



ARKANSAS
ACCESS TO
JUSTICE
REPRESENTING HOPE

Arkansas Access to Justice Commission Meeting

Arkansas Bar Center
2224 Cottondale Lane
Little Rock, AR 72202
July 26, 2013
12:00 p.m.

Commissioners Present

Rose Adams
Jean Carter
Prof. D'lorah Hughes (phone)
Judge Leon Jamison

Prof. Kelly Olson
Lee Richardson
Justice Annabelle Tuck
Rep. John Vines

Bill Waddell
Andrea Walker
Danyelle Walker

Staff Present

Amy Johnson
Erin Jacobson
Kim Marshall

Minutes

Welcome and Introductions

Justice Tuck called to order at 12:20 p.m. and asked all members to introduce themselves.

Approval of Minutes from April 27, 2013 Joint Board Meeting

Ms. Adams moved to approve the minutes from the April 27, 2013, Joint Board Conference. Judge Jamison seconded the motion. All members approved the motion, and it passed unanimously.

New Business

State Justice Institute Study on Self-Represented Litigants

Justice Tuck reported that the State Justice Institute-funded project undertaken by the Commission in recent months to study the needs of self-represented litigants had concluded. The consultant engaged to prepare a project report—John Greacen—has completed a draft which is now being submitted for review, discussion and approval. Justice Tuck briefly described the process undertaken for the study, which included a series of visits to five different counties around Arkansas, where Mr. Greacen met with judges, court staff, family law attorneys, self-represented litigants, and others about the issues related to self-representation in civil cases. Mr. Greacen's report focused on the current level of support for pro se individuals in Arkansas and assessed the current gaps in servicing this population.

The report's key recommendations include the following:

- Adoption by the Arkansas Supreme Court of policies clarifying the extent to which judges and clerks of court can provide legal information and courtroom assistance to self-represented litigants.
- Establishing the Supreme Court Library as a statewide self-help center for Arkansans – accessible by phone, Internet, or face-to-face assistance for the provision of legal information.
- Where possible, establishing full or part-time courthouse self-help services staffed by court staff, legal services staff, *pro bono* attorneys, or volunteer paralegals.
- Expanding the legal forms available on line for the most common civil legal matters and ensuring that they remain current.
- Encouraging private lawyers to provide limited scope legal representation for persons representing themselves so that they have access to legal advice concerning their cases, review by a lawyer of a document they have drafted, or assistance with a particular court appearance or process.
- Linking self-represented persons seeking limited scope legal representation with lawyers willing to provide that form of assistance.
- Focusing legal services resources on the gaps in this plan – assisting persons of limited means who are unable to pursue their own cases because of the complexity of their case or special challenges they face, providing limited scope legal representation to persons who cannot afford to pay a private lawyer for limited legal advice, and litigating cases when needed to ensure that courts are according self-represented litigants the services to which they are entitled.

A discussion among Commission members followed presentation of the report. Justice Tuck talked about the growing unwillingness of litigants to “open their pocketbooks” to attorneys and the desire to have a menu of options. Prof. Olson spoke about the need to clearly define the role of attorneys who undertake limited scope representation so they feel more confident about their role in aiding clients on a limited basis.

Justice Tuck also mentioned the plan’s inclusion of a possible law school incubator project that could offer training on the limited scope-representation model, which would open up a new market of client to recent law graduates who currently are unemployed or underemployed. Ideally, the incubator would be a nonprofit entity affiliated with both of the state’s law schools. Participants would be expected to make a two-year commitment, agree to charge lower fees, and gear services primarily toward the working poor. Participants would then learn how to run a law practice and be “practice ready” upon completion of the program.

Prof. Olson mentioned that the University of Arkansas Bowen School of Law is hosting a reception for the school’s new dean, Michael Schwartz, on August 22. He is an advocate of practice-ready graduates and wants to make sure they receive the training they need to run a law practice.

Prof. Hughes stated that she is unsure where Dean Leeds stands on incubator projects, but would like to be included in discussions about development of an incubator. Ms. Johnson will send Prof. Hughes materials that she has gathered regarding other incubator projects around the county. Prof. Olson suggested setting up a meeting with Dean Leeds and Dean Schwartz the next time they are in Fayetteville.

