

Arizona Commission on Access to Justice
MINUTES
February 17, 2016
10:00 a.m. to 2:00 p.m.
State Courts Building, 1501 W. Washington Street
Phoenix, AZ 85007

Present: Judge Lawrence Winthrop, Chair; Kip Anderson; Judge Janet Barton; Mike Baumstark; Judge Thomas Berning; Millie Cisneros; Judge Maria Elena Cruz; Steve Hirsch; Michael Jeanes; Judge Joseph Kreamer; Judge James Marner; John Phelps via his proxy Carrie Sherman; Janet Regner; Kevin Ruegg

Telephonic: Judge James Marner; Anthony Young

Absent: Judge Rachel Torres Carrillo; Ellen Katz; Michael Liburdi; Steve Seleznow; Lisa Urias

Presenters/Guests: Arianna Cannady; Jeff Fine; Judge Dean Fink; Janet Fisher; Shawn Friend; Kevin Groman; Chris Groninger; Shawn Haught; Hana Martin; Noah Suhr; Kathy Schaben (Telephonic); Lara Slifko

AOE Staff: Theresa Barrett; Julie Graber; Nick Olm; Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome, Opening Remarks and Approval of Minutes

With a quorum present, the February 17, 2016, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by the Chair, Judge Larry Winthrop, at 10:05 a.m.

Judge Winthrop introduced new commission member Steve Hirsch from Quarles and Brady LP. Judge Winthrop then recognized the reappointment of the following members to the Arizona Commission on Access to Justice: Judge Janet Barton, Ellen Katz, Judge James Marner, Janet Regner, and Anthony Young. Lastly, Judge Winthrop acknowledged the return of Janet Fisher to the Self-Represented Litigant in Family Court Workgroup and thanked Secretary of State Michelle Reagan and State Law Librarian Joan Clark for allowing Ms. Fisher's return.

Motion: Judge Kreamer moved to approve the November 18, 2015, minutes. **Seconded:** Judge Barton **Vote:** Unanimous.

B. Chairperson's Report on Presentations and Meetings

Judge Winthrop thanked Lisa Urias, Kip Anderson, Janet Regner, and Judge Marner for making presentations to groups regarding the ACAJ initiatives and the Arizona Charitable Tax Credit.

Action item: For this upcoming year, Judge Winthrop requested that every member of the Commission identify at least two groups to present to regarding the commission and its goals.

Judge Winthrop reported that he plans to continue meeting with legislators to educate them about the Commission's mission and how the mission affects legislators' constituents. Judge Winthrop has already met with the Governor's staff and Secretary of State Reagan who were very supportive and offered continuing support to the commission's goals. Judge Winthrop further reported that a new committee was created by Chief Justice Bales: The Committee on Civil Justice Reform (CCJR). This committee's purpose, per Administrative Order 2015-126, is "to develop recommendations, including rule amendments or pilot projects, to reduce the cost and time required to resolve civil cases in

Arizona's superior courts." It was noted the CCJR's work will likely intersect with the work of this commission in the future.

Additional highlights included:

- Dan Christensen was named the "In-House Counsel of the Year" by the Arizona Chapter of the Association of Corporate Counsel.
- Maggie Kiel-Morse, member of the Self-Represented Litigants in Family Court workgroup and the Virtual Resource Center Task Force, has to relocate to Ohio for family reasons. Janet Fisher will fill Ms. Kiel-Morse's role on a temporary basis, pending Ms. Kiel-Morse's replacement being hired.
- Future continuing education programs where access to justice will be included in the curriculum were announced at the American Bar Association (ABA) mid-year meeting.
- Avvo, an online legal advisor marketplace that provides on-demand legal services by phone, is coming to Arizona.

II. REPORT FROM SRL-FC WORKGROUP

A. Maricopa County's AmeriCorps Project

Judge Dean Fink updated the Commission on the AmeriCorps program. To date the Court has trained 34 AmeriCorps members to assist self-represented litigants. Judge Fink then introduced Shawn Haught and Shawn Friend who are managing the project.

