



Commission Meeting Minutes

August 17, 2012

12:00 PM

Commissioners Present

Rose Adams
Jean Carter
Zina Frazier
Prof. Chuck Goldner

Prof. D'lorah Hughes (*phone*)
Judge Leon Jamison
Prof. Kelly Olson
Lee Richardson (*phone*)

Judge David Switzer
Justice Annabelle Tuck
Bill Waddell

Staff Present

Phillip Garcia
Amy Johnson

Erin Jacobson
Kim Marshall

Vince Morris

Welcome & Introductions

Justice Tuck called the meeting to order at 12:20 p.m., acknowledging a quorum with the members participating by phone.

New Business

Approval of Minutes from January 20, 2012

Justice Tuck called for a motion to entertain approving the meeting minutes from the Arkansas Access to Justice Commission meeting on January 20, 2012. Ms. Adams asked if the meeting minutes from the October 2011 meeting were approved during the January meeting. Justice Tuck advised that though the last meeting had lacked a quorum and those present had acted as a committee of the whole, the minutes have since been approved by the whole Commission. Ms. Frazier moved to approve the minutes. Ms. Adams seconded the motion. All members approved and the motion passed unanimously.

Committee Reports

Pro Bono Committee

Mr. Waddell reported for the committee. He spoke about the new medical-legal partnership in Clarendon, stating the response has been very good with the Friday Firm. He stated it has been an amazing experience and commended Kevin De Liban for the work he has done with the MLP. Mr. Waddell advised that though the attorneys are supposed to be intake people, that his partner Harry Light actually ended up taking a case because he was touched by the experience and a client he encountered through the Clarendon MLP. He concluded that the MLPs offer wonderful opportunities for mediations versus filing lawsuits.

Court Assistance Committee

Mr. Morris presented on the committee's activities. He spoke about the Arkansas Legal Services Partnership website, advising on the 152 available fact sheets, 24 of which have been updated this quarter. He mentioned aiming to get a grant for automated documents and elaborated on the ongoing work with the CourtHelp Project. He stated that the SJI grant likely will not go toward pro se resources, but might determine some needs that could be fulfilled through the website.

He continued by stating that automated resources are one of the biggest services provided by ALSP, adding that Arkansas ranked 6th in the nation for the highest usage of pro se automated document technology. He advised that Legal Aid of Arkansas requested that an automated packet for Pro Se - Contempt be developed due to an extremely high demand. Both a print version and automated version have been developed and are available on the ALSP website. He concluded by advising that ALSP had also revised and updated programming functionality for the Divorce Pro Se Packet.

Resource Development Committee

Ms. Johnson reported for the committee and referenced the meeting they had earlier this year. She spoke about the \$2 million foreclosure settlement that was awarded to the Commission and directed to the Arkansas IOLTA Foundation for management and distribution through a grantmaking process. Currently there is a working group devising plans for the money and how best to coordinate service delivery.

Justice Tuck suggested having mediators, bankers, lawyers, and community resource people working together to develop a plan. Prof. Olson stated that in other states it has proven difficult to get the banks to the table, but the ideal situation would be to have all parties present. Justice Tuck emphasized needing to make it as easy as possible to have the consumer triaged and directed to the appropriate resource.

Prof. Olson spoke about having a conference in the fall focusing on the different aspects of potential foreclosure cases, including self-help, limited represented, and full case needs.

Justice Tuck stated that she knows it is often advertised to consumers that help is out there, but then the consumers often do not know where to go from there. She mentioned that there were deadlines in January related to the foreclosure crisis and stressed the need to be timelier in getting to the consumer, expressing her concern for publicizing the available services. She added that the approach should be proactive and that it should not be a matter of waiting for the consumer to seek help, but that the potential service providers need to do active outreach and advertising regarding these available services. She suggested breaking down the options and services for people depending on their level of need and what they qualify for. She referred to Ms. Adams and the need to utilize additional community resources. She mentioned that working with the finance authority and requiring a partnership to address this issue and the needs of people affected by the mortgage crisis and foreclosure would be necessary to ensure services are not duplicated.

Justice Tuck inquired about the stipulations for legal aid to service such clients. Ms. Carter and Ms. Frazier clarified that income determines eligibility, not just assets. Ms. Carter spoke about housing, renting, consumer debt, and issues being linked to and wrapped up together in regard to consumer protections.

Justice Tuck then asked the judges present if they had been seeing housing issues in their court rooms. Judge Switzer advised that in circuit court he has encountered issues of failure to vacate. Judge Jamison stated in probate court he does not see too many related cases. Judge Switzer advised that filing fees are no longer required for failure to vacate issues, as it is now treated as a felony situation.

Prof. Olson mentioned the issue of non-judicial foreclosures and many people often thinking that lawyers do not tend to be involved, though they are. She added that it will be important to identify the expertise needed to address the multitude of foreclosure and housing related cases.

