

# CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105 – (415) 538-2352 – (415) 538-2524/fax

## Summary of the February 11, 2016 Access to Justice Commission Planning Meeting *Held at the San Francisco Office of the State Bar*

### **In Person Attendees**

#### **Commissioners, Ex Officio, Liaisons & Guests**

#### **State Bar Staff<sup>1</sup>**

Hilarie Atkisson	Judge Mark Juhas, Chair	Louisa Ayrapetyan	Kathan Lambert
Hon. Steven Austin	Lorin Kline	Luis Azucena	Elizabeth Lee
Marcia Bell	Judge Victoria Kolakowski	Richard Carlton	Robert Lee
Catherine Blakemore, Vice-Chair	Michael Levy	Stephanie Choy	Rodney Low
Tiela Chalmers	Justice Goodwin Liu	Ken Coffelt	Steve Mazer
Paul Cohen	Paul Marks	Michael Dayao	Terrie Mesa
Salena Copeland	James Meeker	Dina DiLoreto	Sharon Ngim
Judge Ricardo Cordova	Deborah Moss-West	Omar Easley	Doan Nguyen
Meera Deo	Anne Marie Murphy	Elena Enzweiler	Daniel Passamaneck
Erika Frank	Lisa Pruitt	Kelli Evans	Regina Pettus
Carin Fujisaki	Justice Ron Robie	Francisco Gomez	Saréya Shorter
Amos Hartston	Toby Rothschild	Sharie Goree	Kim Warmesley
Janis Hirohama	Eric Wright	Teri Greenman	Tiffany Woon
Bonnie Hough	Keith Wurster	Doug Hull	
Lisa Jaskol	Hon. Erica Yew	Gerry Jagodzinski	
Hon. Martin Jenkins	Justice Laurie Zelon		
Justice Earl Johnson, Jr.			

### **Opening Remarks from Judge Juhas**

Judge Juhas welcomed Commissioners, State Bar staff and guests to the Commission's Planning Meeting. He briefly previewed the agenda for the day and then introduced special guest, Tiela Chalmers, CEO of the Alameda County Bar Association to the Commission.

### **Poverty Simulation Exercise, Facilitated by Tiela Chalmers**

Tiela Chalmers facilitated this session, which opened by introducing the Poverty Simulation Exercise. The purpose of the exercise is to help participants better understand the day-to-day realities faced by families living in poverty. For the next 2.5 hours participants role-played a month's worth of experiences of a person living on a low income, with one goal: to get by. Following the simulation, participants had an opportunity to debrief and reflect on their experiences. Commissioners thanked Tiela for attending the meeting, and for facilitating such a thought-provoking exercise which will help to inform our work.

### **Approval of Minutes of December 10, 2015 Meeting**

The minutes of the meeting were approved unanimously.

<sup>1</sup> Note: With the exception of Kelli, Terrie, and Louisa, State Bar staff only were present for the morning simulation exercise.

## **Chair's & Vice-Chair's Report**

Judge Juhas reported on the following:

- **Update on Futures Commission and Court Reporter Issue.** Judge Juhas reported that the Futures Commission held a public comment session on February 8-9, 2016 to address issues regarding the lack of court reporters. The Commission held a brief discussion regarding next steps and agreed to resubmit its letter to the Futures Commission since it was not included in the session's briefing packet. Next, Judge Juhas directed the Commission's attention to a copy of a letter to the editor addressing key issues regarding the severely reduced court reporters in civil courts, which was published in the Daily Journal. Thank you to Catherine Blakemore and Lisa Jaskol for drafting the letter. *[Note from staff: The Commission's January 12, 2015 letter was re-submitted to the Futures Commission on March 2, 2016.]*