Ms. Friend noted that the 34 students are the equivalent of eight full time employees and staff the resource center from 7:30 a.m. to 5:00 p.m. Many speak a second language; including Arabic, Spanish, and American Sign Language, which is an added value. Ms. Friend and Mr. Haught then introduced three current AmeriCorps members: Hannah Martin, Noah Suhr, and Arianna Cannady who spoke about their experiences in the program. Lastly, Ms. Friend shared that Maricopa County is now recruiting attorneys who will provide *pro bono* services at the Maricopa County Law Library/Self-Help Center.

Ms. Friend and Mr. Haught fielded questions and offered to provide any information, tools, or advice to those jurisdictions that are looking into a program such as the AmeriCorps project. Ms. Friend informed members that they are using a system to track work completed by AmeriCorps members and there are also survey questionnaires given to self-represented litigants to track areas in which assistance is provided. Additionally, they are working with the court's information technology department to track the time it takes for those who file dissolutions on their own versus those who solicited the services of AmeriCorps members to file dissolutions.

Commission members thanked Ms. Friend, Mr. Haught and the AmeriCorps members for their work.

B. Update on Law4AZ Training Programs

Janet Fisher reported the Law4AZ Training Program has continued to train public library staff so that they are comfortable providing legal information to the public. Ms. Fisher further reported that Ms. Kiel-Morse worked diligently in the latter part of 2015 to meet with public library staff in the remaining nine counties that had not yet received this training. Before her departure, Ms. Kiel-Morse provided the two-part training to seven of the nine counties. Both of the training sessions were recorded and are available on the State Library's blog site.

Ms. Fisher then reported there was another Law4AZ training session for Maricopa County's public libraries due to a significant workforce turnover since the last training was offered. It was noted that

in the future Shawn Friend will be conducting these training sessions for Maricopa County at the Arizona Capitol Building.

Judge Winthrop shared there are plans to have volunteer attorneys provide training sessions to public librarians on legal information versus legal advice and also have the volunteer attorneys provide *pro bono* legal services to patrons at the public library. Ms. Ruegg offered to post these opportunities for lawyers volunteering at the public libraries on the Online Justice Arizona website. In closing, Ms. Fisher reported that law librarians in Arizona are developing a mentoring program to assist public librarians and answer questions and provide additional resources relative to providing legal information and answering questions for self-represented litigants.

C. Report on AZCourtHelp – Arizona’s Virtual Access and Resource Center

Theresa Barrett updated the Commission on the AZCourtHelp project (virtual court self-help center). Update highlights included:

- Contract finalized with AZFLSE to develop and maintain the website.
- Mohave County recruited to serve as the first hub and to assist with identifying the necessary technological requirements for expansion of the project to other counties.
- Coconino County Superior Court received funding for the physical resource center’s construction. Finally, it was reported that the Task Force continues to explore IV-D funding options with the Department of Economic Security to hire a Family Law Facilitator to enhance services offered to the public.

D. Report on the Simpla Phi Lex Project

Judge Fink reported that the Self-Represented Litigant in Family Court workgroup created a sub-workgroup to review Pima County’s Simpla Phi Lex forms and explore adapting Pima County’s forms so they can be used by any county in Arizona. Over the course of the sub-workgroup’s meetings, the sub-workgroup discovered that there are forms already available that address their goals. Accordingly, the sub-workgroup is drafting a formal memorandum to be disseminated statewide to inform courts of the variety of materials available for their use. Concurrently, commission staff are working on compiling county specific information that can be used to populate a generic Simpla Phi Lex template document to provide yet another option for courts to use.

E. Report on the updated “Q&R Handbook”

Ms. Sekardi reported that feedback and comments were received from commission and workgroup members and many of the suggestions were incorporated into the Q&R Handbook in an Adobe PDF format. The PDF will have user-friendly navigation features, will be translated into Spanish, and will be made available on the court’s intranet and internet page as well as for Legal Information versus Legal Advice training.

III. REPORT FROM SRL-LJC WORKGROUP

A. Forms and instructions for landlord and tenant issues

Mr. Olm reported on the current status of the landlord and tenant informational packets and forms and his work with an honors student at Arizona State University recruited to further review the information packets. The goal of getting this additional review being to reflect an easier reading level for self-represented litigants.

