in the case are,
- respond when the judge asks if there are other areas as the person wants the court to ask about, and
- make short arguments about the law at the end of the case.

The Informal Family Law Trial is a voluntary process. In other words, you decide whether it is something you want to do. An IFLT will be used only if both people involved in the case agree to it. Both people must complete a form that says what type of trial they choose.

What is a Traditional Trial?

In a Traditional Trial, lawyers or people who represent themselves usually present information to the judge by asking questions of witnesses. Each side gets to ask follow-up questions of the other person and their witnesses. Generally, the judge asks few, if any, questions.

The Rules of Evidence apply. The Rules of Evidence place limits on the things a witness can talk about and the kind of documents that can be given to the judge to read. If you or the other person has a lawyer in a Traditional Trial, the lawyer will make opening statements and closing arguments to the judge and will ask questions of you, the other person, and other witnesses. If you represent yourself, you will be expected to follow the Rules of Evidence and you will be the one to make opening statements and closing arguments and to question witnesses.

INFORMAL FAMILY LAW TRIALS IN NEVADA

Is it the Right Choice for Your Case?

Why would I choose an Informal Family Law Trial?

1. Your case is relatively simple. You are comfortable explaining your circumstances and the facts to the judge.
2. Fewer rules apply, so Informal Family Law Trials are more flexible. IFLT's may be easier for people who are representing themselves. The judge is more involved in asking questions and guiding the process. The judge may be able to reduce conflict between the two sides and help them focus on the children or other issues.
3. You can speak directly to the judge about your situation without interruption or objections from the other person or their lawyer. The other person is not allowed to ask you questions.
4. You do not have to worry about formal rules that limit what you can say in court. You can:
 - Speak freely about conversations between you and other people who are not in court.
 - Talk to the judge about what your children have said about custody and parenting time.
 - Tell the judge whatever you think is important before he or she makes a decision about your case.
5. You can give any documents you think are important to the judge.
6. Informal Family Law Trials may be shorter. A lawyer may be able to prepare in a shorter amount of time. Therefore, the cost to have a lawyer represent you may be less. You may have to take less time off from work.
7. The judge usually, but not always, makes a decision the same day as the trial.

Why would I choose a Traditional Trial?

1. Your case is complicated. You and the other person own a business or have lots of stocks, property, and retirement funds to divide.
2. Rules and formal procedures are in place to protect each person's rights. The Rules of Evidence apply. You or your lawyer may feel more comfortable with this structure.
3. You like the fact that the Rules of Evidence will limit what people can say and the information that can be given to the judge in writing.
4. The question and answer format will be more effective in getting out the information about your case. It may be important to be able to ask the other person follow-up questions.
5. You may bring any witnesses you think are important to court.
6. Generally, written statements from family members, teachers, and friends will not be considered by the judge. People with something to say about your situation or the other person's situation will need to come to court.

INFORMAL FAMILY LAW TRIALS IN NEVADA

Is it the Right Choice for Your Case?

How an Informal Family Law Trial Works:

1. When the IFLT begins both people will be asked if:
 - they understand the rules and how the trial works, and
 - they agreed to participate in the IFLT voluntarily.
2. The person that started the case will speak first. He or she may speak about anything he or she wishes.
3. He or she is not questioned by a lawyer. Instead, the judge will ask questions to make a better decision.
4. If the person talking has a lawyer, then that lawyer may ask the judge to ask their client questions on specific topics.
5. This process is repeated for the other person.
6. If there are experts, the expert's report may be given to the judge. Either person may ask to have the expert testify and be questioned by the judge or the other person.
7. Each person may submit documents and other evidence that they want the judge to see. The judge will look at each document and decide whether it is trustworthy and should be considered.
8. Each person may briefly respond to comments made by the other.
9. Each person or their lawyer may make a short legal argument about how the laws apply to their case.
10. Once all the above steps are complete, the judge states their decision. In some cases, the judge may give the ruling at a later date.
11. Any of the above steps may be modified by the judge in order to make sure the trial is fair for both people.

How a Traditional Trial works:

1. Both people, or their lawyers, make an opening statement, telling the judge about the case and what result they want and why that result would be fair. The person who started the case goes first.
2. The person who started the case then calls all of their witnesses. That person or their lawyer asks the witnesses questions and may give the judge documents or other evidence. The other person or their lawyer then takes a turn asking the witness- es questions. The people in the case will also usually be witnesses.
3. The other person then gets a turn to calls all of their witnesses and that person or their lawyer asks the witnesses questions and may give the judge documents or other evidence. And then, the person who went first or their lawyer takes a turn asking the witnesses questions.
4. The judge may allow the witness to be questioned again if the judge thinks it would help them make a better decision.
5. Both people, or their lawyers, make a closing argument, summarizing the evidence (statements of witnesses and documents), explaining how the witnesses support the result they want, and telling the judge what he or she thinks is most important for the judge to consider in making a decision.

INFORMAL FAMILY LAW TRIALS IN NEVADA

Is it the Right Choice for Your Case?

What Both Trials Have in Common:

1. You have to decide which type of trial you want to have. Both people must agree to have an Informal Family Law Trial. The case will be scheduled for a traditional trial if both people want a Traditional Trial or if only one person wants a Traditional Trial.
2. Before the trial starts there are several documents that each person must prepare and give to the judge and the other person:
 - A list of everything you and your spouse own and owe. If possible, it is best to give the judge one list, even if you do not agree on what each item is worth or who should get it.
 - If there are children and child support is an issue or if spousal support is an issue, the Uniform Support Declaration. If the Uniform Support Declaration is not required, you must submit an alternate affidavit. An affidavit is a notarized letter explaining why a Uniform Support Declaration is not applicable in your case.
 - If there are children, a parenting schedule.
3. Before the trial starts, each person must give the judge and the other person a copy of all of the documents and other evidence that you will give to the judge to consider. In a traditional trial, the judge will decide if the information can be used during the trial.
4. The Judge will follow the law and will consider the factors that the law requires in making a decision about your case.
5. After the trial is over, the judge will direct one person (or their lawyer if they have one) to draft a final judgment in writing. The final, written judgment must contain all of the decisions the judge made at the end of the trial. The case is not over until the judge receives the final written judgment and signs it.



ACCESS TO JUSTICE COMMISSION

MEMO

Date: March 22, 2024
To: Access to Justice Commission
From: Doreen Spears Hartwell, Chair, ATJC Nominating Committee
CC: ATJC Nominating Committee, Brad Lewis

RE: Access to Justice Commission Nominating Committee Recommendation

A vote on one new Commission member is needed. Below is recommended for a vote by the AJTC Nominating Committee.

<u>Nominated, SCR 15 slot:</u>	<u>Reappoint or replace/organization:</u>	<u>Term to expire:</u>
Alexander Cherup, 2(e)	Peter Wetherall /Nevada Legal Services	7/1/26

We are happy to answer any questions. Thank you for your consideration.

Rule 4. Summons and Service

(a) Summons.

(1) Contents. A summons must:

- (A) name the court, the county, and the parties;
- (B) be directed to the defendant;
- (C) state the name and address of the plaintiff's attorney or—if unrepresented—of the plaintiff;
- (D) state the time within which the defendant must appear and defend under Rule 12(a) or any other applicable rule or statute;
- (E) notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint;
- (F) be signed by the clerk;
- (G) bear the court's seal; and
- (H) comply with Rule 4.5 ~~4(e)(2)(C)~~ when service is made by publication.

(2) Amendments. The court may permit a summons to be amended.

(b) Issuance. On or after filing a complaint, the plaintiff must present a summons to the clerk for issuance under signature and seal. If a summons is properly presented, the clerk must issue a summons under signature and seal to the plaintiff for service on the defendant. A summons—or a copy of a summons that is addressed to multiple defendants—must be issued for each defendant to be served.

(c) Service.

(1) In General. Unless a defendant voluntarily appears, the plaintiff is responsible for:

- (A) obtaining a waiver of service under Rule 4.1, if applicable; or
- (B) having the summons and complaint served under Rule 4.2, 4.3, ~~or 4.4,~~ or 4.5 within the time allowed by Rule 4(e); or

(C) if a statute provides for service, having the summons and complaint served under the circumstances and in the manner prescribed by the statute.

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(2) Service With a Copy of the Complaint. A summons must be served with a copy of the complaint. The plaintiff must furnish the necessary copies to the person who makes service.

(3) By Whom. The summons and complaint may be served by the sheriff, or a deputy sheriff, of the county where the defendant is found or by any person who is at least 18 years old and not a party to the action.

~~**(4) Cumulative Service Methods.** The methods of service provided in Rules 4.2, 4.3, and 4.4 are cumulative and may be utilized with, after, or independently of any other methods of service.~~

(d) Proof of Service. Unless a defendant voluntarily appears or waives or admits service, a plaintiff must file proof of service with the court stating the date, place, and manner of service no later than the time permitted for the defendant to respond to the summons.

(1) Service Within the United States. Proof of service within Nevada or within the United States must be made by affidavit from the person who served the summons and complaint.

(2) Service Outside the United States. Service not within the United States must be proved as follows:

- (A) if made under Rule 4.3(b)(1)(A), as provided in the applicable treaty or convention; or
- (B) if made under Rule 4.3(b)(1)(B) or (C), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(3) Service by Publication. If service is made by publication, a copy of the publication must be attached to the proof of service, and proof of service must be made by affidavit from:

- (A) the publisher or other designated employee having knowledge of the publication; and
- (B) if the summons and complaint were mailed to a person's last-known address, the individual depositing the summons and complaint in the mail.

(4) Amendments. The court may permit proof of service to be amended.

(5) Failure to Make Proof of Service. Failure to make proof of service does not affect the validity of the service.

(e) Time Limit for Service.

(1) In General. The summons and complaint must be served upon a defendant no later than 120 days after the complaint is filed, unless the court grants an extension of time under this rule.

