



ARKANSAS
ACCESS TO
JUSTICE
REPRESENTING HOPE

Arkansas Access to Justice Commission Meeting

Arkansas State University
Reng Student Union
Cache River Room
Jonesboro, Arkansas

July 25, 2014

Attending Members:

Rose Adams (phone)
Jean Carter
Nate Coulter (phone)
Prof. Chuck Goldner
Judge Vic Harper
Samantha Leflar (phone)

Prof. Kelly Olson (phone)
Kerri Sernel (phone)
Justice Annabelle Tuck, *Chair*
Andrea Walker
Danyelle Walker (phone)

Absent Members:

Judge Robin Green
Rod Nagel
Lee Richardson
Sen. Robert Thompson

Rep. John Vines
Bill Waddell, *Vice Chair*

Staff:

Amy Johnson
Erin Jacobson
Kim Marshall

Guests:

Cory Crawford, Legal Aid of Arkansas
Kevin DeLiban, Legal Aid of Arkansas
Sunshine Krump, Jonesboro Sun
Karama Neal, Southern Bancorp
Brian Ratcliff, Arkansas Bar Association

MEETING MINUTES

Welcome & Introductions

Justice Tuck opened the meeting at 12:06 p.m. She introduced those present. Individuals participating by phone each introduced themselves.

New Business

Approval of Minutes from April 25, 2014 Commission Meeting

Justice Tuck called for corrections or amendments to the meeting minutes. Mr. Coulter moved to approve the minutes and Ms. D. Jones seconded the motion. All approved unanimously.

Pending Commissioner Appointments

Justice Tuck reported that Prof. D'lorah Hughes and Judge Leon Jamison recently resigned from the Commission; Prof. Hughes has accepted a position at Wayne State University in Michigan, and Judge Jamison has had health issues. Requests have been made to Dean Leeds and to the Arkansas Supreme Court for appointments to fill these vacancies.

Justice Tuck also noted significant changes happening this fall: Mr. Coulter, Justice Tuck, Danyelle Walker, and Mr. Waddell will all complete their final terms on the Commission, but all plan to remain involved in committee work. Three of these appointments will need to be made by Arkansas Bar Association President Brian Ratcliff. Sen. Thompson will be rotating off the Commission as well, and the new Senate President Pro Tem will likely make a new appointment in January 2015. Finally, Arkansas Supreme Court Justice-Elect Robin Wynne has agreed to serve as the Supreme Court liaison once he assumes his new position on the Court.

Collaboration Opportunities with Southern Bancorp

Ms. Karama Neal, Director of Southern Bancorp Community Partners, reported on opportunities that she, Mr. Waddell, and Southern Bancorp CEO Darrin Williams, have identified for collaboration between Southern Bancorp and Access to Justice. Southern Bancorp Community Partners is a community development institution whose primary goal is helping low-income families in the Arkansas and Mississippi Delta regions attain economic mobility, she said. She believes that we share common goals and strive to serve similar communities. She reported on the successful Super Saturday VITA event in February where volunteer attorneys prepared basic estate planning documents at the Helena bank branch. Southern Bancorp runs a VITA tax clinic during tax season and puts on community financial education classes; both would be excellent venues for holding legal clinics and disseminating legal information. Ms. Neal also reported that Southern Bancorp is providing sponsorship for these clinics by providing “Important Document” envelopes for these events so that clients have a place to keep their legal documents. She mentioned, too, that Southern Bancorp Community Partners has grant writers who help with grant application preparation for organizations with similar goals. Finally, Ms. Neal indicated that the bank’s presence in Mississippi might offer opportunities for collaboration with our Mississippi access-to-justice counterpart, and that we should think about how we might leverage relationships with our colleagues in Mississippi.

Ms. Neal added that she has been working individually on an initiative to seek passage of the Uniform Heir Property Act. This Act would facilitate clearing title to land that gets passed down to multiple heirs. While she is not doing this in her capacity as Director of Southern Bancorp Community Partners, it is an effort that her employer supports as consistent with its mission. The Arkansas Bar Association has approved inclusion of the Uniform Act in its 2015 legislative package, and she appreciates any support that the Commission can offer.

Partner Organization Reports

Arkansas Bar Association

Arkansas Bar Association President Mr. Ratcliff extended greetings on behalf of the Arkansas Bar Association, stating that the Association fully supports the Commission’s work and considers it a “sister” or “cousin” organization. He indicated that his primary reason for giving his report was to convey concerns that the Arkansas Supreme Court relayed to him, Association Executive Director Karen Hutchins, and Commission Executive Director Amy Johnson at a meeting with the full Court in May. The Court had called the meeting to express concerns specifically about the legal forms on the Arkansas Legal Services website. There were two primary issues: one was that having the Commission’s name on the forms suggested that the forms had been approved by the Court, and the other was that Arkansans who can afford to pay for legal services are bypassing attorneys by using these forms.