B. Update on Resources Sub-Workgroup efforts

Mr. Olm next reported on the status of the landlord and tenant informational videos. Several meetings were held to review the working scripts that were discussed at the last commission meeting. These scripts are currently being storyboarded and are in the pre-production stages. Members were supportive of the animated videos and encouraged further production of them.

C. Update on Maricopa County Justice Courts efforts

Jeff Fine, Court Administrator for the Maricopa County Justice Courts, updated the commission on the efforts underway to improve access to justice in Maricopa's justice of the peace courts. Initiatives being made by the justice courts include:

1. Eviction forms

In collaboration with the SRL-LJC Workgroup the landlord and tenant forms have been revised to have the information that is most important clearly visible on the form.

2. Eliminating paperwork

Maricopa County Justice Courts are beta testing delivering information to litigants via email as opposed to regular mail as home addresses on citations are frequently wrong. Maricopa County Justice Courts are also looking at delivering information, including videos and documents, to litigants via text messaging.

3. Training

Mr. Fine reported that Maricopa County Justice Courts hired a full time training judge to provide training on how to provide legal information to self-represented litigants and to mentor newly hired judges. Additionally, the training judge will coordinate monthly training events.

In addition to the "Best Practices for Assisting Self-Represented Litigants" training that was videotaped and is available for all judges in Arizona to view, training for judges on federal subsidized housing eviction matters is in the planning stages and will include a Community Legal Services Attorney, a landlord attorney, and a judge with direct experience on the topic.

4. Resources for Litigants

Mr. Fine reported that a "navigator program" at the Downtown Justice Court Center is being implemented in partnership with Community Legal Services. This program provides the opportunity for laws students to be "navigators" that provide information and resources to self-represented litigants.

Additionally, Maricopa County Justice Courts are now only using Electronic Document Management System (EDMS) for civil cases. The court can connect online resources to court automated systems when using EDMS.

In closing, Mr. Fine requested the commission support training opportunities for court support staff. Mr. Fine indicated that staff turnover for front line clerks in the justice courts is significant due to budget constraints and low pay, leaving minimally experienced staff as the first contact for litigants with questions. Having frequent training for staff, especially in the area of assisting self-represented litigants, as well as addressing attrition issues would be very beneficial.

IV. REPORT ON LATEST DEVELOPMENTS IN NON-LAWYER REPRESENTATION INITIATIVES

Judge Kreamer reported on the latest developments in non-lawyer representation initiatives, including the recent report from Utah's Supreme Court Task Force that examined limited license legal technicians.

Judge Kreamer stated the American Bar Association's (ABA) House of Delegates adopted Resolution 10, which adopts the *ABA Model Regulatory Objectives for the Provision of Legal Services*. This resolution sets forth a framework for states to discuss non-lawyer representation. These discussions from other states will continue to be monitored by members of this commission as well as a task force to examine Washington State's Limited Liability Legal Technician program.

Judge Winthrop commented that Arizona already has a program to certify legal document preparers (Arizona Code of Judicial Administration § 7-201 and 7-208), which is why Arizona is taking a conservative approach before aggressively considering implementing a full-fledged licensed technician program. He noted that part of the efforts in other states is for non-lawyer advocates to prepare documents to file with courts and agencies; Arizona already has that service available.

V. UPDATE ON LAY LEGAL ADVOCATES

Ms. Groninger updated the commission on the status of the lay legal advocate's for domestic violence project. Ms. Groninger stated she spoke with anti-poverty advocates in British Columbia who provided helpful information and resources about their version of a lay legal advocate program. The Arizona Foundation for Legal Services and Education (AZFLSE) along with the Arizona Coalition to End Sexual and Domestic Violence will distribute a survey to domestic violence agencies to determine if the agencies employ domestic violence advocates and what roles and duties these advocates have at the shelter or agency. Once this information is obtained, training should then be developed and provided to lay legal advocates. Additionally, AZFLSE's efforts to obtain funding to develop a training event and curriculum for advocates for a potential pilot project are ongoing.

After an inquiry of a member, Judge Winthrop stated these ongoing reports of the lay legal advocate project are in response to this commission's approval to further explore this project. Additionally, Judge Winthrop mentioned the commission has been supportive of exploring this concept but has yet to take a position to support continuing/permanent funding for this project.