(2) Dismissal. If service of the summons and complaint is not made upon a defendant before the 120-day service period—or any extension thereof—expires, the court must dismiss the action, without prejudice, as to that defendant upon motion or upon the court's own order to show cause.

(3) **Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time before the 120-day service period—or any extension thereof—expires and shows that good cause exists for granting an extension of the service period, the court must extend the service period and set a reasonable date by which service should be made.

(4) **Failure to Make Timely Motion to Extend Time.** If a plaintiff files a motion for an extension of time after the 120-day service period—or any extension thereof—expires, the court must first determine whether good cause exists for the plaintiff's failure to timely file the motion for an extension before the court considers whether good cause exists for granting an extension of the service period. If the plaintiff shows that good cause exists for the plaintiff's failure to timely file the motion and for granting an extension of the service period, the court must extend the time for service and set a reasonable date by which service should be made.

[Amended; effective March 1, 2019.]

Rule 4.4. Alternative Service Methods

~~(a) **Statutory Service.**—If a statute provides for service, the summons and complaint may be served under the circumstances and in the manner prescribed by the statute.~~

(ab) **Court-Ordered Conditions for Alternate Service.**

(1) If a party demonstrates that the service methods provided in Rules 4.2, ~~and 4.3, and 4.4(a)~~ are impracticable, the court may, upon motion and without notice to the person being served, direct that service be accomplished through any alternative service method.

(b2) **Motion Seeking Alternate Service.** A motion seeking an order for alternative service must:

(A) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating:

(i) the due diligence that was undertaken to locate and serve the defendant; and

(ii) the defendant's known, or last-known, contact information, including the defendant's address, phone numbers, email addresses, social media accounts, or any other information used to communicate with the defendant; and

(B) state the proposed alternative service method and why it comports with due process.

(c3) **The Order for Alternate Service.** ~~The Order for Alternate Service must direct service of the complaint, summons, and any order of the court authorizing the alternative service method to be made in any manner reasonably calculated to give Defendant actual notice of the action, which may include: If the court orders alternative service, the plaintiff must also:~~

~~(A) make reasonable efforts to provide additional notice under Rule 4.4(d); and~~

~~(B) regular mailing a copy of the summons and complaint, as well as any order of the court authorizing the alternative service method, to the defendant's last-known address;~~

~~(2) email;~~

~~(3) text;~~

~~(4) social media;~~

~~(5) posting on defendant's door.~~

~~(d) Unless otherwise ordered, the plaintiff or the plaintiff's attorney may contact the defendant to provide notice of the action, except when the plaintiff or attorney would violate any statute, rule, temporary or extended protective order, or injunction by communicating with the defendant.~~

~~(e4) The plaintiff must provide proof of service under Rule 4(d) or as otherwise directed by the court.~~

~~(5) A plaintiff may serve a defendant by publication only if the requirements of Rule 4.4(c) are met and the procedures for publication are followed.~~

Rule 4.5 Service by Publication

(ae) **Service by Publication.**—If a party demonstrates that the service methods provided in Rules 4.2, 4.3, and 4.4(a) and (b) are impracticable, the court may, upon motion and without notice to the person being served, direct that service be made by publication.

(1) **Conditions for Publication.** Service by publication may only be ordered if publication is the best means practicable in the circumstances for providing the person with notice of the action's commencement and when the defendant:

(A) cannot, after due diligence, be found;

(B) by concealment seeks to avoid service of the summons and complaint; or

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(C) is an absent or unknown person in an action involving real or personal property under Rule 4.54(c)(3).

(2) **Motion Seeking Publication.** A motion seeking an order for service by publication must:

(A) through pleadings or other evidence establish that:

- (i) a cause of action exists against the defendant who is to be served; and
- (ii) the defendant is a necessary or proper party to the action;

(B) provide affidavits, declarations, or other evidence setting forth specific facts demonstrating the efforts that the plaintiff made to locate and serve the defendant;

(C) provide the proposed language of the summons to be used in the publication, briefly summarizing the claims asserted and the relief sought and including any special statutory requirements;

(D) suggest one or more newspapers or other periodicals in which the summons should be published that are reasonably calculated to give the defendant actual notice of the proceedings; and

(E) if publication is sought based on the fact that the defendant cannot be found, provide affidavits, declarations, or other evidence establishing the following information:

- (i) the defendant's last-known address;
- (ii) the dates during which the defendant resided at that location; and
- (iii) confirmation that the plaintiff is unaware of any other address at which the defendant has resided since that time, or at which the defendant can be found.

(3) **Service by Publication Concerning Property Located Within Nevada.**

(A) The court may order service by publication in the actions listed in Rule 4.54(c)(3)(B) if a defendant:

- (i) resides in the United States and has been absent from this state for at least two years;
- (ii) resides in a foreign country and has been absent from the United States for at least six months;
- (iii) is an unknown heir or devisee of a deceased person; or
- (iv) is an unknown owner of real or personal property.

(B) Rule 4.45(c)(3) applies only to the following actions involving real or personal property located within Nevada:

- (i) actions for the enforcement of mechanics' liens or other liens against real or personal property;
- (ii) actions for foreclosure of mortgages and deeds of trust;
- (iii) actions for the establishment of title to real estate;
- (iv) actions to exclude the defendant from any interest in real or personal property; and
- (v) any other action for the enforcement, establishment, or determination of any right, claim, or demand, actual or contingent, to or against any real or personal property.

(C) Service by publication on an unknown heir, devisee, or property owner may only be used when the unknown heir, devisee, or property owner must be a party to the action under Rule 19(b).

(D) A plaintiff proceeding under Rule 4.45(c)(3) must provide the information required by Rule 4.54(c)(2), as applicable, in addition to providing affidavits, declarations, or other evidence establishing the facts necessary to satisfy the requirements of Rule 4.54(c)(3).

(4) **The Order for Service by Publication.**

(A) In the order for service by publication, the court must direct publication to be made at least once a week for a period of four weeks in locations reasonably calculated to give the defendant actual notice of the proceedings. This may include:

- (i) a court-sponsored legal notice website;
- (ii) one or more newspapers or other periodicals published in Nevada;
- (iii) a newspaper or other periodical published in the state, territory, or foreign country where the defendant is believed to be located; or in any combination of locations. The court's designated locations must be reasonably calculated to give the defendant actual notice of the proceedings. The service must be published at least once a week for a period of four weeks.

(B) If publication is ordered and the plaintiff is aware of the defendant's last-known address, the plaintiff must also mail a copy of the summons and complaint to the defendant's last-known address. The court may also order that additional notice be sent under Rule 4.4(d).

(C) Service by publication is complete four weeks from the later of:

- (i) the date of the first publication; or
- (ii) the mailing of the summons and complaint, if mailing is ordered.

~~(d) Additional Methods of Notice.~~

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Summary of states with other rules for service by publication, in order of most favorable to least favorable:

- **State maintains legal notice website that is free for the public:**
 - o Alaska
 - o Connecticut
 - o Texas (though it also requires newspaper publication, with a few exceptions)
 - o Delaware (available for family court only)
- **Service by publication exists, but fees may be waived:**
 - o Arkansas
 - o California
 - o Florida
 - o Michigan
 - o Missouri
 - o Nebraska
 - o New York
 - o Texas
- **Newspaper companies maintain notice website that aggregates all newspaper notices:**
 - o Iowa
 - o Mississippi
- **Traditional service by publication:**
 - o All other

Reports:

- NCSC Report: [Pandemic Era Procedural Improvements That Courts Should Adopt Permanently](#)
- St Mary's Law Review Journal commentary about this topic: [Rethinking the Process of Service of Process](#)
- State-specific articles/reports are listed below
 - o Indiana is particularly interesting because it was there was a proposal to change the rule in 2021 ([following Connecticut and Alaska](#)), and the [Press Association said](#) that they were prefer if the state created a legal notice website AND required newspaper notice, but in the end the amendment never effectuated.

Service by Publication Rules

State	Rule	Requirements	Details	Fee	Notes/Reports
Alabama	Traditional Service by Publication (four weeks)			Varies	
Alaska	Legal Notice Website	Alaska R. Civ P.4 (e) “When it shall appear by affidavit of a person having knowledge of the facts filed with the clerk that after diligent inquiry a party cannot be served with process under subsections (d) or (h) of this rule, service shall be made by posting on the Alaska Court System's legal notice website and as otherwise directed by the court as provided in this subsection....”	Alaska's Legal Notice Website	Free	Article from NCSC that discusses that service by publication was ineffective in Alaska
Arizona	Traditional Service by Publication (four weeks)			Varies	
Arkansas	Service by publication exists, but if your court filing fee was waived you may post the order in the courthouse bulletin board.	Arkansas Law Self-Help Page : If the court granted you permission to waive your court filing fee (In Forma Pauperis), then you may post the Warning Order in the courthouse for a period of 30 days. Ask the court clerk to direct you to the bulletin board used for postings. If the court did not waive your filing fee, then you will have to publish the warning order in a newspaper of general circulation every week for at least two weeks. Once the publication period has run, the newspaper will mail you a "proof of publication," which must be filed with the court.		Varies- can be waived	

California	Service by publication exists, but if your court filing fee was waived you may post the order in the courthouse bulletin board.	California Self-Help Page : If you have a fee waiver, you can ask to serve by posting instead. Serving by posting means that your server (sometimes a court clerk) posts the court paper in a special place at the courthouse for posting notices. To serve by posting, you must qualify for a court fee waiver. If you don't have one, you can ask for a fee waiver.		Varies- can be waived	
Colorado	Traditional Service by Publication (five weeks)			Varies	
Connecticut	Legal Notice Website	State of Connecticut Self Help Center : If the person that you need to serve in your lawsuit lives outside of Connecticut but you do not know his or her address, or the person lives in Connecticut, but you do not know where he or she lives, you should make every effort to find out. If your efforts to find the person's address fail, you will need permission from the court, called an Order of Notice, to publish notice of the lawsuit on the Legal Notices page of the Judicial Branch's website.	Legal Notice Website	Free	Bill that permitted the online legal notices Published Decision Article that discusses how a Connecticut town spent roughly \$100,000 per year publishing legal notices in local newspapers
Delaware	Traditional Service by Publication (for Chancery Court) But legal notice website exists for Family Court	10 Del. C. Section 1065(a)(5) : (a) Jurisdiction is acquired over a party in any civil action by transmitting to the party a copy of the summons and the petition or complaint (the papers) by any of the following methods: ... (5) In the manner directed by the Court, including publication in print or on a legal notices website established by the Court, if other methods of service have failed or are deemed to have been inadequate.	Delaware Family Court Legal Notice Website	Varies	
Florida	Service by publication exists (5 weeks), but fee may be waived if found to be indigent	Fla. R. Civ. P. 1.070: Service by publication		Varies, but some courts may waive fees.	

