Arizona Commission on Access to Justice
MINUTES
Wednesday, November 8, 2017
10:00 a.m. to 2:00 p.m.
State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007

Present: Judge Lawrence Winthrop (chair), Kip Anderson (*telephonic*), Judge Janet Barton, Mike Baumstark, Judge Thomas Berning (*telephonic*), Pamela Bridge, Millie Cisneros, Judge Maria Elena Cruz, Judge Anna Huberman, Chris Kelly (*proxy for Michael Jeanes*), Judge Joseph C. Kreamer, Maria Morlacci, John Phelps, Helen Purcell, Janet K. Regner (*telephonic*), Dr. Kevin Ruegg, Anthony Young (*telephonic*)

Absent/Excused: Judge Sean Brearcliffe, Michael T. Liburdi

Presenters/Guests: Allister Adel, Summer Dalton, Kevin Groman, Lara Slifko, Martha McConnell, Judge Paul McMurdie, Heather Murphy, Kay Radwanski, Judge Carol Scott Berry, Dr. Susan Trentham

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Kathy Sekardi

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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the November 8, 2017, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence Winthrop, chair at 10:04 a.m.

B. Approval of Minutes

Judge Winthrop presented the September 20, 2017, Arizona Commission on Access to Justice meeting minutes for approval.

Motion: Judge Joseph Kreamer moved to approve the September 20, 2017, meeting minutes, as presented. **Action:** Approved. **Seconded:** Helen Purcell. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

Judge Winthrop updated members on access to justice topics.

- Several presentations were made to the Arizona Judicial Council (AJC), Presiding Judges, Phoenix Soroptimists, and In-House Counsel *Pro Bono* Commission.
- Judge Winthrop encouraged members to identify one or two groups where a presentation can be given about the need for meaningful access to justice

and availability of the state income tax credit. A power point presentation, speaking notes, and a tax credit flyer are available for member use.

- Funding for the Legal Services Corporation (LSC) remains uncertain and alternate funding sources are needed.
- The "Last Word" column in the December issue of Arizona Attorney is devoted to the work of the commission and the tax credit.
- The 2017 annual report was released and it has been well-received.
- Step Up to Justice in Tucson was awarded first prize and $15,000 by the McGuire Center for Entrepreneurship in its first Social Impact Pitch Competition.
- The University of Arizona is hosting an Access to Justice Project Launch on November 15 with students presenting proposed solutions to reduce or eliminate access to justice barriers created by domestic violence, minor guardianship, and reentering society following incarceration.

B. Update from the Committee for an Interim Review of the Child Support Guidelines

Judge Paul McMurdie, Court of Appeals, Division 1, and chair of the Committee for an Interim Review of the Child Support Guidelines, provided some background information regarding the child support guidelines review process, and presented proposed recommendations that incorporate changes to state law, federal regulations, and case law before the 2019 quadrennial review. This interim review is very narrow in scope and only covers non-controversial changes. An online public comments forum was created and a public hearing was held for transparent vetting and feedback. The proposed recommendations will be presented on an expedited basis to the Arizona Judicial Council (AJC) at the December meeting and become effective April 1, 2018. The Committee on Superior Court voted to support the proposed recommendations. Judge McMurdie reviewed the issues that were addressed.

1. The increase in the Arizona minimum wage impacts the self-support reserve, which could result in a 37 percent increase in child support.
2. There is new federal guidance on the imputation of income.
3. There is new federal guidance on incarceration and the ability to pay.
4. The child support order should be rounded to the nearest dollar.
5. There was a global change of terminology to make the guidelines more user-friendly.
6. Additional instructions and an example were added for third-party caregivers.
7. Clarification for calculating appropriate child support was added to those situations when there are multiple children with different parenting plans.
8. Propose that a child support order should not be entered if it is less than the current support payment clearinghouse fee.

Member comments

- Do the guidelines address situations where the remarrying parent is more affluent that the other? The guidelines are based on the federal requirements.
- Was this review sent to the State Bar of Arizona's Family Law section? Why has this review been brought to ACAJ? Judge McMurdie clarified that the review was sent for comments to the State Bar of Arizona. The committee was asked to make a presentation to ACAJ because 80 percent of family law litigants are self-represented litigants navigating the family law courts.
- In 2(H), there is a reference to "physical custody." Should the term be changed to "parenting time"? Yes, the change will be incorporated.
- At the time of sentencing, notification should be given to the parent who is going to prison that there is an option to file a petition to modify child support due to a change in circumstance; otherwise, child support amounts will continue to accrue during incarceration.