VI. PRO BONO SERVICE AND FUNDING WORKGROUP REPORT

A. Update regarding the *Pro Bono* Workgroup's focus and goals

Judge Kreamer, who has taken over for Barb Dawson as chair for the *Pro Bono* Workgroup, reported that outreach to corporate counsel for involvement with *pro bono* work is ongoing. Kevin Groman, from the Arizona Chapter of the Association of General Counsel, is assisting Judge Kreamer with this project but he would like to have more public lawyer involvement in *pro bono* services. It was noted public lawyers have expressed frustration with not being able to provide legal services because of a potential conflict of interest. To address this challenge the State Bar of Arizona is considering whether a policy change is needed to clarify what level of involvement public lawyers can have with providing *pro bono* services.

B. Charitable Tax Report and Report on Outreach Efforts

Lara Slifko reported on the 2015 Charitable Tax Report numbers and stated Southern Arizona Legal Aid (SALA) had great success with outreach efforts to solicit charitable tax contributions. SALA's high success rate in obtaining donations is attributed to mailings sent to members of the bar in SALA's service area as well as those outside the county. Follow-up phone calls to those who received mailings from SALA and calls to each of the donors thanking them for their donation were also made.

Judge Winthrop thanked the State Bar of Arizona for their listserv emails to remind members of the State Bar about the Charitable Tax Credit. Judge Winthrop also thanked Geoffrey Trachtenberg for writing a column in the Arizona Attorney Magazine promoting the Charitable Tax Credit.

Finally, it was noted there are two bills currently in the legislature that will have an effect on the Charitable Tax Credit; SB1216 and SB1217.

C. Recognition of In-House Counsel of the Year

Judge Kreamer reported the State Bar of Arizona, through the Arizona Attorney Magazine, will devote an entire issue of the magazine to lawyers doing *pro bono* work around Arizona. Dr. Ruegg will also be authoring a piece in the Arizona Attorney Magazine.

Additionally, it was noted the Arizona State Bar Board of Governors has developed a new award to recognize pro bono service by in-house counsel. The first award will be presented at the Arizona State Bar Convention in June.

VII. REVIEW OF COMMISSION PROGRESS ON MANDATES IN ADMINISTRATIVE ORDER NO. 2014-83

Judge Winthrop reviewed the commission's progress in relation to the mandates in Administrative Order 2014-83. He then queried members about what topics they would like this commission to review in the future.

Members expressed their interests in exploring the negative impact that fines, fees and assessments have on largely low-income people. Mr. Baumstark mentioned that this issue is being reviewed by the Conference of Chief Justices and the Conference of State Court Administrators, and that the Arizona Supreme Court is currently in the process of creating a task force to look at this issue as well.

Members offered the following additional suggestions for future work:

- Explore the use of technology to advance access to justice in the courts and legal services, as well as possibly creating a technology workgroup.
- Continue the focus on building relationships with the Arizona Legislators to expand their understanding of the role they play in access to justice.
- Work with the Civil Justice Reform Committee to ensure that there is not duplication of efforts in projects to advance access to justice.
- Build stronger relationships with the tribal courts; especially in the commission's review of editing forms and the use of technology in the courts.

VIII. OTHER BUSINESS

A. Good of the Order/Call to the Public

There was no response to a call to the public.

B. Adjournment

Meeting adjourned at 1:44 p.m.

C. Next Commission Meeting Date

May 18, 2016

10:00 a.m. to 2:00 p.m.