Ms. Johnson moved onto additional resource development, including the IOLTA rule change requiring banks to report and remit electronically. She mentioned the addition of a provision set out for how to deal with unclaimed funds from lawyer trust accounts. Under such a provision, unclaimed funds could be directed to the IOLTA Foundation. She added that a clear procedure will be helpful, certainly as the current Unclaimed Property Act is difficult to navigate.

She further reported that the IOLTA Foundation received a cy pres award for \$115,000 from a Washington State case involving junk faxes. The award was distributed in proportion to consumers affected in each state. She anticipates that those funds will likely be used, in whole or in part, to supplement grants made to CALS and LAA for 2012.

Ms. Johnson continued by advising on the engagement of fundraising consultant, Dennis Dorgan. She stated that he is presently in the middle of phase one right now, which involved a July site visit and statewide interviews of fundraising stakeholders.

In addition to the cy pres award and foreclosure settlement funds, Ms. Johnson advised that the Commission was awarded one of nine State Justice Institute technical assistance grants. She indicated that this grant will enable the Commission to engage a consultant to address issues of self-represented litigants in Arkansas courts, and will potentially help to develop judicial training materials, as well as implementing a plan to sustain these resources.

Education Committee/Representing Hope Conference Report

Justice Tuck moved onto reporting on the Representing Hope Conference. She stated she believes it was a great success with a broad cross section of attendees, including many Commission members. She referenced the work group recommendations which essentially represent different game plans for tackling the issues discussed and addressed during the conference. These included a justice center, a comprehensive resource guide, suggestions for the housing foreclosure settlement funds, and medical legal partnerships. She advised that the Commission did go slightly over budget, but ultimately it was fine considering that \$6,000 in donations were raised. She concluded by stating that Justice Stevens's speech was highlighted in several publications and news outlets, both local and national.

Project Reports

Civil Right to Counsel

Mr. Waddell reported on civil right to counsel, referencing his *Lucas* case regarding an adoption. He stated that per *Turner v. Rogers*, Lucas was required due process. He stated he had worked with Samantha

Leflar, Marshall Prettyman, Lee Richardson, and Edie Ervin on the case, which has been filed with the Arkansas Supreme Court. He is hopeful that the Court will recognize that the birth mother had a right to be represented by counsel as a matter of due process.

Medical-Legal Partnerships

Mr. Richardson reported on the state's medical-legal partnerships. He stated that Amy Prichard has been moved to Arkansas Children's Hospital and is now the onsite MLP Director. He cited the new dedicated office in Clarendon and mentioned similar work in Marianna through the Lee County Cooperative Clinic, headed by Andrea Hope Howard.

He advised on potential future MLP developments. For the MLP in the Delta region, an AmeriCorps person is being sought to help with a mental health component. He further advised that Rick Hogan of the Department of Health is working on a joint grant application with UAMS to apply for a Blue & You Foundation grant to support a MLP. Also, Kathy Searcy of the UAMS Center for Rural Health, has been working to try to implement an MLP in Northwest Arkansas, but has not yet gotten off the ground. He suggested that a statewide MLP plan will be necessary and may seek help from Ellen Lawton.

Ms. Johnson asked Mr. Richardson to speak more about the warranty of habitability that Kevin De Liban has been working on in the Delta region. Mr. Richardson reported that a Robert Wood Johnson grant was sought but not funded, yet nevertheless Mr. De Liban helped to create a coalition of members interested in moving forward with its efforts to advocate for a warranty of habitability.

The group briefly discussed landlord-tenant laws. Prof. Goldner mentioned the Uniform Residential Landlord Tenant Law; the UALR Law Review will be holding a symposium in February to recognize the fortieth anniversary and will be accepting submissions until the end of October. Justice Tuck mentioned Professors Jay Barth and Lyn Foster's work on the subject.

Serving Our Seniors

Mr. Morris talked about outreach with the learn-and-do or "Pro Bono-in-a-Box" events, including the Serving Our Seniors event which was recently replicated twice in June, first in Hot Springs during the Annual Bar Meeting, and later in Rogers. He stated that the Commission and ALSP are looking to have a new event soon, with the next event likely focusing on first responders, similar to the one last fall.

Pro Bono Rolodex Project

Mr. Garcia reported on the project involving an online resource for pro bono attorneys. Should pro bono attorneys have questions specific to certain areas of law which they are not entirely familiar, the Rolodex will provide them with fellow attorneys' names who will serve as specialized contacts categorized by area of law. He advised that 103 volunteers from all sections of the bar have expressed interest, mostly from the creditor/debtor bar. He mentioned that profiles will be created for attorneys on the website and that he is in the process of assembling packets to mail to attorneys. Justice Tuck clarified that these lawyers are not taking cases, but will be a consult to the pro bono lawyers and that these lawyers will get pro bono credit through their assistance on this project. Both Mr. Garcia and Justice Tuck recognized Paul Prater of the Arkansas Bar Association and his help on this project. Justice Tuck added that with Karen

Hutchins' and Mr. Prater's support, the project will help the Commission become much more integrated into the organized bar and help with overall strategic planning.