Motion: Judge Joseph Kreamer moved to support the proposed child support guidelines recommendations, as presented. **Action:** Approved. **Seconded:** Judge Janet Barton. **Vote:** Unanimous.

C. Report from the Committee on the Impact of Domestic Violence and the Courts

Judge Carol Scott Berry, Phoenix Municipal Court, and chair of the CIDVC Orders, Enforcement and Access Workgroup provided background information on this project, which was originally referred to the Committee on the Impact of Domestic Violence and the Courts (CIDVC) by ACAJ. The project was intended to provide greater access to protective orders for victims of domestic violence to prevent tragedies, remove obstacles, provide safe locations, and to assist Arizona courts in establishing protocols for remote protective orders.

The workgroup developed procedures for using remote access technology to allow domestic violence victims to participate by video in *ex parte* protective order hearings in the form of guides, which provide information about safe Internet communications and transfer of documents, and set out the roles for law enforcement, advocates, and the court. Courts are encouraged to take the lead, determine community resources, establish safe communications between the courts and community resources, and between courts and law enforcement, and establish a law enforcement protocol. To address the needs of all courts, remote processes from Phoenix Municipal Court and Graham County Justice Court were combined. During this project, Judge Wyatt Palmer from Graham County Justice Court, demonstrated this procedure and established in two months a remote process between his court and the Graham County Safe House. Judge Berry identified some issues that may cause a delay in the process, including availability of judges and interpreters. She also reported that CIDVC is developing a plan to

inform courts, advocates, and law enforcement agencies about the guides and to promote use of these procedures.

Member comments:

- Who can an agency contact about establishing a remote petition process? The presiding judge at any court.
- When a court takes the lead and selects an agency, it should look at agencies geographically to cover the most ground.
- Has the procedure been shared with tribal courts? That is a good idea that will be shared with the AOC Legal Department.
- Has there been an increase in filings since the remote procedure has been in place? The remote procedure has not been promoted.
- It is a challenge to meet interpreter demand because interpreters must be certified court interpreters, not family members.
- When filling out the petition, which system is the petitioner using? Petitions are being completed by hand with the advocate and faxed back and forth. A member suggested using the domestic violence prompt system and transmitting into the judge's queue, which would also help law enforcement.
- Concerns were raised that if buy-in is not obtained from all Maricopa courts, workload will increase for a specific court.
- A member suggested moving ahead and presenting to the Committee on Limited Jurisdiction Courts to see if the process would work even if it is only on a pilot basis in a few locations.

D. In-House Counsel *Pro Bono* Commission

Kevin Groman, In-House Counsel *Pro Bono* Commission, provided background information regarding the In-House Counsel *Pro Bono* Commission and discussed efforts to breakdown impediments, such as time is not their own, malpractice insurance protection, and double certification issue; to get the right people involved; and to identify opportunities that are good for the attorney's skill sets.

Judge Winthrop commended the synergy involved when access to justice can be promoted across the business community.

E. Update on Online Dispute Resolution Software

Summer Dalton, AOC manager of the eCourt Services Unit, provided an update on the progress of online dispute resolution (ODR) software. The AOC is moving toward a proof of concept with the goal to run three pilot programs simultaneously. Request for bids are due November 17, 2017, and once a vendor is selected, pilot groups will be identified for family law (Yuma County Superior Court), small claims and traffic case types.

Judge Winthrop reminded members that ODR provides more efficiency and a higher level of participation because it allows the user to manage a case outside

the courtroom from a computer or mobile device when it is convenient for the user.

Member comments:

- Maricopa County Superior Court is considering ODR for post-decree family law and civil debt collection case types.
- A member inquired whether states are using ODR for eviction cases. Ms. Dalton is not aware of any at this time.

F. Report from the Self-Represented Litigants in Limited Jurisdiction Workgroup

Judge Anna Huberman reported on the increased web traffic to the Arizona Judicial Branch's eviction-related webpages, which were redesigned with the user in mind.

- As of September 5, 2017
  - 169 page views and 129 unique page views to the Eviction Actions webpage (where new eviction forms were posted as recommended forms)
  - 59 page views and 46 unique page views to the Legal Info Sheets webpage
- As of November 6, 2017
  - 519 unique page views to the Eviction Actions webpage
  - 218 unique page views to the Legal Info Sheets webpage

The workgroup's next project is to develop eviction video content using GoAnimate software. Scripts have been assigned to workgroup members with a deadline of January 1, 2018, and the goal is to produce and post five or six new videos by April 2018 to AZCourtHelp.org and the Arizona Judicial Branch website.

G. Update on Rule Petitions

Julie Graber, AOC staff, reported on the progress of rule petitions at the August Rules Agenda.