State Courts Building, Conference Room 119A/B, 1501 W. Washington, Phoenix, Arizona 85007

Arizona Commission on Access to Justice
MINUTES
May 18, 2016
10:00 a.m. to 2:00 p.m.
State Courts Building, 1501 W. Washington Street
Phoenix, AZ 85007

Present: Judge Lawrence Winthrop, Chair; Kip Anderson; Judge Janet Barton; Mike Baumstark; Judge Thomas Berning; Millie Cisneros; Steve Hirsch; Michael Jeanes; Ellen Katz; Judge Joseph Kreamer; John Phelps; Janet Regner; Kevin Ruegg; Judge Rachel Torres Carrillo

Telephonic: Judge Maria Elena Cruz; Judge James Marnier; Anthony Young

Absent: Michael Liburdi; Steve Seleznow; Lisa Urias

Presenters/Guests: Charles Adornetto; Don Bivens; Dave Byers; Kathleen Cole; Jeff Fine; Cari Gerchick; Kevin Groman; Chris Groninger; Lara Slifko; Dean Douglas Sylvester

AOJ Staff: Theresa Barrett; Julie Graber; Mark Meltzer; Nick Olm; Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome, Opening Remarks and Approval of Minutes

With a quorum present, the May 18, 2016 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by the Chair, Judge Larry Winthrop, at 10:12 a.m.

Motion: Judge Winthrop moved to approve the February 17, 2016 minutes. **Seconded:** Judge Barton
Vote: Unanimous.

II. CHAIRPERSON'S REPORT

Highlights of Judge Winthrop's report:

- Commission staff has updated the Arizona Charitable Tax Credit Video to include the new legislative changes (SB1216 and SB1217) that increase credit amounts and extend the deadline for donating. This video along with other materials can be used by members for commission outreach and tax credit presentations.
- Judge Winthrop thanked members who have made presentations about the Arizona Charitable Tax Credit.
- Chief Justice Bales was one of the panelists who spoke at the White House Access to Justice Forum in April. He discussed the issue of fines and fees and the work of the Fair Justice for All Task Force. Microsoft, one of the business representatives at the forum, announced they have donated \$1,000,000 and technology services to create an "open source" legal services triage portal.
- Judge Winthrop has had an opportunity to discuss with several of Arizona's Congressional leaders a concern for funding for civil legal aid.
- At the American Bar Association Access to Justice Chairs Meeting in Chicago, Judge Winthrop met with other access to justice chairs and learned what other states are doing with access to justice initiatives.
- The ACAJ annual report will be provided to the Arizona Judicial Council (AJC) and the Presiding Judges at their June meetings. The presentation will also include a demonstration of the state-wide virtual legal resource website (AZCourtHelp.org).

III. REPORT ON LEGAL SERVICES “TRIAGE” PROGRAM AT ASU’S LAW SCHOOL

Douglas Sylvester, Dean of Arizona State University’s (ASU) Law School, presented on the legal services triage program that will be housed at the Arizona Legal Center near ASU’s new downtown law school. Dean Sylvester reported this program allows law students, under the supervision of licensed attorneys, to provide legal triage to clients and then refer those clients to attorneys who provide legal services in the area of law needed for their matter. The legal center will have designated days throughout the month to focus on certain areas of law such as Veteran’s law, family law, and probate law. The legal center will also have a full-time social service worker and full-time Spanish speaker to assist clients. The legal center and the law school plan to open in August of 2016.

IV. REPORT ON THE COMMITTEE ON CIVIL JUSTICE REFORM

Don Bivens, chair of the Committee on Civil Justice Reform, reported the committee is made up of 24 members of the judicial bench and the Arizona State Bar; they are divided into four work groups to focus on certain areas: 1) options to compulsory arbitration; 2) case management reforms; 3) reforms to court operations; and 4) civil discovery reforms. The committee will submit a report, together with proposed rule changes, to the Arizona Judicial Council no later than October 1, 2016.

V. REPORT ON FAIR JUSTICE FOR ALL TASK FORCE

Dave Byers, Director of the Arizona Administrative Office of the Courts, reported the goal of the task force is to:

- a) Recommend statutory changes, if needed, court rules, written policies, and processes and procedures for setting, collecting, and reducing or waiving court imposed payments;
- b) Develop suggested best practices for allowing citizens unable to pay the full amount of a sanction at the time of sentencing options for reasonable time payment plans or by the performance of community service.
- c) Recommend best practices for making release decisions that protect the public, but do not keep people in jail solely for the inability to pay bail.
- d) Review the practice of suspending driver’s licenses and consider alternatives to license suspension.
- e) Recommend educational programs for judicial officers, including pro tem judges and court staff who are part of the pretrial decision making process.
- f) Identify technological solutions and other best practices that provide defendant notifications of court dates and other court-ordered deadlines using mobile applications to reduce the number of defendants who fail to appear for court and to encourage citizens who receive a citation to come to court.

