



**ACCESS TO JUSTICE COMMISSION**

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Access to Justice Commission Meeting Minutes  
Friday, March 22, 2024 – 2:00 p.m.

**Commission Members Present**

Justice Elissa Cadish, Co-Chair  
Justice Kristina Pickering, Co-Chair  
Connie Akridge  
Rachel Anderson  
Mark Brandenburg  
Ciara Clark  
Judge Cynthia Cruz  
Lisa Evans  
Diane Fearon  
John Fortin  
Dawn Jensen  
Judge Kishner  
Ann Walsh Long  
Judge Cynthia Lu  
Joseph McEllistrem  
Victoria Mendoza  
Jennifer Richards  
Judge Bridget Robb  
Marisa Rodriguez  
Raine Shortridge  
Doreen Spears Hartwell  
Judge Connie Steinheimer

Steven “J.T.” Washington  
Judge Nathan Tod Young  
Tara Zimmerman

**Guests Present**

Taylor Altman  
Sarah Bates  
Bailey Bortolin  
Barbara Buckley  
Alex Cherup  
Judge Gregory Gordon  
Chantyel Hasse  
Justin Iverson  
Stephanie McDonald  
Susan Myers  
Jonathan Norman  
Emily Reed  
Brandon Smith  
William Voy

**Staff Present**

Brad Lewis

**Call to Order/Roll Call/Minutes**

The Access to Justice Commission meeting was called to order. Chief Justice Cadish welcomed all, and a roll call was conducted. She asked if changes to the minutes were necessary. Hearing none she requested approval. The minutes were voted unanimously and adopted for the record.

**Co-Chair Change**

Chief Justice Cadish shared that due to her new duties as Chief Justice, she will roll off the Commission as Co-Chair to be replaced by Justice Lidia Stiglich. Justice Stiglich was unable to make this meeting but Chief Justice Cadish thanked her for her leadership and shared that she has enjoyed working on access to justice initiatives and continues to support the work of the Commission.



### **Informal Family Law Trials**

Eighth Judicial District Court (EJDC) Judge Gregory Gordon has been working with a group of judges from around the state on the potential for a new ADKT focused on the utilization of informal family law trials for self-represented litigants (SRLs). SRLs are now predominant in family court, and the unrepresented have a difficult time following rules of procedure and evidence, and in general, navigating the court process. He requested to present to the Commission as it is believed informal family trials are an opportunity to make family court easier to understand and can afford a better perception of fairness for the unrepresented public. He expressed his appreciation of the work of the Access to Justice Commission and felt the Commission should be aware of this initiative and is seeking support.

He then outlined the highlights of the program where the rules of evidence are relaxed, and referred to the draft in the meeting materials:

- Why does it make sense? – essentially this is already happening in many courtrooms. SRLs are engaging in narratives, not questions and answers, and judges now have to drive the fact-finding conversation.
- Relaxed rules – SRLs do not understand the rules of procedure and do not follow them. A relaxed trial format is likely to be perceived as fairer and have more legitimacy because it's easier to understand. Many procedures discussed for reform reflect things we already know that work, such as in Court Annexed Arbitration.
- Success in other states – where implemented, courts have found that SRLs understand and appreciate the system and believe it to be beneficial.

Judge Young shared that he and approximately 15 other family judges are on a committee considering informal family trials to address current issues seen in family court. He's hoping that a draft of Judge Gordon's plan similar to what was shared here today will be discussed, updated, and shared with the committee at its meeting on April 8. He suggested that after April 8 an ADKT could be submitted to the Supreme Court for consideration.

Judge Robb shared that she likes the idea and it will be better for family law judges to work more formally within a prescribed, approved system. She shared that it may almost work as a settlement conference and fully supports the idea.

Judge Lu said she also agrees and said, in practice, many of these cases without exhibits or witnesses often go to mediation for custody.

A question was asked about informal rules applying after settlement and mediation.