## **Key Discussion Topic**

- **Working Towards 100% Access to Justice in California.** Justice Zelon reported that as part of the recent national focus on 100% Access, the Public Welfare Foundation has announced the Justice for All (JFA) project. In summary, the new project will: 1) provide templates and guidance materials to assist states in their planning to achieve 100% access; and 2) award grants to various states for funding an assessment/strategic action plan and for technical assistance to address specific state access needs. The template for the strategic action plan, will include a basic outline for the plan, along with a list of service alternatives for states to fill the gaps in services. Awards will be granted to targeted states using an RFP process, to be released late May. Justice Zelon briefly summarized the working group's discussion at the December 10 Commission meeting, which included: (1) identifying various resources currently available in California and; (2) identifying current gaps in both services and systems. Following this discussion, Bonnie Hough presented to the Commission a possible draft framework outlining ways to address obstacles and reach 100% access for all. Successfully addressing the multi-faceted problem of providing access to civil justice requires an open dialogue, fresh ideas, and a commitment to facing obstacles with an action plan that has quantifiable goals. After reviewing the outline, Commissioners held a lengthy discussion and agreed to send feedback and suggestions to Bonnie and Justice Zelon.

The committee will reconvene in the coming weeks to continue their discussion, and will update the Commission on its progress.

## **Committee Review of Priorities & Plans**

Vice-Chair, Catherine Blakemore introduced the chairs of the various committees and asked them to provide a summary of goals and objectives.

- **Judicial and Administrative Agency Committees:**
  - **Administrative Agency Committee.** With committee Chair, Mary Kelly absent, Kelli Evans reported on her behalf. During the September 24 Commission meeting, the committee presented a draft report on the Best Practices/Minimum Standards, and received input and feedback. Since that meeting, the committee has continued to work on the draft, including implementing the suggested changes and making other revisions. Kelli confirmed that a revised version of the draft report will be provided to the full Commission to review before it is finalized. For the coming year, the committee's priority is to finalize the draft Best Practices/Minimum Standards report. Other committee goals are: (1) outreach by convening a meeting with key players of the major agencies that deal

with self-represented parties; and (2) promoting the report by, among other activities, sharing it with key stakeholders.

- **Aranda Award Selection Committee.** With committee Chair, Judge Taylor absent, Louisa Ayrapetyan reported on his behalf. Nominations are being sought for the 2016 Aranda Award, which will be presented by the Chief Justice at the Distinguished Services Awards ceremony in the latter part of 2016. The Aranda Award Selection Committee, led by Judge Taylor will be responsible for reviewing candidates, then will present their final recommendation to the Executive Committee. The deadline to submit applications is April 4, 2016. A copy of the [Nomination Materials](#) was included in the meeting materials.
- **Court Fees and Fines Working Group.** Committee Co-Chairs, Judge Kolakowski and Paul Cohen, presented a status report on the Committee's goals and objectives. One primary focus of this committee is to monitor issues, and respond to initiatives to show our support. For example, during the Future of California's Court System public hearing on December 8, Paul provided comments on a number of significant issues related to the traffic fees and fines, and over reliance on state fines and fees as revenue. Commissioners noted significant activity on the federal level on the topic of fines and fees and recommended that the Commission track these developments. For the coming year, the committee is exploring the possibility of expanding its membership, so if anyone is interested in joining the committee, please let staff know.
- **Federal Courts Committee.** Terrie Mesa presented a status report. She stated that the search for a new Chair to replace Judge Segal is currently underway. In 2015, the committee continued to focus on improving court functions for federal litigants. Specifically in prisoner civil rights, habeas cases, alternative dispute resolution, general prison litigation matters, and supporting efforts to assist self-represented litigants and share federal self-help materials on-line. For the coming year, the committee will continue to focus on strategies to increase access to the federal courts for low income and modest means Californians, including streamlining prisoner litigation and making self-help materials more accessible to the public. In addition to these areas, the committee will identify new access issues and areas where it can make a difference.
- **Judicial Branch Support Committee.** Committee Chair, Judge Cordova presented a status report on the committee's goals and objectives. The primary focus of the committee is to develop a plan for implementing a possible pilot court navigator program. The pilot program essentially would help self-represented parties navigate through the complex court system, including accompanying litigants to court proceedings. On the role of the navigators, the committee examined similar programs in other contexts (i.e., JusticeCorps and CASA) and met with a number of individuals to discuss issues and concerns, including supervision, training, liability and ethical issues. For the coming year, the committee will continue its work on developing a pilot court navigator program, and will focus on the following key areas: (1) where and how to launch the program; (2) identifying funding sources; and (3) identifying potential partnerships.
- **Language Access Committee.** With committee Chair, Judge Austin absent, Terrie Mesa reported on his behalf. Terrie summarized the Strategic Plan for Language Access in California Courts, noting Judge Austin's and Justice Rivera's involvement in the creation and now the implementation of the plan. Currently, the focus includes the following: (1)