Some of the proposals the task force is considering are changes to statutes, rules of court, enhanced training (especially for part-time judges), and the development of policy and best-practices. The task force will vet their recommendations with identified AJC standing committees starting in late summer, culminating in presentations at the Arizona Leadership Conference and October AJC meeting.

VI. REPORT ON SRL-FAMILY COURT WORKGROUP

A. Update on AmeriCorps Program

Judge Barton updated the commission members regarding the AmeriCorps program in the Maricopa County Superior Court. Judge Barton stated that the AmeriCorps volunteers are currently limited to directing litigants to court facilities and providing assistance with identifying which forms to fill out. There are plans to expand the program to include more volunteer training and to partner with the Joel Shephard Family Law Clinic, Sandra Day O’Connor College of Law (ASU), Arizona Summit Law

School, and Community Legal Services. The focus of this training will provide the volunteers with understanding how to provide legal information to self-represented litigants.

B. Update on Maricopa County’s Law Library Resource Center

Judge Barton reported that the renovation of the Maricopa County Law Library Resource Center is scheduled to open at the end of October, 2016.

C. Update on Law4AZ Library Project

Judge Barton informed the commission members that the Law4AZ program has completed the training for public library staff to assist them with providing legal information to the public. The State Library continues to promote engagement and partnership of local attorneys to provide free training sessions to the public. A collaborative effort between the State Library and Maricopa County’s Law Librarian is in the planning stages to develop a legal information versus legal advice session for a statewide meeting of court staff.

D. Update on Response/Answer Handbook and AZCourtHelp Project

Theresa Barrett presented on the status of the question and response document and stated that a statewide memorandum was sent out notifying court leadership of the new document and its location on the AJINWeb. Additionally, Ms. Barrett mentioned there is a tremendous interest in the use of this document and it that it will subsequently be posted in English and Spanish on the court’s public-facing website after it is translated into Spanish.

VII. REPORT FROM SRL-LIMITED JURISDICTION COURTS WORKGROUP

A. Update on SRL-LJC WG Meeting

Judge Carrillo reported the workgroup discussed the use of video and teleconferencing in limited jurisdiction courts and that the workgroup developed an action plan.

- a) Determine the need for increased use of video or teleconferencing.
- b) Research the types of hearings or case types that would be appropriate for video or teleconferencing.
- c) Determine if it would be beneficial to develop best practices for using video or teleconferencing.
- d) Research the minimum infrastructure requirements to support videoconferencing and determine what technology the courts are already using.
- e) Seek guidance from all rules - local, procedural, Supreme Court rules or codes – that govern remote appearances.
- f) Encourage the use of video and teleconferencing and develop an education component to inform litigants and lawyers when this resource becomes available.

B. Update on Resources Sub-Workgroup

Mr. Olm reported that the “GoAnimate” software program was purchased to finish the animated information videos for landlord-tenant matters. Additionally, Anthony Young and SALA have created a video script that informs tenants what they can do when landlords are not complying with the terms of the lease.

C. Update on forms and instruction packets for landlord-tenant matters

Mr. Olm reported that the landlord and tenant forms have been finalized and the informational packets are due to be completed in the next few weeks.

D. Next steps for landlord-tenant forms

Mr. Baumstark requested that the commission endorse the mandatory use of the forms to promote impartiality and support the Supreme Court's access to justice initiatives. If supported, he informed members that the next steps would include posting the rule change petition electronically on the Supreme Court's Rules Forum to receive comments and suggestions and vetting the petition to appropriate Supreme Court standing committees, such as the Committee on Limited Jurisdiction Courts.

Motion: Mr. Baumstark moved for the commission to approve the filing of a rule change petition that will ask the Supreme Court to require the use of Supreme Court approved forms and notices for eviction actions. In addition, Mr. Baumstark moved to have the petition, forms, and notices circulated to the appropriate standing committees of the Supreme Court for further input. **Second:** John Phelps. **Vote:** Unanimous.