Georgia	Traditional Service by Publication	Varies	
Hawaii	Traditional Service by Publication (four weeks)	Varies	
Idaho	Traditional Service by Publication	Varies	
Illinois	Traditional Service by Publication	Varies	
Indiana	Traditional Service by Publication	Varies	Looks like there was a proposal to change to a legal notice website in 2021, but current rule is still publication. Article that discusses the reasoning and reservations lawmaker's had with this proposal
Iowa	Service by Publication, but the Iowa Newspaper Association maintains a website that aggregates all the notices , where people can search by phrase, county, city, publication, and date	Varies	The Iowa Newspaper Association is a non-profit organization with the goal to help and retain newspaper industry employees
Kansas	Traditional service by publication	Varies	
Kentucky	Traditional service by publication	Varies	
Louisiana	Traditional service by publication	Varies	

Maine	Traditional service by publication (three weeks)		Varies	
Maryland	Traditional service by publication (three weeks)		Varies	Maryland enacted a law in 2021 (HB 39) that eliminated the publication requirement for name changes, citing privacy and safety concerns .
Massachusetts	Traditional service by publication		Varies	
Michigan	Service by publication, but fees can be waived	Mich. Ct. R. 2.002 : If payment of fees has been waived for an individual and service of process must be made by an official process server or by publication, the court shall order the service fees or costs of publication paid by the county or funding unit in which the action is pending, if the individual files an ex parte affidavit stating facts showing the necessity for that type of service of process.	Varies, but can be waived and paid for by the county.	
Minnesota	Traditional service by publication (three weeks)		Varies	
Mississippi	Service by publication, but like Iowa, the Mississippi Press maintains a website that aggregates all the notices		Set by statute, about 11 cents/word.	Article from the Mississippi Press Association that discusses the need to raise the publication rates.
Missouri	Service by publication, but fees may be waived under Missouri law	RSMo Section 514.040 : “Plaintiff may sue as pauper....and thereupon such poor person shall have all necessary process and proceedings as in other cases, without fees, tax or charge as the court determines the person cannot pay...”	Varies, but may be waived and paid for by the state	Memo that discusses why the state is liable for service by publication for indigent persons under the Missouri statute (§ 514.040)
Montana	Traditional service by publication		Varies	

Nebraska	Service by publication, but fee may be waived	Nebraska Supreme Court Website : Deliver the Notice of Proceeding to the newspaper and either pay the paper for the costs of publication or, if the court has allowed you to proceed In Forma Pauperis, ask the newspaper to send the bill to the Clerk of the District Court.		Varies, but may be waived and paid for by the state	
Nevada	Tradition service by publication (four weeks)			Varies	
New Hampshire	Traditional service by publication			Varies	
New Jersey	Traditional service by publication			Varies	
New Mexico	Traditional service by publication (three weeks)			Varies	
New York	Traditional service by publication			Varies, but The New York Law Journal is no cost if granted "Poor Person Status"	
North Carolina	Traditional service by publication (three weeks)			Varies	
North Dakota	Traditional service by publication (three weeks)			Varies	
Ohio	Traditional service by publication (six weeks)			Varies	
Oklahoma	Traditional service by publication			Varies	
Oregon	Traditional service by publication			Varies	

Pennsylvania	Traditional service by publication		Varies		
Rhode Island	Traditional service by publication		Varies		
South Carolina	Traditional service by publication		Varies	Article from 2014 discussing the outdated nature of this law – particularly given the nuances of South Carolina law.	
South Dakota	Traditional service by publication		Varies		
Tennessee	Traditional service by publication (four weeks)		Varies		
Texas	<p>State maintains a Public Information Website –but newspaper service may also be required, though party may motion out of it or have fee waived.</p>	<p>Tex. R. Civ. P. 116: Generally. Except as otherwise provided ...the citation must be served by publication in a newspaper...and on the Public Information Internet Website...</p> <p>The citation need not be published in a newspaper if:</p> <p>(A) the party requesting citation files a Statement of Inability to Afford Payment of Court Costs under Rule 145;</p> <p>(B) the total cost of the required publication exceeds \$200 each week or an amount set by the Supreme Court, whichever is greater; or</p> <p>(C) the county in which the publication is required does not have any newspaper published, printed, or generally circulated in the county.</p> <p>Tex. R. Civ. P. 109a: Whenever citation by publication is authorized, the court may, on motion, prescribe a different method of</p>	<p>Texas Public Information Website</p>	<p>Varies but may be waived if fees exceed \$200/week or party files a waiver stating they can't afford it.</p>	<p>In 2019, the Texas Legislature passed Senate Bill 891, 186 which added, Section 72.034 ("Public Information Internet Website") to the Government Code.</p>

To: Brad Lewis, Access to Justice Commission (ATJC)
From: Professor Justin Iverson, Boyd School of Law at UNLV
Date: 18 March 2024
Subject: Fee Waivers for Legal Aid Organizations (Preliminary)

Research Mandate

Under [Nevada Supreme Court Rule](#) 48.1, each side of a civil action pending in state district court “is entitled, as a matter of right, to one change of judge by peremptory challenge.” The cost to file this pleading is \$450. It does not require allegations or a showing of actual bias or prejudice as this action is separate from a disqualification under [Nevada Revised Statutes](#) §§ 1.230-1.235.

Legal aid organizations in the state have requested guidance from the Nevada Supreme Court’s Access to Justice Commission (ATJC) on whether other jurisdictions provide waivers for this type of fee. The specific research questions follow:

- How much does it cost to request a change of judge in civil cases in each state?
- In states that charge a fee, are there any with waivers?
- Do any of those include waivers for legal aid organizations?
- Do any of those waivers apply exclusively to legal aid organizations?

Limitations on this Research

We have conducted an initial 50 State Survey, but those results are not ready to be shared. There is considerable divergence among the states in (a) how they define “peremptory challenge,” (b) whether they allow for a change of judge or only venue, (c) whether a change of judge may occur without a showing of bias or prejudice, (d) what the fee structure looks like, (e) which sources of authority dictate the fee structure, and (f) who may qualify for a fee waiver, among other factors. As such, we have provided some preliminary findings below in order to assess the ATJC’s interest in pursuing changes in this space and, if interested, we would seek clarification on the scope of this research project. This feedback will allow us to provide comprehensive research directly responsive to the ATJC’s needs.

Preliminary Results

1. Nevada is the most expensive jurisdiction we’ve found so far in which litigants request a change of judge at \$450. In [Missouri](#), the cost for “any petition on a civil claim” is \$108. In [Montana](#), “filing a motion for substitution of a judge” is \$100. Of course, in

[Nevada](#), the rule is structured to support official travel and expenses for judicial officers, so there is a justification for the high filing cost. These funds are transferred from the district court to the Nevada Supreme Court to deposit said funds in the state treasury. Presumably the district courts do not collect any fee on these requests as opposed to other jurisdictions, which allow their district court-equivalents to retain the filing fees collected.

2. Numerous jurisdictions have general fee waivers for indigent litigants, though most speak only to the initial filing fees. Others have indigent fee waivers for those represented by legal aid organizations. Some of these waivers are automatic. We have not yet identified a jurisdiction that expressly applies these waivers to a peremptory challenge, however, some waivers appear to be broadly applicable beyond the initial filing stage:

a. [Illinois](#): “If the court finds that the applicant is an indigent person, the court shall grant the applicant a full fees, costs, and charges waiver entitling him or her to sue or defend the action without payment of any of the fees, costs, and charges.” (emphasis added)

“If a party is represented by a civil legal services provider or an attorney in a court-sponsored pro bono program . . . , the attorney representing that party shall file a certification with the court . . . and that party shall be allowed to sue or defend without payment of fees, costs, and charges without filing an application under this Section.” (emphasis added)

b. [New Hampshire](#): “[A]ny person, by reason of poverty, may seek relief from the payment of any fees provided by law which are payable to any court, clerk of court, or sheriff. . . . In any case in which a person is represented by a legal aid society, a federally funded legal services project, or counsel assigned in accordance with the rules of the court, all filing costs shall be waived by the clerk without the necessity of a court order.” (emphasis added)

Recommendations

If this issue is of interest to the ATJC, it would be most helpful to study in subcommittee where we can engage in a dialogue about the scope of any research projects. This research may be used to inform drafting decisions, which could necessitate additional research for similar rule schemes or language in other jurisdictions. The ATJC would need to consider, among other factors, the breadth of any proposed fee waiver—i.e., whether it applies only to peremptory challenges or more broadly—and whether the judicial fund would be substantially harmed by a potential reduction in collected fees.

		substituted service, if the court finds, and so recites in its order, that the method so prescribed would be as likely as publication to give defendant actual notice.			
Utah	Traditional service by publication		Varies		
Vermont	Traditional service by publication (two weeks)		Varies		
Virginia	Traditional service by publication		Varies		
Washington	Traditional service by publication (four weeks)		Varies		
West Virginia	Traditional service by publication (four weeks)		Varies		Memo discussing due process concerns of service by publication.
Wisconsin	Traditional service by publication (three weeks)		Varies		
Wyoming	Traditional service by publication (four weeks)		Varies		



ACCESS TO JUSTICE COMMISSION

MEMO

To: Justice Cadish, Justice Pickering, Giovanni Andrade, Lisa Evans, Susan Myers
Cc: Judge Kishner, Doreen Spears Hartwell, Justin Iverson, Tara Zimmerman
From: Brad Lewis, Director, Access to Justice Commission
Date: February 12, 2024
RE: Digest of Judicial and Attorney Feedback on Unbundling Pilot Rule

This memo is a digest of judicial and attorney feedback to DCR 26, the pilot unbundling rule which was filed 8/16/22, became effective 11/1/22, and expires 11/1/24 unless further extended by the court.

