

Colorado Access to Justice Commission
Minutes
May 1, 2020
Meeting held via WebEx

Commissioners Present: Jon Asher (ex officio), Fred Baumann (Chair), Hon. Susan Blanco, Hon. Adam Espinosa, Dick Gast, Hon. Melissa Hart (ex officio), Wes Hassler, Brittany Kauffman, Claire Levy, Hon. Lino Lipinsky, Jason Lynch, Jackie Marro (ex officio), Tim Macdonald, Hon. Kristen Mix, Richard Murray, Diana Poole (Vice Chair- ex officio), Kath Schoen (ex officio), Hon. Tim Schutz, Dave Stark, Hon. Dan Taubman (emeritus), Reenie Terjak, Sam Walker, John Zakhem (emeritus)

Colorado/Denver Bar Association Staff Present: Lindsay O'Brien (CBA Program Coordinator), Mia Kontnik (ATJ Program Manager)

Guests Present: John Tull (JFA consultant), Emy López (JFA Access Pilot Project Coordinator), Hanna Bustillo (Law Clerk to Justice Hart)

Approval of Minutes

Minutes of the March 13, 2020 Commission meeting were approved.

Update and discussion: *Funding implications of the COVID-19 situation*

Jon Asher provided a detailed update on the status of federal funding for civil legal aid. Jon reported that under the Coronavirus Aid, Relief & Economic Security (CARES) Act, the Legal Services Corporation (LSC) received a supplemental emergency appropriation of \$50 million. Some of these funds were made available to programs to offset the technology costs associated with working remotely. CLS received a \$15,000 grant for that purpose, although it has already spent approximately \$60,000 to purchase laptops, headsets, broadband access, etc. for its employees. The bulk of the emergency funds were distributed to LSC grantees, based on a combination of each state's relative share of the poverty population and the number of unemployment claims that had been filed compared to the size of each state's workforce. CLS received a supplemental grant in the amount of \$364,000, which, Jon noted, was about \$100,000 less than it would have received if the distribution had been made based on poverty population alone. He added that although unemployment has skyrocketed in Colorado, just as it has elsewhere, the number of unemployment claims filed here at the time the distributions were calculated was smaller than in some other parts of the country. Jon further reported that Congress's regular appropriations process for FY 2020-21 is currently on hold, so it is uncertain what will happen with respect to LSC funding in October when the new federal fiscal year begins. He also reported that LSC has requested another \$50 million appropriation, but it is unclear when that will be taken up. It is also uncertain what will happen with CLS's other sources of federal funding (e.g., grants from DHHS and DOJ), and its state funding through the Family Violence Justice Fund and the Eviction Legal Defense Fund. He added that he doesn't think the state funding will be specifically targeted, but it could be subject to across-the-board cuts.

Diana Poole provided updates on COLTAF and the Legal Aid Foundation (LAF) in light of the pandemic. She reported that it is estimated that the emergency interest rate cuts in March will result in a loss in trust account revenue for COLTAF of about \$240,000/month, or nearly \$3 million/year. Fortunately, COLTAF has built up some reserve over the last couple of years that can be used to supplement lost revenue. Further, COLTAF still has funds available from the Bank of America settlement, although those funds are restricted to foreclosure prevention legal assistance and community redevelopment legal assistance. Regarding LAF, Diana reported that the organization is only about half way to its \$2 million annual goal. A large portion of donations typically come in at the end of LAF's fiscal year (June), but it remains to be seen what happens this year. On a promising note, LAF's young lawyers' campaign, which ran from March 1st to April 15th, raised nearly as much as it did last year from individual donors, despite disruptions from COVID-19.

There was some discussion about the state budget. Claire Levy mentioned a memo from the legislature's Joint Budget Committee, recommending specific cuts in each department. Judge Lipinsky mentioned cuts in Medicaid.

Discussion: *Eviction situation*

Jon Asher reported that CLS is beginning to see people who are acutely low-income because of layoffs and furloughs, etc., people who under ordinary circumstances would have been able to pay their rent. Jon noted that in the near future, it will be important to sort out the implications of Governor Polis's recent eviction moratorium — i.e., Who is affected? Can eviction filings still be accepted by courts even if those actions currently cannot be perfected? Relatedly, the various impacts of COVID-19 on debt collection and domestic violence will greatly increase the demand for CLS's services. He added that CLS has noticed some inconsistency respecting whether fee waivers alleging indigence are accepted or denied by courts.