Mr. Ratcliff expressed worry over the Court’s feelings on these issues, as the Commission was created by the Court. He strongly urged the Commission to redouble its efforts to educate the bench and bar about pro se resources and the importance of having them available. The Commission also needs a voice on the Court. Finally, he encouraged the Commission to consider taking its name off the forms or taking some action to make it clear that the forms are not endorsed by the Supreme Court.

Prof. Goldner stated that this should reinforce to the Commission that the education process needs to be a constant one and should be important at all levels, from individual attorneys to legislators to the Arkansas Supreme Court. He noted that there has been nearly a complete turnover in the Court’s composition since the Commission was created in 2003, and that the Court had, at one time, been supportive of this and other efforts geared toward assisting the trial bench in dealing with pro se litigants. He wondered whether the concern was that the forms are viewed by the public as official forms of the Court, which they are not.

Justice Tuck called on Ms. Carter to provide her input, as the forms were created by the Arkansas Legal Services Partnership, are on the statewide legal aid website, and legal aid staff are ultimately responsible for their upkeep. Ms. Carter noted that the forms used to be branded with just ALSP's name, but that this changed after Judge Spears and the Court Assistance Committee worked to broaden awareness and use of the forms by courts around the state. She agreed that the Commission has lost the voice it once had on the Court through Justice Tuck and others who were there to approve the Commission's creation. She noted that other states have strong judicial leadership for access to justice at both the trial court and appellate levels, with many of those states having moved to court-authorized statewide forms—Montana, Idaho, and Arizona, for example. We are at a disadvantage in Arkansas because judges are elected, which creates more turnover and sensitivity to political considerations.

Ms. A. Walker agreed that it does not seem to be an issue that the forms have been created, just that they are not official court forms.

Ms. Johnson noted that there are already a number of official court forms, including a Court-promulgated *in forma pauperis* form that tracks the ALSP form on the statewide legal aid website word-for-word. She expressed her perception was that the Court is primarily concerned about being identified as the entity that provides the forms. Having the Commission's name on these forms at one time served as a firewall for legal aid; now, the Commission can now serve as a firewall for the Court by being identified as the endorsing body, rather than the Court itself. Ms. Johnson added that she has had conversations with members of the Court and Administrative Office of the Courts since the meeting with the full Court and believes that the concerns can be addressed by doing a better job of engaging and educating the Court on the Commission's work. We have already taken a substantial step in that direction by seeking Justice-Elect Wynne's appointment as the Court's liaison to the Commission. She concluded by noting that even though these forms are not officially means-tested, the back-end programming "exits out" users who have any financial resources or property. If users who can afford attorneys are going to these forms instead of attorneys, they have to deliberately answer the interview questions incorrectly.

Commissioners discussed whether a disclaimer could be added to the cover sheet of the pro se form packets to indicate that they are not approved by the Supreme Court. After some discussion, Commissioners agreed that the existing disclaimer language should be modified as follows: (1) the second paragraph of the current disclaimer, which begins with "The Arkansas Access to Justice Commission was created in 2003 . . ." should be moved up above the word "Disclaimer" since it was informational in nature. (2) New language should be inserted that states: "This resource has not been endorsed by the Arkansas Supreme Court." The Arkansas Access to Justice name and information should stay on the cover sheet and continue to identify the Commission as a partner.

Mr. Ratcliff stated that he believed that removing the Commission's name altogether would be the best fix, but agreed adding the disclaimer would be helpful. He meets with the Court on a quarterly basis and can report back that he took the Court's concerns to the Commission and that their concerns were heard.

Mr. Ratcliff remarked on a related issue, namely that the header that appears on the pleadings creates an issue for pleadings filed in Union County, which requires a larger margin at the top of the document. Ms. Marshall reported that all form pleading headers are being changed to footers so that they don't overlap with e-filing headers. The headers currently read: "Arkansas Access to Justice Commission | Arkansas Legal Services Partnership." A discussion followed about whether having the Commission's name on the pleadings could be viewed as Supreme Court endorsement and whether the header/footer should just bear the "Arkansas Legal Services Partnership" name as the creator of the documents.

Ms. Marshall indicated that the forms have been branded with the ALSP and Commission names as a way to allow courts to have a person to call if there are issues with the forms and to prevent them from being misappropriated by people who might try to sell them for a profit. She agreed that changes could be made to incorporate the changes that the Commission wants, but that it would take some time.

