



**ACCESS TO JUSTICE COMMISSION**

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Access to Justice Commission Meeting Minutes  
Friday, June 14, 2024 – 2:00 p.m.

**Commission Members Present**

Justice Kristina Pickering, Co-Chair  
Rachel Anderson  
Annette Bradley  
Mark Brandenburg  
Alex Cherup  
Judge Cynthia Cruz  
Diane Fearon  
John Fortin  
Dawn Jensen  
Ann Walsh Long  
Victoria Mendoza  
Jennifer Richards  
Judge Bridget Robb  
Marisa Rodriguez  
Doreen Spears Hartwell  
Judge Connie Steinheimer  
Michael Wendlberger  
Judge Nathan Tod Young

**Guests Present**

Zeynep Akgedik  
Bailey Bortolin  
Barbara Buckley  
Chantyel Hasse  
Justin Iverson  
Stephanie McDonald  
Susan Myers  
Jonathan Norman  
Kelli Radnothy  
Emily Reed  
Brandon Smith  
David Spitzer  
Katherine Stocks

**Staff Present**

Brad Lewis

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

The Access to Justice Commission meeting was called to order. Justice Pickering welcomed all and shared that Justice Stiglich is very sorry she is unable to attend but that she is looking forward to joining the next meeting. Diane Fearon also shared that former Judge Voy was also unable to attend. Justice Pickering then asked that a roll call be conducted. She asked if changes to the March minutes were necessary. Hearing none she requested approval. The minutes were voted unanimously and adopted for the record.

**Update on Statewide Electronic Filing**

Katherine Stocks, director and state court administrator (Administrative Office of the Court, AOC) for the Nevada Supreme Court, joined the Commission meeting to provide an update on statewide electronic filing. She shared that \$9.725 million of American Rescue Plan funds were awarded to the AOC to implement statewide e-filing systems. In 80% of Nevada courts there is no e-filing. The funding is contingent upon not passing the costs on to courts or filers.

She shared early results showing solid progress toward completion in the 10<sup>th</sup> District, with additional progress in the 4<sup>th</sup> District, Elko Justice Court, Hawthorne Justice Court, and Pahrump Justice Court. All



courts interested in the standalone/non-CMS integrated system are live and any courts wishing to be added may be. For the AOC-hosted Courtview CMS integration, 50% is completed, including a Mesquite Justice Court pilot. Additional pilot courts are being sought. Work with Tyler Technologies and Journal Technologies are in process.

A key benefit seen is for pro se litigants, making filing more convenient, accessible, and faster with improved accuracy. Supporting information is more readily accessible, along with user-friendly tools and support. A key focus has been on Conference of Chief Justices/Conference of State Court Administrators (CCJ/COSCA) guidance which puts a focus on the user experience. Challenges include some courts awaiting CMS integrations to advance and legislation for future funding. On the user side, the main issue is filing in the wrong court. Nine courts are willing to go live without integrating into their CMS, and early results show that self-represented litigants (SRLs) are e-filing and the program has generated early bar support.

### **Nevada Rules of Appellate Procedure (NRAP)**

Justice Pickering shared that there have been recent revisions to the NRAP bringing it into the modern age. On June 7, 2024, the Nevada Supreme Court issued an order in [ADKT 0580](#) amending the Nevada Rules of Appellate Procedure. The amended rules are effective prospectively on August 15, 2024, as to all pending cases and cases initiated after that date.

The court further ordered that these amended rules shall control when conflicts arise between these amended rules and any other court rules. For the benefit of the bench and the bar and to facilitate the transition from the existing rules to the new rules, attached to the order as [Exhibit A](#) is a redline of the revised NRAP against the existing NRAP. A clean copy of the revised NRAP is attached as [Exhibit B](#).

### **Criteria and Application to be Approved by the Commission**

Brad shared that inquiries to be approved by the Commission have increased over time, and that the Statewide Service Delivery Plan (SSDP) calls for an application to be in place but one has never been developed. Often people seek to become approved by the Commission to bypass Nevada bar admissions policies and hire lawyers under SCR 49.1. This, of course, is not the purpose of approval. Therefore, a conversation has been happening about advancing on an ATJC application. However, there are key considerations, including not negatively impacting current Nevada legal aid providers, how IOLTA funds may be handled, and not jeopardizing SCR 49.1 allowing for limited practice admissions for Emeritus Pro Bono Attorneys which has been critical to building legal aid programs in Nevada.