Ms. Johnson emphasized the report’s call for sustainable support for the self-help resources that the Arkansas Legal Services Partnership, through Vince Morris and Kim Marshall, have made available online to self-represented litigants and indicated that support for their work from non-LSC sources is essential. From a sustainability standpoint, it has also become evident that expansion of legal aid and increased pro bono involvement—while critically important—cannot

possibly scale to meet the full need. Limited scope representation is a private market solution that offers a real possibility for meeting the need and keeping attorneys relevant in a LegalZoom world. This model will also be attractive to pro bono attorneys, who increasingly desire more limited-scope pro bono opportunities. Ms. Johnson added that this aspect of the plan will likely generate opposition from attorneys who feel like this delivery model will compete with their established practice model. Prof. Olson added that unbundling of legal services might make the amount of money an attorney makes with each client less, but the volume and connections will be more. Rep. Vines urged undertaking a significant “PR” effort to educate attorneys about the concept.

Judge Jamison asked how the report’s recommendations should be dealt with in light of the Commission’s previous discussion and recommendation with regard to revision of Rule 2.2 of the Arkansas Code of Judicial Conduct. Prof. Olson stated that the proposed revision should be among the recommendations that the Commission ultimately makes to the Arkansas Supreme Court for action in response to the Greacen report.

Judge Jamison mentioned that the report’s call for greater clarity on the issue of pro se guardianship and estate filings, which one circuit court is not accepting for filing. He suggested that perhaps this issue can be reviewed by the Unauthorized Practice of Law Committee or dealt with in an administrative order.

Mr. Waddell asked for clarification on the recommendation regarding alignment of legal services priorities with this strategic plan, particularly as it related to the litigation strategy piece. He expressed the need for a broader strategy that is not limited to legal services, but that includes other providers and pro bono attorneys. Ms. Johnson offered to circulate revised language to this effect to the full Commission via email for final approval.¹

Mr. Waddell then moved to adopt the report as amended. Ms. Walker seconded the motion. All members approved the motion.

ABA Innovation Grant

Ms. Johnson reported that the Commission has been awarded a \$15,000 American Bar Association Innovation Grant for the development of an automated pro se document assembly form for development of an Arkansas Uncontested Divorce with Children packet, as well as the completion of a series of pilot clinics where attorneys will provide limited scope representation to pro se litigants in preparing uncontested divorce filings using the document assembly form. The goal of the project is to introduce the concept of limited scope representation among members of the private bar and garner support for the Commission’s efforts to expand use of the model statewide. The Commission is the lead partner, with the Arkansas Access to Justice Foundation serving as the fiscal agent.

¹ The language on p. 33 of the report regarding litigation strategy was revised as indicated below and circulated to the full Commission on July 26, 2013 for approval. Affirmative votes were received from Ms. Adams, Judge Jamison, Justice Tuck, and Mr. Waddell with ex officio members Ms. Carter and Prof. Hughes also expressing agreement.

- Developing and pursuing a litigation strategy in association with pro bono attorneys and other legal advocacy organizations to ensure that courts and court personnel throughout Arkansas are providing the services to self-represented litigants to which they are entitled under principles of due process of law and Arkansas guidelines and that the current disparity in case outcomes between represented and unrepresented litigants disappears.

SJI Project Grant

Ms. Johnson indicated that as the Commission looks to implement the recommendations from the Greacen report, it will also need to identify sources of financial support from outside legal aid. The report urged looking to the Arkansas Supreme Court Library as a key partner in sustaining and updating the online resources developed by ALSP. Ms. Johnson suggested that the Commission consider applying for Project Grant funds from SJI. As with the study on self-represented litigants, the Arkansas Access to Justice Foundation would need to serve as the fiscal agent. The grant would also require a 50% cash match, which could be matched by other partners, including the Supreme Court Library. Ms. Carter suggested that such a grant could be used to leverage other resources, such as grant funds from foundations like the Winthrop Rockefeller Foundation.

Mr. Waddell moved to authorize application for an SJI Project Grant. Ms. Adams seconded the motion, and it was unanimously approved.

Annual Financial Disclosure Statements

Ms. Johnson reported that the July 1, 2013 transition of Commission employees to state employee status may change the applicability of state financial disclosure requirements, which previously did not apply to Commissioners. Even though the Commission is not charged by statute with regulatory authority and is not given the authority to receive or disburse state or federal funds, Commission funds now technically go through a legislative appropriation process. Ms. Johnson spoke with Graham Sloan at the Arkansas Ethics Commission, who would not say definitively that commissioners are NOT required to file, but stated that it is generally a good idea to err on the side of disclosure. The forms are included in the current meeting packet and can be found on the Arkansas Ethics Commission website.