Justice Tuck entertained a motion for action on items discussed. She clarified that she thought there were two separate issues: modification of the resource packet cover sheet, and possible modification of the pleading header/footer. Prof. Goldner moved as follows with regard to the resource packet cover sheet: (1) the second paragraph of the current disclaimer, which begins with "The Arkansas Access to Justice Commission was created in 2003 . . ." should be moved up above the word "Disclaimer"; and (2) new language should be inserted into the current disclaimer that states: "This

resource has not been endorsed by the Arkansas Supreme Court.” The Arkansas Access to Justice name and information should stay on the cover sheet. Mr. Coulter seconded the motion, and it was unanimously approved.

Justice Tuck next asked what the Commission’s wish was with regard to the pleading headers/footers. Prof. Goldner made motion to remove Commission’s name from the document footers, and that this would only apply to pro se forms (vs. advocate resources). Judge Harper seconded the motion.

Ms. Johnson noted that there are two pro se automated resources that originated with the Commission and were created at its direction: (1) the automated order of protection, which was created using a Supreme Court-approved statewide form, and (2) the automated guardianship of a minor, which was created with direct Commission staff involvement in response to a 2009 state senate resolution and interim study dealing with non-parental caregivers of minor children.

Ms. A. Walker moved to amend Prof. Goldner’s motion to exclude the order of protection and minor guardianship packets so that the Commission name would stay on the form pleadings. Prof. Goldner accepted the motion as a friendly amendment, and Judge Harper seconded Ms. A. Walker’s motion. The motion was unanimously approved.

Ms. Carter remarked that the Arkansas Bar Association has allowed ALSP and the Commission to give CLE presentations on the pro se resources, and that she hopes the Association will continue to support this aspect of the education process. She reinforced that legal aid programs and Commission are not trying to take paying clients away from lawyers with the forms.

Mr. Ratcliff thanked the Commission for considering this issue and concluded his report.

ATJ Foundation

Ms. Johnson gave the report in Mr. Waddell’s absence. The Foundation last met in June, when it approved the audited financials and 990 forms for the pre-merger IOLTA and Access to Justice Foundation Boards. IOLTA ended year with about \$100,000 in IOLTA revenues, which is the lowest the program has ever made, even when participation was voluntary.

The primary action item to come out of the Foundation’s most recent meeting was a call to move forward on the engagement of a resource development person to organize and lead our fundraising campaign. The Foundation has created and posted a contract position description. A position description (along with minutes from the Foundation meeting and Resource Development Task Force meeting) was included in the Commission meeting packet. Ms. A. Walker remarked that Mr. Richardson had just reported to her from the MIE fundraising conference that he was attending that LAA and CALS may be the only programs nationwide that do not have a development person.

Ms. Johnson indicated that the Foundation opted to move quickly in getting someone engaged to help with this campaign because we need to be able to deliver on our commitment to make the joint fundraising effort a success. She added that the person who is engaged will need a small “steering committee” with one representative from each stakeholder board, and that the Commission should designate a Commissioner to serve in that role. Nate Coulter agreed to serve as the Commission representative on the statewide steering committee.

ALSP

Ms. Marshall gave the ALSP report. She reported that they have been working, with the help of interns, on updating self-help resources, including those geared toward veterans and active-duty military.

She indicated that ALSP got great feedback from the legal community at the Annual Bar Meeting, especially from judges. They received some suggested changes to the divorce form, including instructions for witness testimony.

She and Mr. Vince Morris are working on Technology Initiative Grant projects, including an online intake system. LAA has moved to the Legal Server case management system and has begun to incorporate online intake into its case management. The website landing page for online intake has received a few hundred hits according to Google Analytics; not sure about number of actual intakes. CALS is currently in the process of updating to the newest version of Kemps and will be starting to incorporate online intake as well.

The TIG letters of intent were approved and full grant applications submitted for two projects: (1) Mobile Responsive Website: this project will provide for ALSP to make its website content responsive for mobile users. Available data show that more people are using mobile devices, and lower-income populations tend to use mobile devices for internet access. (2) “Smart Facts” content personalization, which will steer site users to content based on their keyword searches and geographic location.

Ms. Johnson reported that ALSP also helped develop an application to LSC’s new Pro Bono Innovation program. The program was created to encourage innovation in pro bono attorney service delivery (especially in rural areas), given the scarcity of staff and resources for legal aid. The proposed project will provide for assessment of the pro bono assignment processes in each office, gauge best practices, and work for process improvement. Other aims include replication of innovative projects, like the pro-bono-in-a-box events, and creation of pro bono “toolkits.” We should hear whether the Arkansas application was approved in September.