The feedback summarized below includes general feedback requests, feedback from the CLE Zoom chat comments, and from emails initiated by Justice Cadish and Judge Kishner. The comprehensive raw email and Zoom chat comments are available from the Commission. This memo attempts to recap the frequent and key issues.

- Rule not being followed for the most part
- Many appreciate the concept, spirit and attempt to improve process
 - E.g., when an attorney on a case, when not, when opposing counsel can contact client, registering clients for electronic filing, etc.
- Rule considered unduly burdensome, a hassle to follow
- No interest in compelling rule requirements
 - “Cannot compel and attorney to work for free”
 - Effectively forces attorneys into additional motion practice
- Confusion over how to exit the case and cost of filing motions. Needs rewrite for clarity.
- Limits cost-effective limited scope representation, reducing affordability
- May reduce willingness to perform unbundled services, drive up fees
- For those using, clients seem to have a better understanding of the attorney’s role
- Avoids late withdrawals which prohibit client contact, eliminates settlements and forces trials

Interestingly, the feedback contained many restatements of the need for the rule, but then focused on it being too burdensome, unclear about the procedure to withdraw, and added filing fee cost.

P.S. The CLE Zoom comments included more comments about custody/paternity case sealing in EJDC than unbundling. That issue is being worked separately.



ACCESS TO JUSTICE COMMISSION

Sealed Cases Committee Call Recap
Friday, January 26 – 12:00 p.m.

Present

Justice Pickering
Judge Henderson
Judge Kishner
Judge Lu
John Fortin
Doreen Spears Hartwell
Stephanie McDonald
Michael Wendlberger

Staff Present

Brad Lewis

This was the first call of the Access to Justice Commission Sealed Cases Committee. The call was set to discuss the difficulties presented by the current Eighth Judicial District Court (EJDC) decision to seal certain cases, including the blanket sealing of custody and paternity cases.

Brad opened the meeting allowing for brief introductions and shared a brief review of the issue as discussed at the November Commission meeting. He pointed out the draft Committee charge to date - which includes difficulties presented to both self-represented litigants (SRLs) and pro bono attorneys - along with the agenda. Both are available from the Commission. The agenda included at least one statute potentially at issue, NRS 126.211. He then turned it over to Justice Pickering for topline comment and she turned it over to Judge Kishner.

Judge Kishner asked what case types should the Committee be reviewing? Civil, criminal, family...what should our scope be? This generated several comments related to what's needed with "access to the docket" being of particular concern. Stephanie McDonald shared that sealing cases means that SRLs currently cannot open any documents in the portal.

Judge Henderson noted that at least part of the issue with sealing may be due to outdated notions of what should be private. For example, being very common today, out of wedlock births is no longer carries a stigma requiring a case sealing.



Judge Lu shared that in the Second Judicial District Court (SJDC), except for adoptions, there is limited case sealing and custody and paternity cases are not lumped in with other cases. Cases are commonly marked “confidential”, meaning no public parties can see, but the case can be accessed by the relevant parties.

Brad shared that it seems at least part of the issue in EJDC had been technology. Ms. McDonald added that court administration agreed to some changes but were prevented from implementing due to technological limitations. It is believed this is in addition to rule interpretations. Judge Lu indicated that an example of technological implementation difficulties in the SJDC is that more work is involved to seal only one document, for example, in a paternity case...it’s more work that simply clicking on “confidential”.

Justice Pickering asked Judge Lu if SRLs can see their own documents in SJDC and she said yes. Doreen Spears Hartwell shared that in the case of pro bono, the clerk must give access, but even then there are still problems accessing records, so there do seem to be technology issues. Michael Wendlberger concurred and emphasized that pro bono attorneys (and legal aid) must be able to evaluate a case as it is critical to determining if it can even be organizationally accepted or assigned pro bono.

Judge Kushner asked, is the sealed cases issue rule-based or technology based? Judge Lu shared that her observation was that the issue focus is on the south. John Fortin indicated that case access is fine with both the Supreme Court and the SJDC, that the EJDC is where the problem seems to reside. He emphasized that this is an access to justice issue and suggested that technology staff might be added to the Committee. Judge Lu noted that in another statute, NRS 125.080, divorces can be made private. Technology is definitely involved but rule interpretation is also an issue.

Judge Kushner suggested that we should agree on what to address. Are there any easy asks? John Fortin shared that a small change could be to allow legal aid to access the records, a larger step would be to create rules consistency across the state in allowing case access, and that it would be good to clean up statutes. Ms. Hartwell echoed legal aid access. Justice Pickering indicated that a threshold issue is for pro bono attorneys to be able to review a case before acceptance.

Judge Henderson indicated that Judge Hoskins has been discussing some elements of this issue with Mike Doan and is happy to discuss further and include him if appropriate.

Judge Kushner asked what IT items need to be fixed? She is happy to reach out. Summing up feedback, top initial asks are outlined below:

1. Allow pro se litigants electronic access their own sealed case files without having the expense of travel to the courthouse to view or pay to obtain copies.



2. Allow Clark County legal aid providers (Legal Aid Center of Southern Nevada, Nevada Legal Services, and Southern Nevada Senior Law Program) to access the Register of Actions and/or Appellate Docket to review the procedural history of the case. Legal aid needs to review status of proceedings before accepting a case institutionally or assigning it to a pro bono attorney.
3. Allow pro bono attorneys to be able to access sealed dockets to review status of proceedings before so they can take on pro bono case.
4. Need for appellant access to sealed dockets without having to appear in court.
5. Identify and review rules and statute issues. Recommend rule amendments through the Access to Justice Commission and statute amendments through the Nevada Coalition of Legal Service Providers.

Next steps:

- Brad to invite Jonathan Norman, Nevada Coalition of Legal Service Providers to the next meeting.
- Brad to consolidate feedback into key focus areas for Committee feedback.
- Judge Kishner will share final Committee feedback with Clark County Courts concerned judges and appropriate IT staff to see how the key focus areas can be addressed. Invite appropriate persons to our next meeting.
- Attempt to set second meeting to establish key issues at hand prior to Marcy 22 ATJC meeting.



ACCESS TO JUSTICE COMMISSION

Sealed Cases Committee Call Recap
Tuesday, February 27 – 3:00 p.m.

Present

Judge Kishner
Judge Henderson
John Fortin
Doreen Spears Hartwell
Stephanie McDonald
Michael Wendlberger

Staff Present

Brad Lewis

This was the second call of the full Access to Justice Commission Sealed Cases Committee. The call was set to continue discussion of the difficulties presented to self-represented litigants and pro bono attorneys by the Eighth Judicial District Court (EJDC) decision to seal certain cases and what effect the recent Falconi Opinion may have on the concerns.

Judge Kishner opened the meeting suggesting that we are likely in a holding pattern now due to the rehearing period. There will still be many questions.

- Will the Opinion be effective immediately?
- Be retroactive?
- Does it apply to hearings only or file content/records?
- If records, what records?

Judge Henderson outlined additional questions:

- If both sides stipulate to closure, do they still need to offer a compelling basis to do so? The answer would appear to be a probable “Yes.”
- Can a judge, even if not requested by either party (and even if opposed by either party) close the case on its own initiative, if the court provides compelling reasons. It would appear the answer is a probable “Yes” providing those reasons are sufficiently compelling.
- Does what is available to media differ from what is available to the parties?

John shared that statutory guidance on what is allowed for media is available.

Doreen said the Opinion seemed positive but agreed we’d have to wait for a potential rehearing.



It seems part of the original issue was related to the easy ability for anyone in addition to the parties to obtain the records. An example of the concern is a stalker using a bar number, which are easy enough to find, to look up records to know the exact whereabouts of children. There currently is not a way to authenticate a court website user.

Judge Kushner asked if there are non-rules based, potential IT fixes that she could pass along while we wait on many of these questions, which could be some time.

Michael suggested that in CAP cases, access is provided to legal aid. There may be a way to replicate that process for legal aid in pro bono cases. Michael and Stephanie may be able to find a previous administrative order. Michael to email Judge Kushner with specific case types needed.

Brad asked how difficult it would be to add some sort of authentication layer, such as usernames, passwords, encryption of bar numbers, or two-factor authentication. Judge Kushner shared that implementation times for new Odyssey and Tyler requests take quite some time.

Stephanie shared that for pro se in family court, making records accessible is likely and all-or-nothing as there is not enough staff to interface with the many self-represented litigants. She will think and share more if ideas surface.

Another key point is to see if a rehearing is requested. Brad to monitor each weekday for 21 days.

Next Steps:

- Michael to email Judge Kushner with specific family law case types for potential band aid.
- Stephanie to consider options for SRLs.
- Michael and/or Stephanie to see if a CAP administrative order is available.
- Brad to monitor Falconi for rehearing request.
- Depending on what happens, Committee may or may not have a call prior to the March 22 ATJC meeting.
- Brad to prep status update, needs for ATJC meeting.

Post Meeting:

Michael shared –

“I checked with my team. The only areas of law where we are having this problem on a pro bono basis are sealed custody and divorce cases. So the band-aid for pro bono would allow legal aid providers access to these sealed cases. Thank you.”

Stephanie shared –



“I was thinking more about 'band aid' solutions last night and realized perhaps I have one after all to address the self represented litigant issue.