Judge Gordon stated that any informal trial to resolve disputed issues would typically occur after parties have already been to mediation but no agreement was reached, and all opportunities for an amicable settlement have been exhausted.



Judge Cruz shared that while she is with a limited jurisdiction court, she commends Judge Gordon for addressing the reality of what's currently happening in family court. She suggested perhaps if it operated as a pilot program any issues could be worked out during the pilot period. Overall, her view was that this would fulfill a great need in the EJDC.

Chief Justice Cadish further shared that her understanding is that this would be a statewide rule available in all districts and that it would only happen if both sides signed off on the informal trial concept, and that each side would be able to speak uninterrupted. Judge Gordon shared that the cross examination would come from the judge.

Chief Justice Cadish asked about what Judge Gordon had heard about the Oregon rule and asked how long it had been in place. Maybe 2014? Judge Gordon shared his discussion with an Oregon judge indicated that it is going well. Chief Justice Cadish said she heard that it is going well with other judges around the state.

Barbara Buckley was curious about available data on the number of pending cases. Judge Gordon said he did not have statistics but there are plenty of cases.

Judge Robb asked if the rule is designed to be able to get the facts without making a case. Judge Gordon said yes.

Justice Pickering appreciated the forms and asked if issues can be avoided when submitting exhibits. Judge Gordon said that exhibits can be discussed and layered on.

Chief Justice Cadish asked if there was a motion for the Commission to write a letter in support of a judicial informal family law trial ADKT approved by a judges' group. Judge Young moved that the Commission support an ADKT petition for an informal family law trials rule draft from the Family Law Sub-Committee of the Judicial Council of the State of Nevada. Doreen Spears Hartwell seconded the motion. Chief Justice Cadish called for a vote with all voting in favor, none opposed and none objecting.

If and when the ADKT is filed a letter of support from the Commission will be submitted.

### **IOLTA**

Brad reminded Commission members that we voted late last year to request funding for IOLTA research at this unique time of higher interest rates. The Nevada Bar Foundation agreed to grant funds for the study which is now underway and will be finished prior to the Commission's April IOLTA Rate Review Committee. Steve Casey, the principal of the research firm selected, Delta Consulting, will present to the committee, review what's happening with IOLTA rates nationwide, and make recommendations aligned with the project's scope of work. This information will be used to inform the IOLTA rate set this spring for a June 1 effective date.



## **Service Rule**

Many judges are now interpreting Rule 4.4 to require multiple methods of service including service by publication even if an alternate method is available. Not only has service by publication been proven to be a method with low effectiveness, in many cases it is quite expensive and unaffordable for many SRLs. Our November 2023 Commission meeting raised this issue for investigation. For discussion purposes and feedback for today's meeting, a redline was drafted of 4.4 and 4.5 for consideration to make it clear that service by publication is only needed as a last resort. The goal was to completely separate service by publication when it is the only possible way to potentially reach a party. The attempt was to delineate details and clarify the intent as it was originally discussed in 2018-19.

It was shared that the National Center for State Courts recently issued *State Court Considerations for Today's "Notice and Publication" Environment: Online Variables & Best Practices* (Jan. 2024) which recommends "why state courts should consider publishing court notices on judicial websites, rather than traditionally relying on notice and publication by newspapers". [Resource](#) The committee was interested to know if the Commission has a willingness to explore ideas and remove SRL barriers.

Chief Justice Cadish shared that the chair of the rules committee wanted to make sure that alternative electronic service actually helps to find the relevant party.

Barbara Buckley asked if there was any data available and what information is available on tearing down access to justice barriers? She indicated that service is one of the biggest sticking points seen at the Family Law Self Help Center. Of approximately 89,000 cases more than 3000 parties cannot be served. This may consist of the other party refusing to cooperate which places an undue burden on the other party.

Victoria Mendoza said a key question for her has always been "where are these publications"? She also stated that even smaller publications are often \$300, \$400, and even \$500 plus. She noted that *Nevada Legal News* is not accepted as a legitimate posting location by all judges.

