



ARKANSAS  
ACCESS TO  
JUSTICE  
REPRESENTING HOPE

## Commission Meeting

Arkansas Bar Center, 2224 Cottondale Lane, Little Rock, AR 72202

October 14, 2011  
12:00pm – 3:00pm

### **Commissioners Present**

Rose Adams, Jean Carter, Prof. Chuck Goldner, Prof. Kelly Olson,  
Lee Richardson, George Shelton  
Judge Jim Spears, Annabelle Tuck, Bill Waddell

### **Staff Present**

Amy Johnson, Vince Morris

### **Welcome & Introductions**

Justice Tuck called the meeting to order at 12:20 p.m. and welcomed everyone attending.

### **New Business**

#### **Approval of Minutes from August 12, 2011**

Justice Tuck called for a motion to approve the minutes from August 12, 2011. Judge Spears moved that the minutes from the August 12, 2011 meeting be approved, and Prof. Goldner seconded. The minutes were approved unanimously.

### **Committee Reports**

#### *Arkansas Access to Justice Foundation*

Mr. Waddell presented a report on the Arkansas Access to Justice Foundation and the Access to Justice Campaign. A total of 51 Division Chairs have volunteered to help raise money for the 2011 campaign, and there are still several invitations outstanding. So far, the Foundation has raised a total of nearly \$86,000—\$75,000 of which came from a gift from the Walmart Legal Department. The Foundation Board has set an internal goal of \$150,000, and estimates that there is currently enough on hand to engage a fundraising consultant and cover the Foundation's 2012 operating budget. The Foundation plans to distribute all money raised during the remainder of the campaign to CALS and LAA.

The campaign kickoff will be Thursday October 27, 2011 at the UALR Bowen School of Law at 3:30 p.m. immediately prior to the "Responders First" pro bono event planned for that afternoon. Attorney General Dustin McDaniel will present a proclamation, which Prof. Goldner will accept. Prof. Goldner will then announce the campaign.

Prof. Goldner reported that the Foundation would approach the Alzheimer Foundation to request funds specifically for a fundraising consultant, who will help develop and execute next year's statewide fundraising campaign. The Alzheimer Foundation's focus has been on the Arkansas Delta and on start-up projects. Mr. Waddell mentioned that he thought we needed to be able to say that we have 100% participation from the Commission and Foundation. He asked if we could send out a solicitation letter

to all Foundation board members and Commissioners mentioning the need to have 100% participation before grant application is submitted.

Justice Tuck next reported that she attended the Arkansas Supreme Court oral arguments held earlier in the month in Jonesboro at Arkansas State University. While there, she met with several of the Division Leaders and made an in-person pitch, which was well received. Also, Mr. Waddell and Foundation Board Member Lori Chumbler have agreed to work on the corporate campaign, and Prof. D'lorah Hughes has issued a challenge for 100% participation from law school faculty participation. Donors will be recognized in an annual report, and plaques will be presented to all donors who give \$5000 or more.

Mr. Richardson then spoke about the state AmeriCorps grant that Legal Aid of Arkansas (LAA) received for its "Justice for Arkansans" program. LAA initially advertised positions for the Arkansas Children's Hospital medical-legal partnership, and had nearly 80 applicants. As a result of the good response, LAA decided to expand the program. One of the AmeriCorps state members will be placed with the Arkansas Access to Justice Foundation to assist in outreach, education, and pro bono recruitment activities.

#### *Court Assistance Committee*

Judge Spears gave a report on the activities of the Court Assistance Committee. The Committee is currently overseeing translation of various legal resources on the Arkansas Legal Services Partnership (ALSP) website into Spanish. The automated statewide order of protection form is now live, and was recently demonstrated at a statewide domestic violence conference.

Version 2.0 of the automated divorce packet is currently in development. The Committee has gathered edits from judges and advocates, and will be including those. An option for name change will be among the changes to be made.

ALSP received approval for the "Court Channel" technology initiative grant (TIG) that it applied for. The Committee has been in discussions with Arkansas Supreme Court and Administrative Office of the Courts about how to do more integration with Court's website. The project will begin in January 2012.

Mr. Morris reported that the Office of Inspector General recently audited all the TIGs that the Center for Arkansas Legal Services and ALSP have received over the last few years. The audits are part of a national effort aimed at scrutinizing the TIG program. The audits seem to be primarily focusing on expenses and allocation of time, rather than deliverables. Auditors raised concerns about lack of contemporaneous time records, even though all milestones were met and all deliverables provided. The grants, which were milestone-based, did not include any requirements or assurances related to timekeeping. Mr. Morris indicated that these audits are likely to having a chilling effect on applications for future TIGs.

#### *Education Committee*

Justice Tuck reported that the Education Committee had not yet met, but that planning would soon be underway for next year's statewide conference. ALSP will not be hosting a legal aid conference next year, so the Committee will explore the possibility of "piggybacking" the a day of CLE for legal aid staff onto the conference.

#### **Executive Director's Report**

Ms. Johnson presented her report on various Commission activities. Since the last meeting, she has hired an Executive Assistant, Erin Jacobson, as well as AmeriCorps member, Phillip Garcia. Ms. Jacobson and Mr. Garcia will start work later in the month.