The paternity and custody cases were 100% sealed by the court, when in fact final orders are not allowed to be sealed by statute (NRS 126.211). This is akin to sealed divorces, where a sealed case is still visible to the public because pleadings and final orders cannot be sealed. For example, go to the [Portal](#) and search for D-09-407951-D. You can view the Wynn divorce even though it was sealed, because NRS 125.110 does not allow 100% sealing.

Court administration was aware they oversealed paternity and custody cases, and IT was working on making those visible on the public search portal in a similar manner as sealed divorces. Steve Grierson let us know last November that they had the fix, but an internal legal opinion suggested they should not move forward with it. We never learned why.

Since they did find a fix to at least have the cases appear online, could they move forward with enacting that while waiting on a system that gives litigants full access? It would be a bridge for litigants to at least keep track of their case activity even if they can't view documents, and the court seemingly has the ability to make it available.”

Nevada Supreme Court Law Library Update –

- Forms Translation Project
 - The final grant from the Institute of Museum and Library Services through the Library Services and Technology Act administered by the Nevada State Library, Archives and Public Records is complete. The three grants produced 71 standardized self-help forms translated into Spanish, Mandarin, Tagalog, and Vietnamese. 40 family law forms (related to divorce, custody, and guardianship) are available on the State of Nevada Self-Help Center's website and the Nevada Legal Kiosk.
- Nevada Water Law Compendium
 - Created for a Judicial Education event to train the new Water Law Judges, the law library created a resource for primary sources - all Nevada Supreme Court cases related to water law, links to historical statutes, and a Water Law Rights and Resources LibGuide identifies secondary sources. Find the link on the Court or law library's website.
- Nevada Supreme Court Case File Digitization project (with the William S. Hein company)
 - Using ARPA funds, the law library's collection of microfilm cases from 1862-1999 are being digitized. The project will be completed in November 2025 and made available to the public.



Access to Justice Highlights 4th Quarter 2023

Overall Stats

Total Cases/Clients Helped				
	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
Consumer Rights Project	2,185	2,939	2,671	2,013
Guardianship Advocacy Project	2,346	2,600	2,646	2,711
Minor Guardianship Advocacy Program	565	544	679	663
Family Justice Project	819	981	1,006	878
Immigration Advocacy Project	1,519	1,389	1,428	1,383
Children’s Attorneys Project	2,654	2,746	2,786	2,835
Education Advocacy Program	166	275	261	261
Volunteer Education Advocacy Program	141	186	195	182
Civil Law Self-Help Center	16,520	17,388	18,814	16,302
Family Law Self-Help Center	22,621	22,610	22,179	19,508
Vegas Strong Resiliency Center	861	1,554	810	225
Community Legal Education Classes	924	820	936	557
Pro Bono Cases Placed	141	159	126	82
AAL Clients Served	901	1,058	1,011	1,072
TOTAL SERVED	52,039	55,249	55,541	48,672

Overall Highlights

Community Outreach Events

In 2022-23, Legal Aid Center participated in **162 outreach events**, nearly doubling the number of events we attended in 2021-22 (84).

New Initiative

Legal Aid Center partnered with Anthem Injury Lawyers and 8 News Now to provide holiday gifts to our CAP clients. As of December 31, 244 gifts had been donated and gifts are still coming in. The CAP attorneys disseminated over 100 gifts to their clients in the foster care

system during the holidays and continue to make deliveries. This partnership is ongoing, and our next project is a Career Resource event for the CAP clients transitioning out of foster care.

<https://www.8newsnow.com/community/foster-the-future/>

Legal Aid Center in the News

We were so proud that the Las Vegas Raiders selected Angela Cook, an attorney in our Children’s Attorneys Project, as their 2023 Inspire Change Changemaker Award recipient. Angela was recognized at the Raiders' Inspire Change game on Dec. 14, 2023, for going above and beyond in her pursuit of social justice. She received \$10,000 from the NFL Foundation through Raiders Foundation. We are grateful she designated the donation to go the Legal Aid Center’s Children’s Attorneys Project.



Another proud moment.... For her outstanding work in advocating for children’s mental health, Kim Abbott was honored as a recipient of the Vegas Legal Magazine Legal Excellence Award. Kim was honored at the Circa’s Legacy Club on December 14.



Michael Wendlberger published Pro Bono Needs in a Changing Community in the December 2023 issue of the Clark County Bar Association Communique.

Bailey Bortolin submitted “Five Things About Legal Aid Center” to be published in the January 2024 issue of the Clark County Bar Association Communique.

Recent Noteworthy Articles

<https://www.ktnv.com/news/vegas-stronger/vegas-stronger-champion-jackie-harris-of-vegas-strong-resiliency-center>

"There are going to be a lot of people that 10, 15, sometimes even 20 years down the road are still going to need assistance. Things can happen in your life and that trauma comes back up," Pereira told Channel 13. "We wanted to ensure that our Route 91 community always had a place to go for support."

"We are here. We are still here. We are going to be here [and] we have amazing services," added Harris.

<https://www.nevadacurrent.com/2023/10/11/housing-justice-groups-launch-eviction-watch-program-to-observe-hearings-provide-oversight/>

"I think it's critical to justice that people know what's happening and that judicial officers know the public is engaged in those issues," said Jonathan Norman, the statewide advocacy, outreach and policy director for Nevada Coalition of Legal Service Providers. "I think it's important for judicial officers to know the community is paying attention to what they are doing."

<https://cbsaustin.com/news/nation-world/unlv-campus-terror-details-emerge-from-officials-on-shooting-that-claimed-three-faculty-lives>

Clark County Commission Chair Jim Gibson urges anyone who might be affected to contact the Vegas Strong Resiliency Center. The county is also in talks with UNLV and the Resiliency Center to accept donations in response to the shooting.

Clark County Fire Chief John Steinbeck says the Resiliency Center will be available when needed. He notes that some people affected by One October reached out to the center years later.

<https://news3lv.com/news/local/vegas-strong-resiliency-center-ready-to-help-after-unlv-shooting>

"The Vegas Strong Resiliency Center really is the light in the darkness that came out of Route 91 [Harvest Festival], and it stands here, I think, as a beacon for anyone impacted by the UNLV shooting - that healing does happen. There is hope. there is help, and we're here to light that path for them."

<https://www.unlv.edu/news/article/mental-health-expert-offers-ways-navigate-healing-tragedy>

He also notes that the Vegas Strong Resiliency Center, which offers expertise in trauma-informed care, is available to anyone in the community. In addition to trauma-informed counseling expertise, the center will be offering support groups. "It's for people to have a place to talk with others and just share. There's a lot of healing that comes when you're talking, sharing, and supporting your colleagues."

Social Media Impact

On social media, we saw about 8.4% growth in TikTok followers over the past three months, along with 9.5% on the Resiliency & Justice Center's Instagram, and 24% on the Resiliency & Justice Center's Twitter. The Resiliency & Justice Center's followers grew a lot in the wake of the UNLV shooting, We caution putting too much stock into our Twitter metrics as the platform has recently seen a huge jump in bot accounts.

Consumer Rights Project Case Highlights

Many housing issues are a symptom of health and aging-related issues. So was the case for Mickey, an 81-year-old woman suffering from the early stages of dementia.

Living most of her life in the Upper Midwest, Mickey had Section 8 benefits to help her afford housing in her latter years. Once she started experiencing cognitive decline, however, it became impossible to live away from loved ones. Bills went unpaid. She had trouble making it to doctor's appointments. Even routine matters such as grocery shopping and eating could no longer be taken for granted.

Mickey's son brought her to Southern Nevada where he could take care of her, finding a small unit in the same complex where he resided. Unfortunately, the requirements for transferring a Section 8 voucher proved vexing and she lost her benefits. Consequently, most of her retirement benefits went to her new housing.

Not long after the move, Mickey became ill and spent time in the hospital twice. While she recovered, the ordeal left her behind on rent. The apartment complex was supportive when she sought rental assistance but the long delay had her facing eviction – certainly most people do not want to evict an 81-year-old woman of limited means with dementia. The property manager stuck his neck out for her and did not enforce eviction. He soon regretted it as Mickey was getting nowhere with rental assistance.

A social worker suggested Mickey contact Legal Aid Center for help in dealing with the eviction. Her son brought her down and after assessing her circumstances, Legal Aid Center soon assigned her an attorney.

The first thing the attorney noticed was that Mickey was very behind in the process. She already had one eviction recorded against her – mercifully not enforced – and was facing another. In addition, she had gotten nowhere with her application for rental assistance. The process can be complicated for someone not struggling with cognitive conditions and near-impossible for those who are. The eviction hearing was a couple weeks away. While still sympathetic, the property manager had to do his job and had already stuck his neck out for her once. He could not do it again.

The attorney reached out to the rental assistance provider and explained the circumstances. They indicated neither landlord nor tenant was providing the necessary documents. Then, the attorney took the unusual step of calling, then visiting the property to ensure the process was completed. The visit not only sped up the administrative process but also instilled confidence in all of the parties. By informing property management and meeting face-to-face, Legal Aid Center was able to convince the on-site manager that assistance was imminent. While management did not stop the eviction, it did agree to delay lockout.

The delay made all the difference. The week after the hearing, a check arrived at the property and the arrears were paid. Better yet, with the balance paid, the property owner approved Mickey

to transfer into a larger unit she could share with her son. Management even agreed to rescind the eviction.

Mickey entered 2023 with a frightening prospect: medically fragile, indigent, suffering from cognitive decline and alone. She very nearly lost her home not once but twice. Several parties came together to ensure she and her housing would be protected, including Legal Aid Center, which negotiated a delay of eviction, facilitated the receipt of benefits and ensured the parties found a legal and practical solution to a very difficult situation.

**Name changed to protect client's confidentiality*

Guardianship Advocacy Project Case Highlights

Sam*

Sam* is currently 26 years old, has been under guardianship since 2014 due to a developmental disability believed to be caused by her biological mother's use of drugs during pregnancy. The guardians are her adoptive parents. In March 2023, the client filed her own Petition to Terminate the guardianship.