Turner v. Rogers

Prof. Olson reported that she, Prof. Goldner, Justice Tuck, Ms. Johnson, and Judge Spears met to discuss *Turner v. Rogers*. She stated that related initiatives were shelved until the SJI grant was applied for and that the committee will move forward once the project is completed and recommendations developed.

Pro Bono Week Planning

Ms. Carter stated that the National Pro Bono Celebration will begin planning soon and will be held the third week in October.

Prof. Hughes reported on similar University of Arkansas activities, including a new clinician who just started, as well as co-hosting the Race Judicata with Legal Aid of Arkansas right before Pro Bono Week. She advised that both a website and Facebook page have been set up and have received about \$3200 to-date even without any promotion. She stated that the University of Arkansas will also be doing a Pro Bono-in-a-Box event that week, and plans to do another one in the spring.

Equal Justice Conference

Prof. Goldner stated that he believes Arkansas continues to do very well because of the Commission, and as the state has been formally recognized, he had the privilege to facilitate a regional discussion during the early summer conference. At the present, Arkansas does appear to be far ahead of many states even though plenty of work is still to be done here. He concluded by saying he benefited from a small group session on documenting the benefit of civil legal aid, where he came back with two pages of notes.

Justice Tuck and Mr. Morris echoed Prof. Goldner's pride in how Arkansas stands during these conferences. Mr. Morris observed that communication is pivotal and can be leveraged to benefit programs despite the issue of limited funding to legal aid.

Executive Director's Report

Ms. Johnson mentioned the new office move for ATJ, IOLTA and CALS, asking members to note the new address and new phone numbers. She advised on a save-the-date for the joint board retreat between ATJF/IOLTA, CALS, VOCALS, LAA, ATJC to be held March 29-30, 2013. A survey may be issued soon for feedback of ideas to accomplish and for joint objectives.

Old Business

Arkansas IOLTA Foundation/Arkansas Access to Justice Foundation Merger

Prof. Goldner advised on the merger between the two foundations. With the substantial overlap in two missions, he stated that the Arkansas Access to Justice Foundation approved the merger this morning and will go to the Arkansas Supreme Court once IOLTA wholly approves as well. If merger approved, articles of merger will be filed and the surviving entity will be the IOLTA Foundation, but the surviving

name will be the Arkansas Access to Justice Foundation. Since both boards are set up differently, the new board will represent an amalgamation of the two.

Prof. Olson asked if non-lawyers could still be on the board and issue of having or maintaining an IOLTA account if not a practicing attorney. Justice Tuck asked if judges could be on the board, stating historically because of fundraising functions, this would not be likely.

Arkansas State Advisory Committee to the U.S. Commission on Civil Rights

Prof. Goldner stated that he has been invited to the State Advisory Committee to the U.S. Commission on Civil Rights to be held in Little Rock September 12-13, 2012. The Arkansas State Advisory Committee will hold a public fact-finding meeting to receive information on and revisit whether or not there is a need for a state civil rights agency. The Arkansas State Advisory Committee published a report in February 2001 concerning this question, with the Committee's report revealing that the Arkansas Civil Rights Act of 1993 was not substantially equivalent with federal civil rights laws, rules and regulations and remains so today. Arkansas is one of only a few states without a comprehensive state civil rights agency to receive citizen complaints and safeguard individuals from discrimination. The Committee will receive reports, suggestions and recommendations from local, state and federal agencies, elected officials, business leaders, legal experts, representatives of community and civil rights agencies knowledgeable about and interested in this matter, with a summary report of findings and recommendations to be developed based on the information received.

Prof. Goldner added that his colleague Prof. Ranko Shiraki Oliver is on State Advisory Committee.

Because of what the Commission does and how it ties into protecting civil rights, Prof. Goldner stated he was asked to attend, and asked if any other Commissioners would be interested in contributing or if suggestions could be made to this issue. Judge Switzer stated that Arkansas law does not address age discrimination. Mr. Morris mentioned same-sex partnership issues within the state.

Justice Tuck asked if any old or new business, and with none raised, she requested members consult their calendars in order to set the next meeting. Friday, November 16, 2012 was tentatively concluded to be the best date for the next meeting.

Adjourn

Justice Tuck asked for motion to adjourn. Prof. Goldner moved and Ms. Frazier seconded. The meeting was adjourned at 2:24 p.m.