expanding interpreter services in all civil proceedings; (2) providing training for interpreters on civil cases and remote interpreting, as well as signage; (3) translation of Judicial Council forms and creation of multi-lingual videos to assist limited English Proficient (LEP) court users. The goal is to provide qualified interpreters in all civil proceedings, including Family Court Services mediation, in all 58 trial courts. Next steps for the Language Access committee include, focusing on addressing language access needs outside of the court system that currently are not being met.

- **Delivery System Support Committees:**

- **Modest Means Incubator Task Force.** Terrie Mesa presented a status report on the incubator project. To date, the task force has (1) secured \$245k in grant money; (2) held three regional meetings to discuss incubator models and connect stakeholders; and (3) funded four incubator programs across the state (in the Bay Area, Los Angeles, Orange County, and in the 20 northernmost counties). In October we convened all of the incubator programs in the state to attend a meeting in Los Angeles. The meeting was well attended and the group shared a host of resources, approaches, and best practices. The second day of the meeting was limited to our four funded programs and primarily focused on program evaluation, specifically on reporting in a way that is helpful, and what to look at qualitatively and quantitatively. The group also worked on developing a boot camp training program: ["Incubator Boot Camp: Tools for New Lawyers Looking to go Solo"](#), a free training course hosted by Practising Law Institute (PLI) on April 15, 2016 via webcast and in San Francisco. The training will cover how to set up a firm, practice ethically, and handle firm finances.
  - There was discussion about expanding outreach efforts in rural areas to connect law schools with the incubator programs. Lisa Pruitt noted a recent survey in Arkansas that examined law students' attitudes toward rural living. The majority of the respondents expressed concern about the inability to find a partner in a smaller community as well as concern that they might not earn enough. In addition, students were asked to identify positive factors related to working in rural areas, which included: (1) ability to have one's own practice; (2) ability to develop and maintain a localized clientele; and (3) perception of greater job stability.
- **Pro Bono Coordinating Committee.** Committee Co-Chairs, Hilarie Atkisson and Keith Wurster presented a status report on the committee's goals and objectives. Since its reestablishment, the committee has conducted one telephonic meeting. At this meeting, the committee focused its discussion on Prop 47. As a result of the discussion on Prop 47, the group decided to send a survey to gather work being done across the state. Based on the results of the survey, there still seems to be a disconnect on what is actually happening and how the volunteers can get involved. For the coming year, the committee will continue to coordinate with other stakeholders and connect volunteers with the work that is happening across the state. Further, the committee will focus on a few select areas of law, such as election rights, voting rights, and immigration of children.
  - Catherine suggested that it might be advantageous for the committee to connect and coordinate efforts with Disability Rights California to discuss work being done in the area of election rights.