E. Training for Judicial Officers/Staff

Jeff Fine, Court Administrator for Maricopa County Justice Courts, announced a training conference for the Maricopa County Justice Court staff. This three-day conference is scheduled in mid-July at Grand Canyon University. Mr. Fine stated he will be soliciting volunteers to present at this conference on a variety of topics as one of the commission's recommendation is training frontline court and judicial staff.

F. Presentation on Rule Change Petition for Change of Judge in Eviction Actions (R-16-0022)

Ellen Katz presented on the rule change petition that would allow a change of judge in eviction actions. Ms. Katz reported that this petition came from the Legal Services Committee of the State Bar of Arizona and the petition has been filed electronically on the Supreme Court's Rules Forum. Ms. Katz stated that the Justice Court Rules of Civil Procedure permits a change of judge in other civil cases heard by the Justice Courts; however, the Rules of Procedure for Eviction Actions has not been revised to permit a change of judge as a matter of right and for cause in eviction actions in Justice Court. Ms. Katz mentioned that landlord attorneys continue to oppose this petition as has been the case in previous years.

Mr. Hirsch mentioned that the Arizona State Bar Rules Committee originally voted to oppose this petition but the State Bar Governing Board subsequently voted to approve it after limited approval period of one year was added.

Mark Meltzer, Senior Court Policy Analyst for the AOC, summarized the history of this rule petition and similar petitions from previous years. He noted this same petition was presented at the Committee on Limited Jurisdiction Courts (LJC) and that committee voted unanimously to oppose it. There are nine standalone justice courts that are not co-located, which may be an administrative challenge if the change of judge rule is in effect. Lastly, Mr. Meltzer mentioned there was a comment that prominent landlord attorneys served as Justice of the Peace *pro tempore* on eviction calendars; however, this practice has ceased after ethical concerns were raised.

Members had the following additional comments:

- There are concerns that this rule change could affect the time standards for eviction cases.
- This rule change will lead to public perception that the courts are trying to do well for tenants.
- This rule change could be abused by landlord attorneys who could request a judge they believe is more favorable to them.

Motion: Judge Berning moved to have the Arizona Commission on Access to Justice approve the filing of a comment supporting this rule change petition with the emphasis that this rule would be a one-year trial period. **Seconded:** Janet Regner. **Vote:** 15 in favor; 2 opposed.

Judge Winthrop noted that committee staff from the AOC will submit the comment in support of this rule change petition.

VIII. ADDITIONAL CHAIR REPORT

Judge Winthrop reported he met with Joe Sciarrotta from the Arizona Attorney General's Office. They discussed a proposal to present an educational program to talk about the ethical restrictions on public lawyers that currently exist while performing *pro bono* activities. This program would be a joint presentation from Chief Justice Bales and Mark Brnovich, Attorney General of Arizona. More information about this collaborative conference will be provided at the next ACAJ meeting.

IX. PRO BONO SERVICES WORKGROUP

Judge Kreamer reported the following efforts of the *Pro Bono* Services Workgroup:

- Corporate counsel partners report that the Arizona Association of Corporate Counsel has voted to establish its own commission regarding *pro bono* services. The focus will be on providing *pro bono* services for new business or non-profit startups.
- Regarding the law firm *pro bono* network – Judge Kreamer and Steve Hirsch continue efforts to strategize and reach out to law firms to participate.

X. AMERICAN BAR ASSOCIATION TELEPHONE WORKGROUP UPDATE

Kevin Ruegg updated the commission on the Self-Help Services and Courtroom Innovations Working Group that was established by the American Bar Association and the Self-Represented Litigant Network. Ms. Ruegg is the Arizona representative participating in the national and regional conference calls each month for this workgroup.

Ms. Ruegg reports this group envisions 100 percent access that ensures each participating state has the beginning steps to a continuum of services through self-help services and statewide portals available for all people.

The workgroup discussed self-help centers as the pipeline for unbundled services and models for setting up unbundled legal services. Arizona is leading the way in this regard through the Steering Committee for Legal Aid, providers who collaborate with the Arizona Foundation for Legal Services and Education, and the involvement of the Arizona Commission on Access to Justice. The workgroup also discussed providing more education regarding the parameters of unbundled legal services for attorneys and court clerks.