It is proposed that the Commission organize a committee to discuss. Barbara Buckley sought insights from Justice Hardesty on this subject and he shared that he would be happy to chair such a committee if it was formed. She noted that there is an extreme shortage of legal aid attorneys, but SCR 49.1 and 2 are rules that legal aid holds dear and that have allowed legal services to expand in Nevada. A rigorous process is needed to ensure any new provider meets the qualifications outlined in the SSDP and other parameters that the committee could discuss.



Judge Robb moved to establish a committee to review criteria and an application process. It was seconded and voted unanimously. Brad to form a committee of providers and others chaired by Justice Hardesty that meets to bring ideas to the November ATJC meeting.

### **Service Rule Clarification**

While the main discussions surrounding this have been how to avoid costly service by publication for SRLs, Justice Pickering wondered if advancing on this issue is best served by litigation v. a rule change. She noted that there often seems to be a disconnect when rules are tweaked from time-to-time v. a full rule rewrite. Stephanie McDonald indicated that she often sees SRLs unable to pay for publication and it does often seem less effective than other service methods, and that maybe legal aid can find the right case to bring up. Brad shared that so far this has been discussed by the Service Rule Committee within the ATJC, with Ms. McDonald participating along with Rachael Mastel, who was on the original committee, along with others. Two options for proceeding could be to reconstitute the original committee or continue with an ATJC committee.

Justice Pickering does not think the original committee should be reconstituted as Chief Justice Cadish was the original chair and now has a lot on her plate. Also, there is a concern about due process if service by publication is eliminated. One idea was to move directly to an ADKT so that an open and public discussion could be had about the concerns. Certainly the service rules will need revising in the future due to today's advancing technology.

Judge Robb shared her hesitancy and concerns regarding a case served pursuant to the rules but that did not have proper notice. These rules can be used by bad actors. Rules that promote good faith efforts are important. Ms. McDonald agreed and emphasized that the gold standard is personal service. But if that is not possible, we do need back-up alternatives. In practice, rules should allow for some other acceptable method other than personal service and publication.

Ms. Buckley outlined what she hopes to see is that judges review the reasonable service efforts that have been made and only require service by publication as a last resort. Dawn Jensen said that service rules may present a hardship to those in the military and the practicality for responses is a question. Ms. Buckley said that the Uniformed Services Employment and Reemployment Rights Act is likely to address.

Justice Pickering said more data is needed but it is paramount that due process is served. Judge Cruz lamented problems with sewer service and that it is critical for avoiding challenges. Justice Pickering said it would be helpful to have more information from other states justifying alternative service methods, and suggested we do further research via a more detailed 50-state survey which could include criteria, improvements, and specifics around service by publication. Any change we would make would need to have a concrete showing of due process. Ms. Buckley emphasized that service by publication should be the last resort only after every other option is exhausted.



## **Sealed Cases**

Work has progressed through the Sealed Cases Committee albeit in smaller groups tackling specific issues. For example, Lauren Pena at Family Court has worked with Michael Wendlberger at Legal Aid Center to delve into both the appellate and legal aid organization/pro bono attorneys issues getting access to sealed cases to at least see the docket. This is necessary to determine if the case can be accepted by legal aid, and if a pro bono attorney may consent to taking it. One of the ideas is allowing access similar to how it is currently allowed in CAP cases. IT issues were discussed.

Ms. Buckley asked a higher-level question, how should the courts operate? Why is super sealing allowed in so many cases? She suggested there may be a separation of powers issue. Justice Pickering said there seems to be a conflict between court rules and laws, and there are cases that are trying to sort this out, for example, Falconi. She does suspect super sealing is inconsistent with statute. John Fortin said a key question is at what point record statuses allow sealing.

Justice Pickering said that she can again be involved in the Sealed Cases Committee now that Falconi is complete.

## **Peremptory Challenges**

UNLV's Justin Iverson had to jump off the call early but Brad referred members to the UNLV research document in the materials showing Nevada has the highest filing fee cost of any state researched at \$450. Also, that several states with fees have fee waivers. Brad also pointed to the peremptory challenge stats from Nevada's legal aid providers showing only a handful of cases over the past few years, and that the AOC indicated they are comfortable with the limited impact on their fund in which fees are held. A sample revision to SCR 48.1 was included in the meeting materials.

Judge Robb shared that she looked up statistics in the Second Judicial District Family Court and there have been a total of 45 cases. Of those only five were pro se, and of the five pro se cases, four were improper. She suggested that she is concerned that a fee waiver may open the door to many more challenges and that it may be difficult to deal with.