Jennifer Richards added that the cost is burdensome, and often sees rates in the \$700 range. She noted that day in and day out they see that estrangement or intellectual disabilities are involved with difficult to reach parties.

Justice Pickering said she was not aware that service by publication was a major issue, and stated that the goal, if possible, is to give parties notice. She said she would pull the committee minutes on the previous discussions as to the conversations around "last resort" and what was believed to be "impracticable". The standard is to ensure due process to the best of our ability.

Stephanie McDonald referred people to the draft rule rewrite and said that it is designed to be clarifying and go to the original spirit of what was intended.



Chief Justice Cadish suggested that we add a formal Service Rule Committee to review the past work and research on this. Committee members will be Doreen Spears Hartwell, Judge Lu, Stephanie McDonald, original committee member Racheal Mastel, Jonathan Norman, Jennifer Richards, and Judge Robb.

Justice Pickering said that actually getting people to respond using the “best of your ability” should be paramount in the NRCP.

### **Peremptory Challenges**

At our last meeting a fee waiver for indigent SRLs and clients of legal aid for peremptory challenges was discussed. UNLV Professor Justin Iverson shared early research showing key findings of what’s happening in other states. Bailey Bortolin emphasized that the report showed peremptory challenges in other states having much lower fees, often ranging from \$120-150 compared to the Nevada fee of \$450.

Judge Robb asked if the fee is required or discretionary and noted it may be a statute rather than a rule issue. Judge Kushner asked if this change is only sought for family law and only for legal aid, noting that a change may require multiple actions in multiple departments v. simply focusing on in forma pauperis.

John Fortin said that his experience has been that it can be a useful tool for a litigant and that the fee amount may be a discretionary piece. Also, if the Nevada Supreme Court has waived filing fees for clients with a Statement of Legal Aid Representation (SOLA) it perhaps should be more uniformly applied. He noted that the time period for filing a challenge is very tight. Overall, this is an access to justice issue as indigent clients should be able to exercise the same rights as other clients. Judge Kushner said that we should be cautious about changing the rule and time period.

Professor Iverson said that to complete the preliminary research the Commission will need to narrow the focus of the information sought.

Ms. Buckley said a key element is that any rule update should be not only for attorneys, but also for SRLs.

Ms. Hartwell said a simple option may be simply to note that all fees are waived under SOLA. Mr. Fortin said he did not think the rule needed a complete rewrite, but only a reference to the ability to be eligible for a fee waiver.

Chief Justice Cadish asked who may be interested in forming Peremptory Challenges Committee and Bailey Bortolin, Alex Cherup, John Fortin, Professor Iverson, and Jonathan Norman all agreed.



### **Sealed Cases**

Judge Kushner, chair of the Seal Cases Committee shared with the group to “stay tuned” as the Falconi case has seen a petition for rehearing. In the meantime, she is spearheading the spirit of the committee discussions which is to preserve record access to “access to justice partners”, meaning the legal aid providers. She is currently in discussions with EJDC to evaluate access for legal aid focused on:

- Extending the current access as is allowed for in CAP (Children’s Attorneys Project) cases
- Investigating Eighth Judicial District Court Rule (EDCR) 5.213 for potential access permission

Judge Kushner asked the Commission if there are other ideas to increase case access narrowly v. a more global fix so we can more immediately address the issue v. waiting for a global fix.

Ms. Buckley shared that we also need to assure we allow SRL access. Judge Kushner agreed and said at this time the focus is on a band aid approach to keep things moving. Ms. Buckley said the EDCR 5.213 route has been tried but clerks continue to say, “no, we can’t accept that”.

Judge Kushner shared that EJDC administration is working on creating a procedure but there are concerns about the process in verifying requestors to assure the request is appropriate and legitimate. Judge Kushner asked the legal aid providers to email her with exactly what they need related to access.

Chief Justice Cadish suggested the committee meet again to continue the work.