Ms. Johnson next talked about anticipated funding cuts to the Legal Services Corporation budget for FY2012. The cuts are likely to be between 2% (which was recommended in the Senate version of the appropriation) and 26% (which was recommended in the House version). Actual cuts are likely to be 4-5%, although they could be higher. Ms. Johnson also discussed cuts recently announced to Public Legal Aid Fund, which is the mechanism for distributing filing fee revenues to CALS and LAA. Distributions from the fund, which is part of a larger Administration of Justice Fund, are to be cut by 18% beginning in October due to large, unforeseen shortfalls. Prof. Goldner emphasized the importance of talking to our legislators about this issue so that these funds are protected from permanent cuts.

Next, Ms. Johnson reported that the American Bar Association Resource Center for Access to Justice Initiatives has begun hosting monthly calls for Access to Justice Commission chairs. She and Justice Tuck participated in the first call last month, during which Mark Childress, the new Senior Counsel for Access to Justice at the U.S. Department of Justice, spoke about new initiatives that his division is undertaking. The next call will be November 7, and will cover amendments that various states are making to their model judicial codes to address issues related to self-represented litigants. Judge Spears expressed an interest in participating in future calls.

Planning for Pro Bono Week, which is October 23-29 is nearly complete, Ms. Johnson said. The week will feature proclamations from Governor Mike Beebe, Attorney General Dustin McDaniel, Fayetteville Mayor Lioneld Jordan, and Little Rock Mayor Mark Stodola; a statewide pro bono event—"Responders First"—in which police officers, emergency health care workers, and firefighters will receive basic estate planning documents from volunteer teams of attorneys, law students, and notaries; a casual Friday event—"Just Jeans"—benefiting the Arkansas Access to Justice Foundation; and the roll-out of the iProBono iPhone app. Mr. Morris added that KUAF in Northwest Arkansas had contacted him and would be interviewing him and Prof. Hughes in connection with the Responders First event.

Ms. Johnson and Justice Tuck met with Arkansas Bar President Tom Womack and with the Arkansas Supreme Court to update them on recent initiatives undertaken by the Commission. Judge Spears will be presenting a summary of the findings contained in Chanley Painter's report on self-represented litigants in Arkansas to Judicial Council at its upcoming meeting. Prof. Olson suggested sending out the summary to our legislators.

### **Action on *Turner v. Rogers***

The meeting then turned to a follow-up discussion on the United States Supreme Court's decision earlier in the year in *Turner v. Rogers*. The case, which was discussed at the previous Commission meeting, charges courts with the responsibility for ensuring that the due-process rights of self-represented litigants are protected in certain cases. Even though the Court found that the appellant in this case was not entitled to have counsel appointed to represent him, the Court nevertheless directed state courts have to have alternative procedures, including forms, to protect due-process rights of self-represented litigants. The case has been the subject of much discussion among national members of the access-to-justice community.

In light of the case's potential implications for self-represented litigants, Justice Tuck proposed that the Commission appoint an ad hoc committee to work through its existing Court Assistance Committee to review the decision and make recommendations to the Arkansas Supreme Court for implementation of the *Turner* case.

Prof. Olson remarked that one of the case's implications is that judges can no longer say that it isn't their role to get involved. They can now ask questions of the parties without calling impartiality into

question. She suggested that we work with Judicial Council, David Stewart, and the Administrative Office of the Courts.

Mr. Morris raised the possibility of modeling after Nebraska, which uses self-help centers with volunteer staff. Professor Olson suggested that law students could help provide volunteer support for such centers. Ms. Johnson mentioned that the public access terminals that will be required for state courts that opt to implement e-filing might be able to be used as self-help centers.

Ms. Adams suggested that we look at best practices and examine how other states are responding to the case. She wondered whether there might be checklists that we could use to identify existing procedures and determine where procedures need to be changed. She also wondered whether there might be a larger pot of funding that could be tapped to help support the study and implementation of the *Turner* decision.

Ms. Carter suggested looking at the use of “user-friendly triers of fact,” such as magistrates, as well as mediation. Justice Tuck indicated that the courts are currently looking for ways to expand the jurisdiction of district judges, as they are going full-time and in many cases do not have full-time caseloads.

It was agreed that the ad hoc committee would be chaired by Judge Spears and would include Prof. Olson, Vince Morris, and Judge Cindy Thyer. Judge Robert Herzfeld was also suggested as possible committee member.

### **Old Business**

#### **Strategic Plan Update**

Prof. Olson reported that she, Ms. Adams, and Ms. Johnson had visited briefly about the Strategic Plan and that it was agreed that input from other constituencies would be desirable. The basics of what we’re doing are there, she said, but feedback should be gathered from other groups. Justice Tuck asked Prof. Olson, Ms. Adams, Mr. Morris, and Ms. Johnson to meet and determine what input should be gathered and what tweaks should be made to finalize the plan.

#### **Possible Consolidation of Commission or Foundation with IOLTA Foundation**

Prof. Goldner reported that a meeting was held among representatives from the IOLTA Foundation Board, the Commission, and Arkansas Access to Justice Foundation. Everybody agreed that some type of combination makes sense, he said. The next step will be to determine whether the merger should be between the IOLTA Foundation and the Commission or the IOLTA Foundation and the Access to Justice Foundation.

#### **Update on Relocation Plans**

Ms. Johnson reported that the Center for Arkansas Legal Services Board met earlier in the week and authorized a proposal for the sharing of resources among the Commission, IOLTA Foundation, and CALS under which CALS would be reimbursed for the fair market value of support provided to the Commission and IOLTA Foundation. The Board delegated authority to Ms. Carter and the Board Chair to negotiate final details and complete a memorandum of understanding.

Judge Spears moved to adjourn the meeting, and Mr. Waddell seconded. The meeting was adjourned at 2:00 p.m.