Bailey Bortolin shared that her belief is that it's not about the volume, but if the rule exists for some it should exist for all, regardless of ability to pay. Alex Cherup echoed the fairness issue and noted the particularly high cost in Nevada versus other states.

Judge Robb says she understands the impetus but believes there may be unintended consequences and suggested that if we did make a change that perhaps it could be a pilot program to see how it goes. Ms. Buckley said we piloted the unbundling rule, and while that is an option that there should also not be two standards of justice. Ms. Buckley added that a pilot could help assure that the rule is not burdensome.



Justice Pickering shared that she would like to get Justice Stiglich's views on this subject before advancing on any change, adding that it is not urgent and we should take our time and have more discussion before we advance.

### **Unbundling**

While the unbundling rule was believed to be positive and helpful to many, others thought the rule was burdensome and required additional motion practice. The Unbundling Committee met to address the feedback and noted the main issue seemed to be around how to withdraw from a case, including the objection waiting period. The committee will update the pilot rule ADKT and share with the full Commission for an electronic vote so it can be advanced as a new ADKT to replace the current pilot rule which expires November 1, 2024.

### **Nominations**

Doreen Spears Hartwell, chair of the Nominating Committee, referred members to the nominations slate in the meeting materials and shared that the committee recommended voting in the full slate. Mr. Cherup moved to adopt the full slate, it was seconded by Marisa Rodriguez, and it was voted unanimously.

### **IOLTA**

Brad shared that the IOLTA study funded by the Nevada Bar Foundation was completed and was used in determining the rate at the spring IOLTA Rate Review Committee. Further, that an interim meeting this summer would answer further committee questions from the research consultant in order to finalize the committee's discussion and set us up for the fall rate review.

### **Medical Legal Partnerships (MLPs)**

Jonathan Norman shared that there may be Medicaid funds available in the future to act as a consistent funding source for MLPs. However, that is a ways off and MLPs do not seem to be a high priority among all legal aid providers.

### **Section Pro Bono Challenge**

Brad shared that the challenge ended May 31 with 184 lawyers taking 154 cases, participating in 334 Ask-a-Lawyer, Lawyer in the Library sessions or clinics. This represents 1,300 people served and 2,888 pro bono hours. \$4,200 was raised, 100% of which will be distributed to the legal aid providers based on the IOLTA formula. Winning again was the LGBTQ+ section. See all the winners and more [here](#).

### **Legal Kiosks in Libraries**

Susan Myers shared that the Aging and Disability Services Division of the Nevada Department of Health and Human Services just approved the funding of more [kiosks](#). This was the repurposed funding from



VARN forgoing the justice bus funding. Four kiosks were added in northern Nevada, including in Minden and Winnemucca. Unique users jumped to 2395. The top five kiosks are East Las Vegas, Elko, Churchill, and Pahrump, followed by “own devices”, as selected from the “+ Select” button.

### **Informal Family Law Trials**

Judge Gordon presented this concept at the March ATJC meeting. At this meeting it was agreed that the Commission would send a letter of support if an ADKT was authorized by a recognized group of family law judges.

### **Legal Aid Reports**

- *Legal Aid Center of Southern Nevada* – With time being short, Barbara Buckley referred members to Legal Aid Center’s submitted report.
- *Southern Nevada Senior Law Program* – Diane Fearon gave a shout-out to Doreen Spears Hartwell who was a winner in the Section Pro Bono Challenge from the Labor and Employment Law Section. She shared that Ms. Hartwell has been a valuable SLP volunteer.
- *Northern Nevada Legal Aid* – David Spitzer shared that he is the interim executive director after Lisa Evans departed. He noted that Jennifer Richards from NNLA is also on the Commission. He shared that the new NNLA/NLS partnership with the Reno Justice Court on the new self-help center is already seeing more than 1000 served per month.
- *Second Judicial District Court Self-Help Center and Washoe County Law Library* – Emily Reed reported that their recent Law Day event was a success. It was a three-hour event held on May 1<sup>st</sup> at the Washoe County Law Library with 12 attorneys and 102 participants.
- *Nevada Legal Services* – Alex Cherup shared that he has appreciated the collaboration between Nevada’s legal aid providers during his time as interim executive director. He shared that the Lawyer in the Schools program has expanded and is going well. Its community-based model housed in school family engagement centers makes a difference. He also shared that the Legal Services Corporation has expanded support for this project.
- *Volunteer Attorneys for Rural Nevadans* – Victoria Mendoza was having difficulty with her Zoom microphone so Judge Young jumped in to share that VARN has been great and very helpful in the Ninth Judicial District Court.

### **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