At this point, the court appointed counsel from Legal Aid Center of Southern Nevada to represent her.

The client understood the legal process and requested a new evaluation from her psychiatrist. Unfortunately, her psychiatrist left the practice, and the new doctor she was assigned refused to complete a report that we could file in court to support her petition to terminate because they indicated they did not know her well enough. The client spent several months attempting to obtain a new evaluation and report, but to no avail.

The client felt that her guardians were too controlling and that they used the guardianship to stop her from making any decision they disagreed with, from having a boyfriend to deciding not to attend religious services.

Counsel from Legal Aid Center spoke with the client's case manager from Desert Regional Center. The case manager agreed that the client had the ability to make her own decisions and understand the consequences. However, even the case manager was concerned that the client would make poor choices about romantic relationships and hoped to be able to limit that area of the client's life. Legal Aid Center also spoke with the attorney for the guardians several times regarding a plan to eventually terminate the guardianship. However, not only were the guardians unwilling to consider ending the guardianship, but the attorney for the guardians indicated that the client would always need a guardian due to her "diagnosis" and because she would make bad decisions if given a chance.

Given the client's recent history with her parent/guardians and her inability to obtain a report for the court, we agreed that the best course of action would be to attempt to remove her parents as

guardians and have the Clark County Office of Public Guardian appointed as successor guardian. We believed that the Public Guardian would be more rational regarding the client's lack of need for a guardian and would offer more assistance to obtain a report for the court. The strategy paid off.

The Public Guardian's office obtained a psychiatric report that indicated that although the client is diagnosed with autism, ADHD, bipolar disorder, and PTSD, she can independently advocate for herself and understand her medical needs.

Within one month of receiving the psychiatric report, the court approved a stipulation to terminate the guardianship. The client looks forward to success in this new chapter of her life.

**Names have been changed to protect confidentiality*

Family Justice Project Case Highlights

Legal Aid Center assisted a 64-year-old client with a divorce matter, who married a much younger man who she now suspects targeted older vulnerable woman. The parties met when after living in the same apartment complex. He was injured and she took pity on him and began making meals for him. The two eventually developed a romantic relationship and eight months later got married. Immediately following the marriage, client reports that husband's demeanor changed drastically. He began verbally and emotionally abusing her. Client reports that he also became very controlling dictating when she could visit with her family or attend events. The parties were only married three months when her husband forced her to have sex against her will and informed her that he intended to kidnap her. He attempted to prevent her from going to work that day but she convinced him that her job was expecting her and would become concerned if she failed to show up. Her husband decided to drive her to work with the intentions of picking her up after work and leaving town. Once at work, client contacted her adult children who came to pick her up and immediately contacted the police. The next day, client obtained a restraining order. Client's husband then filed for an annulment action against the client, claiming that he was not in his right mind when he married client. Client countered with request for Divorce. Upon appearing at our initial hearing, we refuted his claims and requested that the matter go forward as a divorce action. Court agreed and the matter was resolved and parties divorced.

Immigration Advocacy Project Case Highlights

Nina's family left their country when she was only an infant. She had been a legal permanent resident in the United States for decades when tragedy struck. Her home was hit by a hurricane, and she lost everything. Nina found herself in several catch-22 situations where she could not obtain new proof of her identity or her legal status because every application required she provide one of the things she had lost. When Nina came to Legal Aid Center, she had been struggling with homelessness and unemployment for several years.

Nina's Legal Aid Center attorney helped her file for a new green card and avoid paying the renewal fee, which she could not afford. Beyond offering immigration assistance, Nina's attorney went above and beyond to help her with her other missing documents by navigating the Nevada DMV and Nina's country's consulate with her. Nina's attorney also helped her obtain a copy of her complete records from U.S. Citizenship and Immigration Services, so that Nina would always at least have a digital copy of her important documents in the future.

The new green card arrived within months, and Nina cried tears of joy when she finally received it. In her own words, Nina described her attorney as a "true professional," and said "this outcome has changed my life considerably. I will now be able to work and find housing. I have been homeless because I was not able to legally work. Thank you so much! You have taken me out of poverty."

Children's Attorneys Project Case Highlights

I am out to dinner and my cell keeps ringing. I answer to find my distraught client who was just taken to a meet and greet with another family, even after his placement had confirmed they were an adoptive resource. He stated over and over again how he wanted to be adopted by his current placement. I went to work to preserve his placement. The supervisor at DFS was not supportive and declined to have a CFT. I made calls to Eagle Quest managers and directors and again to the DA assigned to the case. Explained how placement was willing to be the adoptive resource and we could hold a CFT to address concerns and commitment of the placement or I would be filing a motion to preserve placement. The DA agreed to the meeting and to have their client present.

All interested parties were present at the meeting and the DA was able to address the concerns with placement. Placement confirmed their intent to adopt my client. The sweetest moment was after all the adults had confirmed he could be adopted with his desired current placement. My client joined the call where he was told that he was going to be adopted. He was overjoyed with emotion and just began crying. Everyone had tears. It was a truly rewarding moment. To see my client have his voice heard and to know he gets to be adopted by who he wants to have as his family makes the up and downs worth it. All the paperwork is in and we are just now awaiting his placement getting a lawyer and date. During my last visit he just wanted to know when the adoption is going to take place.

*names have been changed to protect confidentiality

Education Advocacy Program Highlights

Frank*

Frank's mother (who is recovering from a stroke) came to us because he is wheelchair bound, non-verbal, and attends a special school. At the end of last school year, Frank came home with

huge scratch marks along his arms and no one at the school could provide mom with any information on what happened to her son. She was passed around from the nurse to the assistant principal to the principal. No one was willing to provide mom with any answers and no one would allow her to speak with Frank's teacher. Her concern was that her child could not communicate to her what had happened and the school was silent. When we got involved, mom had just tried to set an appointment with CCSD police to come to her home so that she could make a report but they refused. Mom explained her condition and that it was hard for her to get around due to her stroke. CCSD police still refused to help her and let her know that she had to come up to the school to make the report. Mom did as asked and once there, the officer was rude, disrespectful and would not give mom the time she needed to explain the situation due to her speech issues caused by the stroke.

We jumped in on this matter ASAP. We had an IEP meeting to make some changes to his accommodations where it was made clear that mom was to be notified any time a mark on his body is found. We also met with the Principal and the new Assistant Principal where we discussed that the school dismissed the CCSD officer assigned to their school and asked that a new one come in. The region was notified of what took place and the school, as a whole, put some new safeguards in place for all students regarding communication from the nursing team all the way up to the principal so that something like this doesn't happen again. We also met with Frank's new teacher and we discussed mom's expectations for him this coming school year. Mom also shared that during the summer DRC purchased Frank a Dynavox eye gaze communications device and that the in-home speech pathologist had been working with him on how to use it. Mom shared that since using the eye gaze system he has learned to turn on his TV and find the TV shows on YouTube that he likes to watch. He has learned to adjust the volume for the TV as well as for when he wants to listen to music. But the best part is that Frank learned how to use the voice system so that when he needs his mother he makes the system say "Mom, mom, mom". Mom shared that if she doesn't move fast enough he increases the volume till she gets to his room or where ever he happens to be in the home. She said that is his way of yelling at her to get her attention. Frank's sister also shared with the team that if she walks by his room without stopping to say hi, Frank will make the voice portion of the system say, "Come here." The school was impressed with this news and the principal assured us that CCSD could evaluate Frank, when he returned to school, for just such a system to have at school. The assistive tech assessment started on September 28, 2023 and on December 6, 2023 we had a meeting with the school where it was agreed that Frank would benefit learning to use such a system while at school. CCSD will be purchasing a Dynavox eye gaze system for him to use and work with when at school. The cost of such a system is roughly between \$18,000 and \$19,000.

Mom was very pleased with the outcome and was happy to have our support since she does continue to struggle with communication due to her stroke.

Happy win for our team.

Resiliency & Justice Center Case Highlights

Vanessa*

Vanessa escaped her trafficker seven years ago, but found herself again under his control when he tried to force her into relinquishing her parental rights to their child. Vanessa came to our office when Legal Aid Center attorneys at the Family Law Self-Help Center saw that Austin, Vanessa's trafficker, was filling out forms for her, not letting her speak, was making Vanessa anxious, and filed the documents giving up custody of her child with the Court. Vanessa loved her son very much but could not say anything because she feared for her safety and that of her child. When Vanessa met with a Legal Aid Center attorney, she was fearful about Austin punishing her or her child for leaving him. Vanessa's past trauma and re-victimization by her former trafficker made her fearful to advocate for herself.

Our attorney was able to go to court with Vanessa, explain the situation to the judge, and have the case thrown out at the first hearing. Because of our representation, Vanessa felt comfortable enough to be in the same room as Austin. Vanessa remarked that she knew our attorney would protect her from Austin and his schemes. Simply, our attorney was able to give Vanessa power in a high-stakes situation when she had always been powerless with Austin. Our attorney was able to ensure Vanessa had a voice, and felt secure and supported to demand a family mediation. Our attorney prepared Vanessa for the mediation, and because of that support, Vanessa was able to feel safe speaking during mediation to obtain a parenting agreement that achieved Vanessa's goals for her child.

Because Austin forced Vanessa to write her home address on her self-help forms, our attorneys and advocates were able to help Vanessa navigate finding a new safe place to live and to enter into the Confidential Address Program. Finally, to help Vanessa process the trauma that she endured at the hands of Austin, our attorneys and advocates were able to get Vanessa connected with a trauma-informed therapist who specializes in working with individuals who have been trafficked.

Vanessa became emotional when she thanked our attorney for saving her sanity and believing her when the whole world looked down on the things she had done in the past. Vanessa came to the Resiliency & Justice Center scared and hopeless. She left empowered and full of hope for her future. Our attorney and advocates helped Vanessa build a safe, secure home environment for her child and protect herself from re-traumatization. Vanessa continues to check in with our attorney, who she calls "the best lawyer in the world."