### **Unbundling Feedback**

Brad referred the group to the feedback received on the Commission’s pilot unbundling rule. In particular there were concerns with the procedure for withdrawal, and whether or not an Order was needed to end a representation, among other concerns.

Justice Cadish recommended to reconvene a reconstituted committee due to those who have left to review and come up with a recommendation before the fall pilot expiration.

### **Joint NLS/NNLA Self-Help Center**

Lisa Evans shared that a great new partnership between Northern Nevada Legal Aid (NNLA), Nevada Legal Services (NLS), and the Reno Justice Court via a grant from the Washoe County Commission has allowed for more robust self-help. The most recent statistics are 929 persons helped in person and 170 people helped by telephone. Help for SRLs is a huge need and this is an important access to justice step for Washoe County.

### **Legal Kiosks in Libraries Update**

Susan Myers reported that 1965 sessions and increase of 700 since the last report. The top user locations include Carson City, East Las Vegas, Elko, and Pahrump.



### **Supervised Practice**

Ms. Buckley reported that the National Conference of Bar Examiners continues its push to the next generation of the bar exam. In Nevada, a recommendation to be made on April 1 will be focused on the Multistate Professional Responsibility Examination, an updated character and fitness review, and a 100-question examination that will be administered up to four times per year at national testing centers. A new key element is supervised practice of 40-60 hours. This would potentially all become a condition of being licensed to practice law in Nevada. Limited practice for law students under SCR 49.3 would continue including these provisions.

Chief Justice Cadish shared that she's keenly interested in these recommendations and looks forward to discussing soon.

### **Legislative and Eviction Diversion Update**

Ms. Bortolin shared that addressing a variety of issues is building to the 2025 legislative session. On eviction diversion, 469 referrals have been made with 111 rental assistance applications being approved and 139 eviction cases diverted. 233 matters are pending.

### **Court Forms**

Ann Walsh Long reported that 71 family court forms have been translated into languages other than English including Spanish, Tagalog, Mandarin, and Vietnamese.

### **Reports**

- **Southern Nevada Senior Law Program** – Diane Fearon thanked IOLTA Rate Review Committee member and Nevada Bar Foundation president, Mark Brandenburg, for his willingness and efforts to support the IOLTA program. She related that SNSLP hired former Judge William Voy as director of pro bono. SNSLP has also added an attorney and will ultimately move from four to six attorneys, a 50 percent increase.
- **Northern Nevada Legal Aid** – Lisa Evans shared they, too, are hiring, including for human resources and an office manager. NNLA is also currently negotiating county legal service contracts. Right now, a key focus is on the April 26 Voices for Justice luncheon.
- **Volunteer Attorneys for Rural Nevadans** – Victoria Mendoza shared that the grant received for Legal Server is now up and running, and that pro bono efforts have been steady. VARN is currently looking to hire attorneys.
- **Nevada Legal Services** – Alex Cherup again shared he's glad to join the Commission as the interim executive director of NLS. He shared that 2024 is the 50<sup>th</sup> anniversary of LSC. He also expressed his thanks and shared the importance of IOLTA for legal aid in Nevada, which has been crucial to assisting veterans, NLS's Lawyer in Schools program, and other community-based initiatives such as guardianships and supported decision making. He shared he appreciated the collaborative relationships with all Nevada legal aid providers. He also said NLS's eviction clinic



continues to operate at the North Las Vegas court every Wednesday morning from 8:00 a.m. – noon.

- *Legal Aid Center of Southern Nevada* – Ms. Buckley shared that the capital campaign for Legal Aid Center’s Advocacy and Justice Complex has kicked off. It will be a one stop shop for victims of crime in Nevada. Legal Aid Center has kept the Vegas Strong Resiliency & Justice Center activated to assist with the December 6, 2023 UNLV shooting. The Center is adding staff and the belief is that the program has never been stronger or more collaborative. There is a new sense of energy in tackling access to justice issues.

### **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
- Public Awareness