

**Colorado Access to Justice Commission**  
**Minutes**  
**January 10, 2020**

**Commissioners Present:** Fred Baumann (ATJC Chair), Diana Poole (ATJC Vice Chair), Jon Asher, Beth Crane, Dick Gast, Hon. Melissa Hart, Wes Hassler (by phone), Brittany Kauffman, Hon. Lino Lipinsky, Jason Lynch, Jackie Marro, Hon. Kristen Mix, Richard Murray, Lauren Schmidt, Hon. Tim Schutz, David Stark, Hon. Dan Taubman, Reenie Terjak, Penny Wagner, John Zakhem (by phone).

**Commissioners Absent:** Hon. Susan Blanco, Hon. Adam Espinosa, Liz Krupa, Claire Levy, Sam Walker, Kath Schoen

**Guests Present:** Emy López (JFA Access Pilot Project Coordinator), Tim Macdonald (pending LAF appointee), Hanna Bustillo (Law Clerk to Justice Hart).

**Colorado/Denver Bar Association Staff Present:** Lindsey O'Brien (CBA Program Coordinator).

**Approval of Minutes**

Minutes of the November 1, 2019 Commission meeting were approved.

**Proposed amendment to bylaws (Dick Gast)**

Dick Gast briefly explained the reasoning behind the proposed revision to Section 4.02 of the ATJC bylaws (governing terms of office). Namely, the amendment is designed to facilitate staggered Commissioner terms of office when necessary so that only approximately one-third of the terms expire annually. The amendment was approved as proposed.

**Discussion: *Commission plans for 2020***

Fred Baumann highlighted the need for the ATJC to identify the Commission's priorities for this year, particularly with respect to funding for the Commission itself. The Executive Committee will meet to try and define these priorities on February 1. The Commissioners briefly discussed the possibility of organizing an access-to-justice event in 2020—i.e., a set of community hearings, a summit of interested stakeholders, or some other major "convening." Broadly speaking, the goals of such a convening would be to engage in legislative outreach, encourage pro bono involvement among practitioners, increase public awareness of access-to-justice issues, and gather data on gaps/needs in legal service provision in Colorado.

**Report and discussion: *Dec. 17<sup>th</sup> meeting with Chief Justice Coats (Fred Baumann, J. Hart)***

Back in December, Chief Justice Coats met with Fred Baumann, John Zakhem, Steven Vasconcellos, Andy Rottman, and Justice Hart to discuss the ATJC's activities and funding needs. Overall, it was a productive conversation. Of note, though, Chief Justice Coats expressed some opposition to funding civil legal services from fee increases, and instead seemed to favor approaching the legislature for general appropriation funding as a more appropriate strategy. More specifically, the use of increased attorney registration fees to fund civil legal services would be complicated, since (1) those fees are meant to be used to support the legal profession (e.g., attorney discipline, mental health and substance abuse services, mentoring, etc.), and (2) following the U.S. Supreme Court's decision in *Janus*, there have been First Amendment

challenges to using mandatory bar membership fees for access-to-justice purposes. Relatedly, the use of increased filing fees to fund civil legal services would be thorny, since (1) those fees are already quite high due to certain legislative fee-collection mandates, and (2) it seems too burdensome (and, indeed, intuitively wrong) to fund the provision of legal services on the backs of those attempting to access legal services. Despite these various philosophical objections, the Commission may need to explore the possibility of raising fees as a means of coping with TABOR restrictions and the ever-increasing demand for legal services. In the meantime, the Commission could explore other funding options that wouldn't impact Coloradans (e.g., increasing pro hac vice fees).

**Update and discussion: *JFA Access Pilot Project* (Emy López)**

Emy López provided a quick summary of the “triage” project’s three-year trajectory up until now. At this point, the implementation grant for the website is wrapping up, and the project leadership team is preparing to report its progress at the end of January to its two main grantors – the National Center for State Courts (NCSC) and the State Justice Institute (SJI). The website is currently built with a focus on elders (and vulnerable adults more broadly) and is designed to assist its users “upstream” before their problems evolve into costly legal issues. According to the data gathered so far, the largest age group using the website is 25-35 years old, suggesting strongly that caregivers are accessing the site on behalf of their clients and family members. Further, the website’s users tend to be male, new users (as opposed to returning), and desktop users (rather than mobile). In the near future, the project leadership team is searching for a permanent institutional “home” for the project beyond the three entities who built it, and it will require approximately \$75-100k per year in funding (including funding a new position to maintain the website and its existing community partnerships). Meanwhile, the 4<sup>th</sup> and 12<sup>th</sup> pilot districts have indicated a strong desire to keep the project going, and several other districts have expressed a keen interest in participating as well.

**Update and discussion: *Funding for civil legal aid and related issues* (Jon Asher)**

Jon Asher explained that last year, the Legal Services Corporation (LSC) was funded at \$415 million nationally. This year, after intense negotiations in Congress, LSC was ultimately funded at \$440 million, which includes a 5.8% increase in funding for field programs, including Colorado Legal Services (CLS), and a 13.4% increase for LSC itself. In this light, despite the current political climate, CLS’s funding outlook appears to be surprisingly optimistic in the short term. Because of new money for eviction defense and improved Colorado Lawyer Trust Account Foundation (COLTAF) funding, CLS’s LSC grant represents only 33% of its total budget—down from roughly 40% in prior years. Of course, that could change if the eviction money is not renewed and/or COLTAF funding goes down again. Jon also reported that for CLS, its volume of eviction cases has come to surpass its volume of family law cases, largely because wages have not kept up with housing needs. Further, CLS still turns away one person for each person it is able to represent due to inadequate resources.

**Committee reports**

Executive: (see “Commission plans for 2020,” above)

Resource: The committee is formulating plans for the upcoming legislative session. This year, the focus will be on raising legislative awareness of the need for access-to-justice funding, safeguarding the Family Violence Justice Fund from cuts, and putting together a “drop piece” for new legislators.

Delivery: Recently, the supreme court directed the Providers of Alternative Legal Services (PALS) committee to create a pilot project focusing on domestic relations (DR) cases. To that end, the committee is drafting a proposed court order with respect to PALS’s activities and leadership. PALS is designed to create a class of non-lawyer paraprofessionals who can provide limited services to those who cannot afford lawyers (like the Limited License Legal Technician (LLLT) program in Washington). While PALS was originally conceived for eviction cases, the committee changed its focus to DR cases considering the huge unmet need for legal assistance in those cases—roughly 70% of all DR cases in Colorado do not involve a lawyer on either side. Further, there is currently significant additional funding for eviction defense, and there are few defenses to eviction in this state in any event, so there is often little a lawyer can do save for negotiating for more time to move out and to prevent an eviction on the tenant’s record. In any event, while the PALS committee anticipates some pushback because the Colorado Bar Association and the family law bar have previously opposed the provision of legal assistance in this manner, the committee remains optimistic in light of the supreme court’s support.

Courts: The committee created its charter.

Local support: By the end of January, Judge Lipinsky will succeed Judge Taubman as committee chair. Meanwhile, Judge Taubman has written an article for publication in the *Denver Law Review*. The article will outline a proposed change to Colorado Rule of Professional Conduct 6.1, suggesting that each year, lawyers must provide 50 hours of pro bono service or donate \$500 toward a designated access-to-justice fund (or some combination of the two).

**Other business**

None.

**Adjourned.**