**Name changed to protect client's confidentiality*



Date: March 12, 2024

To: Access to Justice Commission

From: Diane Fearon, Executive Director, Southern Nevada Senior Law Program

Re: October 2023 – February 2024 Updates

Hispanic Senior Outreach Initiative update:

SLP launched our campaign in May 2023 with funding from ADSD for a 6-month pilot program with the goal of increasing the number of Hispanic and Spanish speaking seniors served. In September we received additional grant funding from Nevada Bar Foundation to continue the initiative, followed by a grant in December from the Raiders Foundation to support this work. Historically SLP has helped on average 9-11% of our total clients who identify as Hispanic. With a targeted marketing and outreach to these individuals through multiple channels, we seek to increase to 12-14% (a 30% increase) of our clients identifying as Hispanic over the course of 2024, some of whom are Spanish speaking and require cultural and language competency to be effectively served.

Since starting the initiative, we have accomplished:

- Engaged with nine (9) Spanish speaking pro bono attorneys
- Collaborated with LaVoz and Immigrant Rights Coalition sections at UNLV Boyd School of Law
- Created SLP website pages in Español`
- Conducted two Basic Estate Planning/POA Health Care workshops in Spanish
- Created SLP legal document informational forms in Spanish
- Created SLP collateral in Spanish for distribution
- Been interviewed by RJ Spanish edition, Telemundo, Nevada Independent Spanish radio
- Conducted outreach through Fiesta 98.1 radio – 40 PSAs
- Given four (4) community outreach presentations in Spanish and conducted five (5) community outreach events with a Hispanic Senior focus
- Expanded the SLP social media presence to regularly include Spanish language posts
- Made a presentation to the Latin Chamber of Commerce
- Hired both a bilingual Intake Specialist and Paralegal
- Created a POA Health Care seminar in partnership with the Immigrant Home Foundation and Spanish speaking pro bono attorney Carme Avello for April 12

Senior Advocates Pro Bono Program update:

Retired Judge Bill Voy joined SLP in mid-February as our first ever Director Pro Bono Program. This enables SLP to build on the momentum that has been generated since launching the pro bono program in October 2021. Bill will lead the recruitment of pro bono attorneys and the identification of internal processes for SLP to implement case referrals in addition to the successful pro bono opportunity to present at the Basic Estate Planning/POA Health Care Workshops that are held twice a week in our office for groups of up to 12 seniors. This is a key element in helping SLP help more seniors and reducing the wait time for an appointment.

SLP appreciates the State Bar of Nevada's Sections Pro Bono Challenge bringing favorable attention to the importance and rewards of attorneys participating in pro bono service with any of the legal aid providers. Referencing the Challenge in our recruitment efforts brings additional credibility to our request that busy attorneys make the time to make a difference.

SLP Numbers October 2023 – February 2024:

✓ Clients Served	926
✓ Assisted Without Litigation	870
✓ Represented in Litigation	23
✓ Participants in Clinics	241
✓ Participants at Seminars	901
✓ Clinics with Pro Bono Attorneys	34
○ Types of Client Matters- Estate Planning	
✓ Abuse/Elder Exploitation	32
✓ (DGDN) Estate Planning/Guardianship	521
✓ Housing/Foreclosure	182
✓ (Other) Consumer/Utilities	82
✓ Income/Public Benefits/LTHC	41
✓ Healthcare	37
✓ Civil Litigation	9
✓ Family Law	1

Outreach Activities:

October – Cora Coleman Senior Center, Zip Code 89156	71 attendees
Metro National Night Out, 89135	400
November – NV Hand – Stella, 89017	10
Walnut Recreation Center, 89115	14
Henderson Downtown Senior Center, 89015	7
Fall Homeless Connect, 89119	60
December – Will a Thon w/OMLA, VA Center, 89086	28
Salvation Army, 89086	7
Destinations at Pebble, 89123	15
January - West Charleston Library, 89146	52
Archwell Health, 89130	59
Green Valley United Methodist Church, 89074	55
February – East Las Vegas Library, 89101	54
NV Hand – Buena Vista Springs, 89032	20
NV Hand – Westcliff Pines, 89145	19
Canyon Springs High School, 89032	50

Success Stories

Eviction Matter

*Jared** is a 66-year-old that was told he had to move out of his home by the relative of his recently deceased landlord. Jared was terrified because he has various health issues and would not be able to move without great difficulty, especially with little time to do so. SLP Staff Attorney Nik Nikci advised him that he cannot be evicted without going through the eviction process. If he is not able to locate new housing quickly due to his health issues, going through the proper eviction process would allow for some additional time to make arrangements. To Jared's great relief, he was informed that he could not be physically removed from the property without proper process and notice. Jared also expressed a desire to purchase the home from the relative now that his landlord had passed away. However, during the conversation it became apparent that he could not confirm that this relative had legally acquired ownership of the property. Jared was shocked because he had not even questioned whether ownership had passed to the relative making the unsupported demands for his removal. Nik advised Jared not to provide any purchase funds to the relative without verifying ownership, which our client had come very close to doing. Understanding his legal rights and how to avoid possibly being taken advantage of, as well as being summarily thrown out of his home, brought great relief to Jared.

Elder Abuse/Exploitation

*Cassandra**, an 82-year-old widow, came to SLP accompanied by the Director of a local senior center. The Director was familiar with SLP due to our community outreach activities and knew we would be the right resource to help Cassandra when she shared with him her alarm regarding the behavior of her nephew and his misuse of a forged Power of Attorney. Her nephew had contacted her bank and taken money out, as well as contacting her insurance, Social Security, Medicare, Medicaid, and had even manipulated her prescriptions. Cassandra was fearful of taking her medication and felt distraught and helpless as her nephew was also threatening to place her in a mental facility if she did not cooperate. SLP Senior Staff Attorney Carol Kingman immediately created a Revocation of Powers of Attorney and after Cassandra signed it, we provided her with multiple copies. The Director of the senior center then personally took her to her bank and all pertinent agencies to notify them of the Revocation and flag her accounts for any suspicious activity. Additionally, SLP wrote a letter to her nephew supplying him with a copy of the Revocation and informing him that he must cease and desist from all use of any documents in his possession. The attorney's letter also demanded the return of all her paperwork, prescriptions, possessions, etc. immediately and warned that further improper actions towards our client could warrant elevated responses from law enforcement. Cassandra let someone know she was in trouble and with the help of her community and SLP we were able to give her peace of mind and control of her life back.

Consumer Matter

*Henry** (75) and *Mariela** (77) hired a contractor to install new windows and doors at their home for a total cost of \$34,000. Pursuant to the terms of the contract, the total price would be financed in two parts through Greensky. After completion of the construction project, the construction company refused to process the final payment through Greensky. In lieu of complying with the contract terms, the construction company sent multiple letters to the couple threatening to place a lien on their home and seeking to foreclose. The couple said, "We went to other agencies, and they wouldn't help us." Then they found SLP. After reviewing the documentation, Senior Staff Attorney Chelsea Crowton entered into several discussions with Greensky and the construction company. SLP pointed out the illegality of the construction company placing a lien/foreclosure and filed a complaint with Greensky against the construction company. The couple had previously attempted to reach the construction company for several months to no avail. After only a few days, SLP was able to negotiate with the construction company, who promptly relented, processed the final payment with Greensky, and to the great relief of our clients, confirmed that any threats of a contractor's lien were rescinded.

ID Theft/Social Security

*Emilio** is a 66-year-old Social Security recipient who worked as a cabinet maker for most of his life. He was making a good living, but in 2022 decided he needed to take his Social Security so he could have more time to take care of his ailing wife. Unfortunately, she passed away shortly thereafter. After her death, he was just getting by on his Social Security, and was quite shocked to find a letter from Social Security in his mailbox one day stating that his benefits were stopping immediately. The letter cited that he was imprisoned and not currently entitled to Social Security. A little while later, another letter arrived from his Medicare Advantage provider, stating that due to his imprisonment he was no longer entitled to Medicare coverage. The only problem was that not only was Emilio not currently imprisoned, but he never had been imprisoned, or even arrested. It appeared that someone in a Texas prison had obtained his Social Security number.

Emilio went to Social Security to try to resolve the matter. In addition to the obvious fact that he was not in prison, he showed them additional information he'd received from the Texas Department of Corrections showing a different birth date from the prisoner and that their names were different in several ways. Social Security was unable to resolve the matter, but a clerk made some entries in his computer and stated that he would appeal the matter for Emilio. It is not clear what the clerk did, and no copy of anything was given to Emilio, who also followed up with the Texas Department of Corrections and other agencies, seeking a letter or other proof to show Social Security that he was not the person in prison. However, he was told by them that they could be of no assistance.

Emilio then contacted SLP and Staff Attorney Jeff Arlitz reviewed the matter. Jeff was not able to find any record of an appeal being filed with Social Security and so filed a Request for Reconsideration to appeal the denial of benefits. The appeal contained multiple exhibits showing that the imprisoned person is not our client, and that this must be a case of identity theft. Emilio expressed his appreciation for the actions of SLP and left our office feeling hopeful that this appeal will resolve the matter and his critically needed Social Security benefits and Medicare insurance will soon resume. If not resolved, he will reach out to SLP for the help he knows we will provide him.

SEAL OF THE
**SECOND JUDICIAL
DISTRICT COURT**
WASHOE COUNTY LAW LIBRARY

ATJC REPORT

March 2024

Annual Lawyer in the Library Volunteer Appreciation Lunch

The Law Library was delighted to host our annual Volunteer Appreciation Lunch on February 21st.

The event recognized the 51 lawyers who volunteered for our Lawyer in the Library program throughout 2023. They provided access to justice by volunteering for 214 sessions last year, for a total of 404.75 hours. 1,438 community members were assisted at no cost.

Photos are included on page 3.

Upgraded Website Chat Platform

The Law Library switched to a new online chat platform in February. Although we have been providing answers to procedural and directional questions on the website since 2020, the new software is providing a more visible presence, and more user-friendly. The chat questions range from people asking where/how to file documents, to questions about where they can obtain domestic violence help. In addition to phone calls, emails, and in-person assistance, online chat allows us to provide another channel by which the public can access justice.