- **Right to Counsel Committee.** Committee Chair, Justice Johnson presented a status report on the committee's goals and objectives. During our September 24 Commission meeting, the Commission unanimously voted to adopt the suggestion to reinstate the Right to Counsel Committee. Since its reestablishment, the committee has met once to discuss recent developments in the civil right to counsel movement, including court decisions, resolutions, pilot projects and other initiatives. For the coming year, the committee will continue to monitor movement in other states. The committee's priorities include: (1) possible actions to build support for the right to counsel; (2) preparing a report examining and justifying a right to counsel in appropriate cases; (3) creation of general discretionary power to appoint counsel in any civil case; and (4) creation of right to counsel in certain case types via legislation and court decision.
- **Rural Task Force Committee.** Committee Co-Chairs, Judge Cordova and Salena Copeland presented a status report on the committee's goals and objectives. Since its reestablishment, the committee has conducted one telephonic meeting to discuss the committee's work and goals, which include: (1) identify funding for rural programs that is not subject to current IOLTA distribution rules; and (2) create data to help figure out the legal needs in different rural parts of the state. In addition to these top priorities, the committee is focused on encouraging unbundling and virtual legal services to better serve the community.
- **Communications, Outreach, & Funding Committees:**
  - **Communications and Outreach Committee.** Committee Co-Chairs, Paul Marks and Marcia Bell presented a status report on the committee's goals and objectives. For the coming year, the committee's focus is to develop and expand new and innovative ways to use technology to increase access to justice; publish periodic Justice E-Newsletters; and provide assistance in redesigning the access to justice webpage. At the last committee meeting, the focus of discussion was on the use of social media (i.e., Twitter, Facebook, YouTube, and LinkedIn) to facilitate communications to the public. A commissioner suggested consideration of a Twitter feed as well. There was an agreement to develop a Facebook account, which is expected to launch in April. The committee also discussed content for the next newsletter, and agreed to feature articles on the following: (1) 2016 Aranda Award Nomination Announcement; (2) Right to Counsel Committee update; (3) Futures Commission Public Session Hearing; and (4) Discussion on SB 405 and SB 4.125. The goal is to finalize and publish the newsletter in late February or early March. It was also suggested that we come up with simple categories to drive newsletter content (e.g., what's new, featured person, ongoing initiatives, inspiration.) Lastly, Marcia discussed concerns regarding law librarians. Funding for Judicial Branch law libraries has decreased and the number of staff has declined significantly in the last few years. Law librarians are critical to the effectiveness of the libraries and while online materials are extraordinarily useful and can increase access to justice, simply having materials online is not the solution to increasing access to justice.
  - **Funding Committee.** Committee Chair, Catherine Blakemore presented a status report on the committee's goals and objectives. The committee has been coordinating efforts with State Bar President, David Pasternak to develop a strategic plan for increasing the Equal Access Fund. To help demonstrate the need for sufficient funding for legal aid, State Bar, and LAAC have: (1) developed briefing materials and talking points; and (2) met with key legislative budget committee members to talk about the critical role that legal

aid plays in the state. Our message has been well received and, as a result, the Assembly and possibly Senate will include the Equal Access Fund in their upcoming budget subcommittee hearings. We urge Commission members to review the list of legislative leaders in the briefing materials and contact representatives to urge support for increasing the Equal Access Fund. The Senate meeting is scheduled for March 10, 2016 and the Assembly meeting is scheduled for March 30, 2016. A copy of the briefing materials and talking points was included in the meeting materials. [Note from staff: Send copy of the briefing materials to the Commission.]

- Toby mentioned that he will send the materials to the Bench-Bar Coalition.

- **Liaison Staff Update:**

- **Legal Aid Association of California.** Salena Copeland from LAAC reported high attendance at the 1st Annual Technology Summit, Improving Access to Justice with Technology, held on January 25, 2016. Following the conference, LAAC distributed a survey to all legal aid programs to collect information on what technology programs legal aid organizations are using, and connect individuals with those technology programs they find interesting.

### **New Business**

- **Rules Revision Commission Update.** Toby Rothschild reported that the Commission was recommending not including an aspirational pro bono rule in the revised Rules of Professional Competence. The Rules Revision Commission's recommendations will be sent out for public comment in June and it was recommended that the Access Commission comment when this occurs.
- **Creation of an Amicus Brief Committee.** The Commission discussed the possibility of forming an Amicus Brief Committee to determine whether the Access Commission should file briefs related to important access to justice issues. Commissioners briefly discussed this proposal, agreeing that an Amicus Brief Committee would be very advantageous, and also noted that Judicial Members of the Commission would not participate. A motion was made to form an Amicus Brief Committee, with no participation from any Judicial Members of the Commission. Commission members voted overwhelmingly in favor (21 in favor, 10 abstention) to proceed with the formation of an Amicus Brief Committee. The following Commission members volunteered to join the newly-formed Amicus Brief Committee:

- Catherine Blakemore
- Lisa Jaskol
- Michael Levy
- Toby Rothschild
- Erika Frank
- Meera Deo
- Salena Copeland
- Keith Wurster

*[Note from Staff: Lisa Jaskol has agreed to Chair the Committee, and the first meeting is scheduled for February 23.]*

### **Next Meeting**

Video-Conference Meeting on Thursday, April 21, 2016 from 10:00 a.m. – 2:00 p.m. at the State Bar Offices in Los Angeles and San Francisco.