Project Reports

Mortgage Settlement Housing Project

Mr. Richardson offered an update on the national mortgage settlement-funded housing project implementation at Legal Aid of Arkansas. He reported that a total of about 240 cases have been closed so far, with 120 of those happening in the last two months. Joint training meetings between LAA and the Center for Arkansas Legal Services staff will start soon. LAA's workgroup is up and running now, and the program is looking both at individual and systemic issues.

Ms. Carter added that staff training has been underway, including CLEs, a national conference related to the mortgage settlement, and webinars from the FTC and Consumer Protection Bureau. Staff have been using the Hope Loan Portal to help foreclosure clients identify options available to them. She reported that there continue to be complaints about lenders engaging in practices prohibited by the settlement. CALS has opened 580 new cases, closed about 340, and currently has about 167 cases pending.

Medical-Legal Partnerships

Mr. Richardson gave a brief update on LAA's medical-legal partnerships. He indicated that they are increasing services. LAA recently signed a Memorandum of Understanding with the Veterans Center up in Northwest Arkansas, which is currently serving as more of an intake center than a fully functioning MLP.

Town Hall Meetings

Ms. Johnson offered an update on plans for regional town hall meetings. With term limits at the state level and an almost complete turnover in our federal delegation since the 2006 town hall meetings, this outreach effort is needed. Staff have met with former ALSP Director Ron Lanoue, who was responsible for organizing the 2006 series of meetings. He has developed and shared with Commission staff a blueprint for planning purposes; a copy of the blueprint was included in the meeting packet. Staff will need help from Commissioners to reach out to leaders in each of the four congressional districts.

Rep. Vines mentioned that the Commission should consider giving a presentation at a meeting of the Joint Judiciary Committee. State legislators need to know about legal services and constituents who are affected when these programs have to scale back services when funds are cut.

Resource Development

Ms. Johnson reported that work is underway to recruit representatives from each legal aid board to serve on a Task Force to oversee implementation of the resource development plan presented at the April meeting. This group will include a representative from VOCALS and will oversee transition of that campaign to part of a broader statewide effort. The Task Force will also begin recruiting an advisory committee of corporate counsel to assist in developing an approach to corporate prospects.

National Pro Bono Week

Ms. Johnson reported that the Pro Bono Week planning group recently had a conference call to begin planning for National Pro Bono Week, which will be October 20-26, 2013. Plans are underway for an Arkansas Children's Hospital MLP and/or a veterans-oriented pro bono event. Each legal aid office will be hosting an open house, and "Just Jeans" casual Friday will be part of the week's offerings.

Clinton School Economic Benefit Study Practicum

The Arkansas Access to Justice Commission has been approved as a Clinton School of Public Service Practicum Project site for the 2013-14 year. The practicum team will conduct a study of the economic benefit of civil legal services. The goal will be to utilize the report's findings to show funders and policymakers how funding civil legal aid is a good investment. The team will begin work in August and will rely on CALS and LAA for much of the required data. A number of other states have conducted similar studies, so the team will have existing models that they may be able to replicate.

Executive Director's Report

Ms. Johnson began her report by referring Commissioners to the written materials provided in the meeting packet, including a hard copy of the recent Justice Report e-newsletter that Commission staff sent out on July 16. She commended the national updates from the ABA Resource Center for Access to Justice Initiatives to Commissioners as a good source of information about what other state justice communities are doing.

Ms. Johnson next reported attending the 2013 Equal Justice Conference, where she participated in several sessions of interest, including a roundtable discussion on law school incubator projects, a presentation on resource development, and a session on limited scope representation. Complete notes from the meeting are included in the meeting packet.

Commissioners and Commission staff have engaged in a number of recent outreach and education activities, including participation in the Arkansas Bar Association Annual Meeting, a report to the House of Delegates, a presentation to participants in the University of Arkansas PLUS Program, and a presentation to the Pope County Bar Association.

The Arkansas Supreme Court is currently on recess, meaning there will likely be a ruling on the petition to merge the Arkansas IOLTA Foundation and Arkansas Access to Justice Foundation shortly after the Court's return in September.

Ms. Johnson closed her presentation by giving a brief demonstration of an online portal that she has developed for Commissioners to access various Commission resources, including meeting minutes, meeting packets, powerpoint presentations, and project materials.

Meetings for 2014

Justice Tuck reminded Commissioners that the next meeting would be on October 25, 2013. She asked Commissioners to check their calendars for 2014 and to tentatively plan for meetings on January 24, April 25, July 25, and October 24, 2014. Any conflicts should be reported at the October meeting so that dates can either be changed or finalized. Ms. Johnson indicated that she would like to plan for the January meeting to include an orientation session for newer Commissioners.

There being no other business, the meeting adjourned at 2:19 p.m.