- **R-16-0040** – Mandatory Eviction Action Forms: Continued until the December Rules Agenda.
- **R-17-0020** – Stipulated Judgments in Eviction Actions: Adopted and effective January 1, 2018.
- **R-16-0022** – Change of Judge in Eviction Actions: Continued until the December Rules Agenda.
- **R-17-0016** – Computing Time in Eviction Actions: Adopted and effective January 1, 2018.
- **R-17-0011** – In-House Counsel Clean-Up: Adopted and effective January 1, 2018.
- **R-16-0047** – In-House Counsel Clean-Up: Adopted and effective January 1, 2018.

H. Update on Public Information and Messaging Workgroup

Heather Murphy reminded members about the workgroup's focus areas, which include promoting AZCourtHelp.org, providing outreach and presentations to the community, and developing opportunities for partnerships. Ms. Murphy reported on the workgroup's ongoing efforts to develop a monthly series on various legal information topics on KJZZ to mark the 50th Anniversary of the Federal Public Broadcasting Act, and to develop a podcast series moderated by Supreme Court Justices with topics in keeping with the editorial calendar.

Ms. Murphy noted that a statewide memorandum was issued to court administration to add links to AZCourtHelp.org on court websites. A letter will also be drafted to mark the anniversary of AZCourtHelp.org's launch. She requested that members contact her with stories that would be good to pitch to the media in keeping with the editorial calendar.

I. Update on the AZCourtHelp.org website

Dr. Kevin Ruegg updated members on the progress of the AZCourtHelp.org website. She reported that there have been 28,835 unique users since the launch.

- The website can house content and forms from smaller courts who do not have a website presence.
- New content has been added regarding evictions.
- Fillable fee waiver and deferral forms have been posted.
- Parenting plans have been populated.
- New PowToons videos are being finalized regarding evictions, the cans and cannots of court, to hire or not hire a lawyer, and preparing for court.
- There are two new chat operators: Yavapai and Yuma. The chat function has changed its hours to 9:00 a.m. to 2:00 p.m. when there is the most traffic.

J. Report from Inter-Governmental Collaboration Workgroup

Judge Winthrop reported on the workgroup's next steps based on input received from the Governor's Office. He identified two main areas of focus: 1) working with the executive branch to reduce barriers for those reentering the community and workforce to meet employment shortages in construction and trucking; and 2) supporting the Governor's challenge to do more for domestic violence victims. Judge Winthrop suggested having Karen Lash attend the February 7, 2018 commission meeting to discuss interagency collaboration and the multi-state pilot project.

K. Report from the Judicial and Attorney Engagement Workgroup

Judge Joseph Kreamer noted that the workgroup is meeting on November 16, 2017. Dr. Kevin Ruegg discussed initial findings regarding the 2017-2018 legal needs survey and the various ways information is being gathered to obtain the most complete perspective on the needs and solutions. Dr. Ruegg reminded members that the survey results will help set specific priorities.

L. Report from County Bar Associations

Dr. Susan Trentham, Pima County Bar Association, and Allister Adel, Maricopa County Bar Association, highlighted several bar programs and discussed their respective bar's interests in access to justice. The presenters welcomed the opportunity for Judge Winthrop to come speak at their Foundations about the commission's work and access to justice issues.

M. *Pro Bono* Survey from the American Bar Association

John Phelps and Rick DeBruhl compared national and state results from the *Pro Bono* Survey conducted by the American Bar Association (ABA). The presenters noted that the ABA defined *pro bono* very broadly in the survey. They also discussed cultural and statutory barriers to performing *pro bono* hours. Highlights included:

- 39 percent of Arizona attorneys and 48 percent nationally reported not performing any *pro bono* hours.
- 72 percent of Arizona attorneys and 80 percent nationally performed less than 50 hours per year.
- Attorneys under the age of 29 do the least *pro bono* while attorneys over 65 do the most. Women do more *pro bono* early in their career while men do more later in their career.
- The top three practice areas for doing more *pro bono* include family law, criminal law, and estate/probate.
- The top three reasons for limited *pro bono* include lack of time, family and personal concerns, and lack of skills, while CLE credit, judge solicitation, and limited scope are reasons to do more.
- Limited scope representation represents the biggest area for growth opportunity but there are often questions regarding the ethical aspects of limited scope representation.

<u>Member comments</u>

- A possible area of improvement includes educating public attorneys about what they can do and how to do it, which should then be followed up with office leadership.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

Dr. Kevin Ruegg reported that the Foster Care Review Board is experiencing an extreme shortage of volunteers to serve on county boards.

B. Next Meeting Date

Wednesday, February 7, 2018
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 1:58 p.m.