Grant Award Update

We recently received a grant to upgrade the internet wiring to increase the speed of our public computers. We were approved for an additional \$3,057, bringing the total award amount to \$44,536. The additional funds will go towards purchasing 11 new PCs for public use. The current computers are approximately 8 years old and nearing end of life. This upgrade will dramatically improve the user experience for the patrons that rely on these computers.

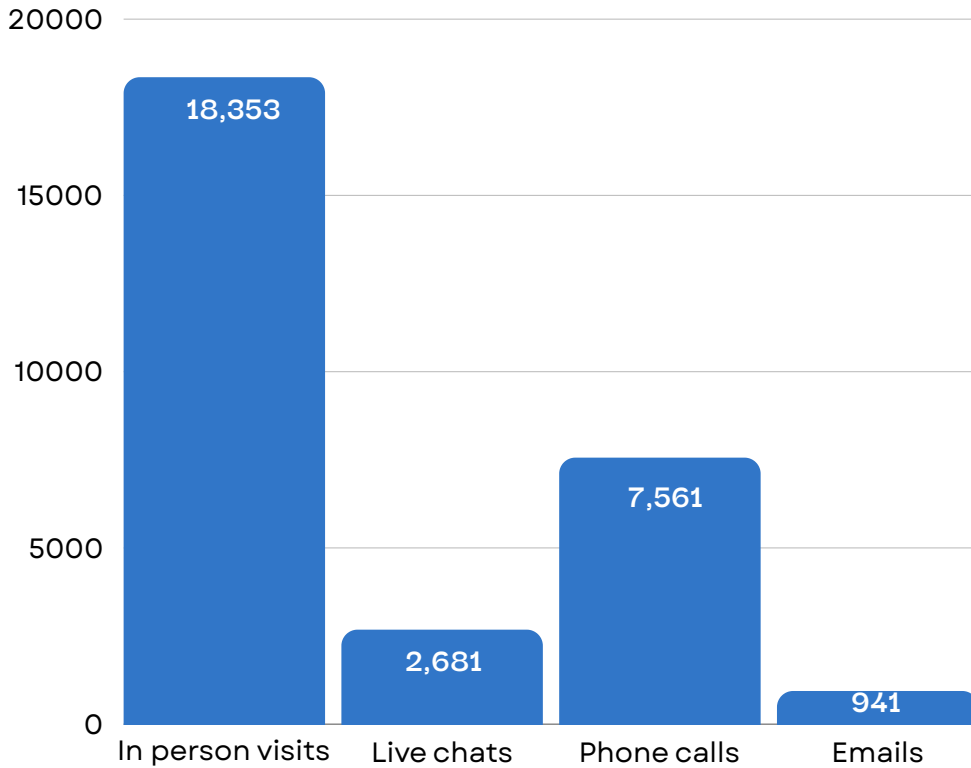
Funds for this project were provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Nevada State Library, Archives and Public Records.



Statistics

JANUARY - DECEMBER 2023

HOW MANY PEOPLE USED THE LIBRARY LAST YEAR?



14,765

Total questions answered

1,438

Lawyer in the Library participants

404.75

Lawyer in the Library
Volunteer Hours

Lawyer in the Library Annual Volunteer Appreciation Lunch



**The 2023 Silverman Award Winner for
Lawyer in the Library Volunteer of the Year**
Max Stovall



General Law Top Volunteer
Matt Morris



Probate Law Top Volunteer
Jenny McMenemy

ATJC REPORT

SECOND JUDICIAL
DISTRICT COURT



RESOURCE CENTER

The Resource Center helps thousands of litigants every month by assisting with electronic filing needs, providing court-approved forms and packets, processing court payments for fines and fees, and answering general and procedural questions about court processes. Patrons seeking in-person assistance increased by 11% compared to 2022.

2023 Totals

27,706

In person visits

21,333

Phone calls

18,507

Emails



ACCESS TO JUSTICE COMMISSION

Triannual Nevada Legal Aid Provider/Pre-ATJC Meeting Recap Wednesday February 21, 2024

Attendees Present

Barbara Buckley
Alex Cherup
Lisa Evans
Diane Fearon
Jonathan Norman

ATJC Staff Present

Brad Lewis

This was a regularly scheduled triannual provider call.

ABA Free Legal Answers

A few years back the ABA Free Legal Answers program was discussed, and Nevada legal aid providers agreed not to participate. Brad shared that recently UNLV had reached out to the bar to inquire if Nevada could be included. As a result, and with many new legal aid executive directors in place, it seemed time to check in again on interest level. After a fulsome discussion it was again agreed not to pursue. The decision was primarily based on the belief that the system currently in place is more robust in terms of consultation and assistance allowing for better follow-up and more engagement. Also, a negative is the need for at least 15 hours per week of management that no one was prepared to accept. Even after highlighting the potential for UNLV to oversee program management there was no interest. Brad will communicate back to UNLV.

Indian Law Practice Area Management – Executive Director Discussion Item

On January 12 Lisa shared an email from Kelcy Meyer of DHHS ADSD's Office of Community Living related to supporting tribal communities. Specifically, in the WLS days attorneys would visit the Elder Center to assist seniors with legal issues/documents. Lisa replied to the email looping in Alex and Victoria to see how these services are now managed and to assure legal aid is appropriately coordinating/avoiding overlap of services. Alex shared that Indian Law has been a focus of NLS. Fortunately, LSC funds have less restrictive and more lenient parameters in Indian Law. This allows them to handle some criminal as well as civil matters. He suggested that in the past estate planning for seniors was an area of interest. The discussion concluded by allowing the current status quo to continue, with Lisa indicating continued interest and desire to communicate moving forward. Diane offered that if SNSLP could help with estate planning in Clark County to please reach out.

See email 2/27/24 @ 11:04 a.m. about specific follow up with DHHS ADSD on tribal Elder Center.

Unbundling Pilot Analysis

Brad emailed a copy of the key feedback received related to the pilot unbundling ADKT. The pilot runs through this fall. If you have thoughts for what might be considered for an update prior to the March 22 ATJC meeting, please share.



Sealed Cases

Two meetings of the ATJC Sealed Cases Committee have happened in preparation for potential action at the March 22 meeting. Barbara shared that having the Register of Actions available is critical but that remote, detailed access is most valuable. Either way, this information should be available to everyone. While the primary issue seems to be in EJDC due to their rules, Lisa shared there are also problems in the north. The goal should be for consistency in case access statewide. This is part of breaking down access to justice barriers.

Jonathan mentioned ADKT 615 on statewide electronic filing and noted the [comments on behalf of legal aid](#). Barbara mentioned that Sr. Justice Hardesty would occasionally engage John McCormick to survey the courts on key information. One idea is to survey all courts for key filing stats which may also be able to measure electronic filing compliance related to the new rules. Brad to reach out to Kathrine Stocks in line with ADKT 615 timing.

Informal Family Trials

Brad reported that Justices Cadish and Pickering agreed for Judge Gordon to present his ADKT idea for a pilot of informal family law trials that, if agreed, could stand for a vote by the Commission in support. A committee would likely be formed to vet and determine timing.

IOLTA Research Project

The Commission voted to support a grant to the Nevada Bar Foundation for IOLTA research. At this unique time of higher rates, what's happening in Nevada, regionally, and nationwide that can inform our IOLTA rate setting process and interest rate determination? The goal is to optimize the Nevada IOLTA rate at that highest rate that will retain the most participating financial institutions.

Section Pro Bono Challenge

The Section Pro Bono Challenge is repeating in 2024. We're still pushing to get sections engaged and have begun promotions.

DHHS Grant

VARN received a Justice Bus grant that will not proceed. As the funds were earmarked for legal services, DHHS asked the Commission to see how legal aid providers would like the funds redistributed or they will go into general granting. After a couple of small committee meetings which surfaced several options for consideration, ideas were then ranked by legal aid it was determined to extend the legal kiosks in libraries effort.

Projects on Deck – Next Steps

- Service rule – The goal is to clarify and eliminate service by publication. What are other states doing? Are there sample websites? Jonathan to touch base with Stephanie and Brad to follow up.
- Electronic filing – Brad to ask Katherine for an update to ATJC.
- Peremptory challenge fees – The next steps are to research other states to see how much it costs, if anything, to request a change of judge, fees if any, waivers if any, do waivers include legal aid, and do any states allow only waivers for legal aid. Brad to reach out to UNLV to assist with research.



Medical Legal Partnerships

As the interest in this statewide has been shallow, NNLA is active with NNHOPES but currently only on a referral basis, and potential financing from Medicaid is more than a year off, this initiative will be placed on the backburner.

Gaps in Services

A regular item for discussion on these calls is to do a check-in on gaps in services. Barbara mentioned that one area of continuing need is education advocacy and many concurred. Brad mentioned that perhaps this could operate through the services in place for low-income kids at schools. Lisa shared (my notes were bad, details to come - Family Resource Center/Office Hours/Public Health Nurse). She also shared that this is an area for potential impact legislation. This should remain on the radar for potential future action.

Future Meetings

We'll continue the format of this meeting focusing on assuring advancement of previously identified issues as well as new challenges and opportunities. Part of the call will be led by a legal service provider executive director on a rotating basis. Beginning with the next meeting the order will be Lisa, Alex, Barbara, and Victoria.

If you have ideas for issues/solutions/opportunities/trends to discuss on a future agenda, please share.

Public Awareness as of 031424 –

Since the November 2023 report...

Twitter - We increased from 235,548 to 238,599 impressions on Twitter. We encourage you to follow us **@NevadaATJ**.

Top Tweet – March Pro Bono Honor Roll, 137 impressions - 10.9% engagement rate.

Highest Engagement – Sr. Justice Hardesty receives UNLV PILA Silver Staircase Award – 11.6% engagement.