CALS

Ms. Carter gave a report on behalf of the Center for Arkansas Legal Services. CALS will be celebrating its 50th birthday in 2015. The organization’s efforts to educate the bench, bar, and public, are constant.

Last year, CALS staff interviewed more than 7,000 applicants about legal problems; the number of calls fielded far exceeds that number. CALS assisted a total of 5,200 clients and closed out 2,000 cases, with 1,700 remaining open as of year end. CALS has participated in several successful outreach events, including a First Responders pro bono event at the Arkansas Bar Center in April. Ms. Carter also reported having just launched a veterans’ legal clinic at day treatment center. CALS will be working with the Pulaski County Bar Association to recruit more volunteers.

Ms. Carter reported that the program funded through the Attorney General Settlement Funds is expanding its work in the areas of housing foreclosure, eviction defense, and consumer problems. CALS has just hired Joycelyn Bell as the new bankruptcy attorney helping clients in this program.

She concluded her report by expressing gratitude for the Commission’s collaborative support.

LAA

Ms. A. Walker gave a report on behalf of Legal Aid of Arkansas. She noted that information about the LSC funding outlook was included in packet. Legal Services Corporation will be celebrating its 40th anniversary in September. Mr. Lee Richardson and LAA board chair Niki Cung will be attending.

She reported that planning is underway for the annual statewide legal aid staff conference in October. Mr. Morris and Ms. Marshall are currently developing the program. It will be held this year at Lake DeGray.

Ms. A. Walker reported that LAA has closed 3,000 cases so far this year—a 10% decrease from last year. This is likely due to LAA’s shift in priorities toward more in-depth litigation. LAA has recently changed case management systems to a web-based program with document storage.

LAA is not renewing its AmeriCorps attorney program, which is creating some issues with sustainability of existing efforts, including the courthouse help desks in Benton and Washington Counties. They are exploring the possibility of recruiting volunteer attorneys to help fill in. Equal Justice Works attorneys will be working on providing legal services to persons reentering society from prison to help prevent recidivism. One will serve in Delta area and the other in the Ozark area.

LAA was one of seven applicants nationally (out of 96) to receive an ABA Catalyst Grant. This grant will help provide for two attorney positions, which will be filled by recent graduates. Those attorneys will be expected to assist in the development of a low bono/modest means program.

Committee, Task Force, and Project Report

Governance Recommendations - Appointment of Task Force on Operating Rules

Justice Tuck reported that an ad hoc committee of the Commission has begun looking at developing a formalized governance framework for the Commission, which currently only has the per curiam order that created it. The ad hoc committee reviewed the proposed structure briefly discussed at the last Commissions meeting, which would include two standing committees and several task forces. The ad hoc committee recommended that a Task Force be appointed to develop a set of operating rules, as well as a succession plan.

Ms. Johnson reported having started a draft outline that incorporates the basics from the per curiam order, but that fleshes out things that the order doesn't address, such as what constitutes a quorum and what the Commission's role is with regard to the Commission budget approved by the Arkansas Supreme Court. She stated that the task force work would be discrete, and that a draft set of proposed operating rules could be developed in a matter of months.

Ms. Adams, Prof. Goldner, Judge Harper, and Justice Tuck agreed to serve on the Task Force.

Resource Development Task Force - Appointment of Statewide Campaign Committee Member

Minutes from last meeting in packet; large task force. Have merged the donor database. Advertising for the RD contract person. Moved on to appointee from the Commission for this TF as well. Will have representatives from CALS, VOCALS, LAA, ATJF and ATJC. Steering committee of five to work with consultant.

Ms. Johnson added that this will be a sizeable commitment and will be needed this fall. The RD contactor will work 20 hours per week, setting up meetings, preparing materials.

Mr. Coulter volunteered to stay on the RD TF and additionally agreed to be the steering committee representative of the Commission.

Self-Represented Litigant Task Force

Mr. Goldner reported on behalf of the Self-Represented Litigant Task Force. He stated that the task force structure has allowed this group to be more productive than a traditional committee structure. The Task Force's Committee on Policies and Training has been the most active since the last meeting; they are working on draft revisions to Rule 2.2 of the Judicial Code of Conduct. Members of the Committee on Library and Court-Based Self-Help Centers will be involved in giving a presentation at the Arkansas Library Association's annual meeting. The Committee on Limited Scope Representation is currently working on a limited scope representation attorney toolkit.