Reenie Terjak reported that one county court specified a limit of 175 eviction filings per day, per law firm, and that eviction actions would be handled four days per week. Previously, this court only handled eviction actions one day per week. Reenie observed that evictions in Colorado will eventually continue, and that a "tsunami of county court filings" will ensue at some point. Reenie expressed concerns about public health and safety once eviction actions resume—How will court hearings be staged? What about sanitation measures and the availability of personal protective equipment? How do courts plan to maintain social distancing while protecting confidential communications within the building? Courts could hold routine hearings remotely, but what about folks without electronic/internet access? How would court-provided childcare work? Confronted with all of these questions, Reenie emphasized the need for balance between facilitating remedies while staying safe and healthy. Justice Hart said that she thought most courts were trying to do things remotely at least through the month of May.

Kath Schoen indicated that the CBA's Real Estate Section is interested in helping with evictions. Justice Hart mentioned a recent webinar on the subject, organized by the Colorado Poverty Law Project, which was excellent and very well attended.

Update and discussion: *JFA Strategic Action Plan implementation update*

John Tull provided updates to the chart he presented during the March 13 ATJC meeting, which represents graphically the progress made toward the various projects and goals outlined in the JFA Strategic Action Plan.

Update and discussion: *JFA Access Pilot Project and final report*

Emy López reported that final grant reports have been submitted to the website's funders, and that, thus far, the seniors' and stakeholders' response to the website has been overwhelmingly positive. Meanwhile, in light of the pandemic, the CBA has initiated its disaster relief response; to that end, the website developers are currently working to add COVID-19 resources to the website. The project leaders are anticipating an influx of legal needs and court filings and are trying to respond by providing appropriate resources to try to reduce the burden on courts. In the future, funding will be an issue for the website, but that is the case for nearly all ATJ organizations and practitioners. For now, the project leaders are doing their best with limited (and often donated) resources and time.

Discussion: *Potential for regional hearings*

The Commissioners largely agreed that the planning process for a statewide summit and/or regional hearings should commence now, but that there needs to be a realistic assessment of whether such an event is possible in the current state of emergency. The ATJC has yet to decide who needs to be involved in the planning process, whether the event will ultimately be statewide or regional, and other important event logistics. Justice Hart suggested holding regional hearings in four "quadrants" of Colorado to hear about ATJ-related concerns on the ground in those areas. Justice Hart expressed that she would be happy to be part of a working committee to begin planning the hearings. Dick Gast, Judge Schutz, Reenie Terjak, Judge Taubman, Jackie Marro, Judge Blanco, and Brittany Kauffman indicated their willingness to be part of the working committee as well. Commissioner Beth Crane earlier expressed her interest in working on this.

Update: *Supreme Court PALS subcommittee*

Justice Hart reported that the PALS subcommittee is working on a proposal to create a regulatory regime allowing nonlawyers to provide limited, lower-fee legal services in family law matters. Justice Hart explained that this regime is being designed with less complex and less expensive cases in mind, in order to avoid some of the pitfalls associated with the Limited License Legal Technician (LLLT) regime in Washington. Meanwhile, SCAO's Family Law Committee is formulating a simplified version of Rule 16.2, and is investigating strategies for these simplified cases to be fast tracked. These efforts may fit together nicely with the PALS subcommittee's efforts in the future. Dave Stark added that the PALS subcommittee currently encompasses two sub-subcommittees, focused on (1) the scope of the PALS practitioners' work, and (2) the rules that might apply to them. Dave further added that the client cohort being targeted for services is that group of clients that cannot afford any representation by lawyers, so the PALS program would not steal business away from traditional family law attorneys.

Committee Reports

Delivery Committee (Dave Stark). The committee recently heard a presentation from Brett Taylor of the Center for Court Innovation. Mr. Taylor described the success of courts equipped to point service users toward resources as a “one-stop shop.” Similarly, Governor Polis’s Mental Health Task Force also encourages the use of courts as ATJ one-stop shops. Judge Taubman then provided a brief update as to Colorado’s proposed version of the ABA Free Legal Answers program.

Local Support Subcommittee (Judge Lipinsky). During the last regular meeting, several of the local ATJ coordinators discussed interesting ATJ initiatives in their districts (e.g., virtual town hall meetings in the 5th JD co-hosted by the bench and the local bar; a presentation by Spencer Rubin, Chair of the CBA YLD).

Communications Committee (Brittany Kauffman). Several of the Commissioners volunteered to join this new committee to work on informing the public and increasing engagement in the ATJC’s work. Specifically, Jason Lynch, Judge Schutz, Diana Poole, Kath Schoen, and Tim Macdonald expressed their willingness to join. Brittany Kauffman emphasized that members of this committee do not have to be Commissioners, and that this new committee would also benefit from the participation of media and PR professionals.

Next ATJC Meeting

Friday, July 10, 2020 @ 12:00–1:30 p.m.

Adjourned.