Ms. Johnson added that work is continuing on the development of a pilot limited scope program for people with children who are seeking a divorce. Attorneys will get paid, will have the benefit of a "how to" toolkit. An online divorce form for uncontested divorces with children is under development and should soon be completed; it will be incorporated into the pilot program through a clinic staffed by attorneys who sign on.

Rural Access Project/Law School Incubator

Ms. Johnson reported that she has been working with Justice Tuck, Dean Stacy Leeds, Dean Mike Schwartz, and Cliff McKinney on developing a proposal to submit to the Joint Judiciary Committee of the legislature. The proposal was being developed in response to the Committee's invitation to submit a proposal for addressing rural access issues, including a possible funding proposal. The working draft includes four components: (1) a loan repayment assistance program; (2) a rural judicial clerkship program; (3) a legal aid rural fellowship program; and (4) a distance incubator for recent law graduates interested in setting up practices in rural areas of the state. Ms. Johnson indicated that the proposal would also request general legal aid funding to support operations in rural counties.

Medical-Legal Partnerships

Mr. De Liban gave a report on LAA's behalf regarding its medical-legal partnerships. He mentioned that the model has existed in Arkansas for about three years and has included Arkansas Children's Hospital, rural community clinics, and veterans clinics. The program has resulted in great partnerships, especially with people who are more familiar with the clients in their community.

So far, the ACH MLP has assisted about 700 people in such matters as guardianships, disability issues, special education, and Medicaid. Financial sustainability is a struggle. The ACH MLP has received some funding from Walmart, but ACH has only given in-kind support so far.

A veterans' clinic MLP opened in northwest Arkansas through an AmeriCorps grant. Even though that source of funding is gone, this program should be sustainable with regular staffing resources.

There are three MLPs in the Delta: Lee County Cooperative Clinic, Mid-Delta Health Systems in Clarendon, and Mid-South Health Systems in West Memphis. The Friday Firm has adopted the Clarendon and Lee County clinics, and periodically sends pro bono attorneys to volunteer. In May, they held a wills clinic in conjunction with a health fair. Six pro bono attorneys participated. They prepared a total of about 60 documents for about 20-25 people.

Mr. De Liban added that Mr. Waddell, Mr. Light and the Friday Firm recently attended a NLDA award ceremony, where the firm was honored with the Beacon of Justice Award. While there, Mr. Waddell and Mr. Light met Justices Stevens and Ginsburg. They also met with Sen. Mark Pryor and Sen. Boozman's chief legislative aide. One takeaway was that we should be meeting with chief legislative staff and elected officials every year. It is not lobbying to educate legislators and staff about the work of legal aid. One avenue to legislative staff is through their constituent services staff members. Ms. Johnson encouraged Commissioners to help set up meetings with the congressional delegation folks.

Executive Director's Report

Ms. Johnson noted several upcoming dates the commissioners should keep in mind, including the LSC 40th Anniversary Celebration in September. The Commission will meet again in October and likely host a reception on the economic benefit study and conduct a pro bono service event. Pro Bono Week will be October 19-25, 2014—Ms. Johnson encouraged Commissioners to consider volunteering to help with planning efforts. In February, the Bowen Law School will be hosting a reception on access to justice.

Ms. Johnson urged commissioners to review the Voices for Civil Justice communications hub and to consider how we might incorporate some of its resources into Arkansas messaging. Ms. Sernel agreed to assist with this effort.

Ms. Johnson noted that efforts are underway to quantify self-reported pro bono data for 2011 through 2013. This data is part of what we can use to make the case for increased funding for legal aid.

The Commission's annual budget has been approved by the Supreme Court. In the past, her practice has been to prepare and submit the budget for the Court's review and approval without input from the Commission. Ms. Johnson will be doing more to involve the Commission in reviewing and providing input in this process.

Finally, Ms. Johnson reported that she is working to set up a meeting with Attorney General McDaniel and his staff to provide a status update on the Housing Settlement program.

Old Business

Committee and Task Force Appointments

Justice Tuck mentioned that descriptions of committees will be developed by the Task Force on Operating Rules and circulated; commissioners need to be thinking about where they want to serve.

Future Meetings

October 3, 2014, 11:30 a.m., Northwest Arkansas, location TBA
January 9, 2015 or meeting conjunction with February 6, 2015 Symposium on February 5 or 7
April 24, 2015, 11:30 a.m., Clarendon, Arkansas – Clarendon Community Room
July 24, 2015, 11:30 a.m., location TBA
October 30, 2015, 11:30 a.m., location TBA

Open Discussion

There were no remaining items to be discussed.

Adjourn

Justice Tuck asked for motion to adjourn the meeting. Prof. Goldner moved and Ms. Adams seconded. The meeting adjourned at 2:50 p.m.