Finally, the workgroup explored remote services and the importance of integrating this technology into the court. It is important to have accessible and standardized forms and to have alternatives to appearing in court; especially for those with geographic constraints.

XI. OTHER BUSINESS

A. Good of the Order/Call to the Public

There was no response to a call to the public

B. Adjournment

Meeting adjourned at 2:01 p.m.

C. Next Commission Meeting Date

August 17, 2016

10:00 a.m. to 2:00 p.m.

State Courts Building, Conference Room 119A/B

1501 W. Washington, Phoenix, Arizona 85007

ARIZONA COMMISSION ON ACCESS TO JUSTICE

Minutes

Wednesday, August 17, 2016

10:00 a.m. to 2:00 p.m.

Conference Room 119A/B

1501 W. Washington Street, Phoenix, AZ 85007

Present: Judge Lawrence Winthrop (chair), Kip Anderson, Judge Janet Barton, Mike Baumstark, Judge Thomas Berning, Judge Maria Elena Cruz, Steven A. Hirsch, Chris Kelly (proxy for Michael Jeanes), Ellen Katz, Judge Joseph C. Kreamer, John Phelps, Kevin Ruegg, Judge Rachel Torres Carrillo, Anthony Young

Absent/Excused: Millie Cisneros, Michael T. Liburdi, Judge James Marner, Janet K. Regner, Steve Seleznow, Lisa Urias

Presenters/Guests: Justice Clint Bolick, Pamela Bridge, Dave Byers, MJ Cartwright, Karl Eckhart, Shawn Friend, Kevin Groman, Chris Groninger, Paul Julien, Beth Kregor, Eric Menkhus, Heather Murphy, Philip Potter, Kathy Schaben, Prof. Alan Sternstein, Jonathan Voigt

AOC Staff: Theresa Barrett, Kathy Sekardi, Julie Graber, Karla Williams

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The August 17, 2016, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order at 10:02 a.m. by Judge Lawrence Winthrop, Chair.

B. Approval of Minutes from May 18, 2016

The draft minutes from the May 18, 2016, meeting of the ACAJ were presented for approval.

Motion: Steven Hirsch moved to approve the May 18, 2016, minutes, as presented.

Seconded: Judge Thomas Berning. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

- Several members were thanked for their efforts of advancing the ACAJ's goals by presenting to groups on access to justice issues.
- The [ACAJ annual report](#) was presented to the Arizona Judicial Council (AJC) in June regarding the ACAJ's efforts and issues over the last year.
- The State Tax Credit video was updated to include the new legislative changes thanks to Chief Justice Bales, Judge Winthrop, and AOC staff.

- Judge Winthrop noted international efforts, including the [return of the Nepal Supreme Court](#) members in June and the creation of a Nepal Access to Justice Commission.
- The SRL-Limited Jurisdiction Court Workgroup is discussing the expanded use of videoconferencing and teleconferencing in limited jurisdiction courts and will begin work developing best practices.
- A rule change petition ([R-16-0040](#)) regarding mandatory court-approved eviction forms was filed on July 6 on behalf of the ACAJ. The deadline for comments is September 23, 2016 and the deadline for the ACAJ's reply is November 4, 2016, if needed.

B. Presentation on the Institute for Justice Chicago Entrepreneur Clinic

Justice Bolick introduced Beth Kregor, Director of the Institute of Justice Clinic on Entrepreneurship, to talk about her successful entrepreneur program and to provide some ideas for what Arizona can do to assist low-income entrepreneurs who have innovative business ideas but cannot afford legal assistance. Ms. Kregor provided a brief overview of the clinic, which provides free legal representation, presents educational workshops and events, and advocates for economic liberty in Chicago. In addition, the clinic trains University of Chicago Law School students to provide legal assistance to low-income entrepreneurs to help pursue their dreams, build their families, their neighborhoods, and the economy. These efforts allow entrepreneurs to gain access to the world of contracts, legal and property protections, while students learn the impact of legal rules, statutory interpretation, local government, case management, client service, contract drafting, and counseling.

Several additional barriers for low-income entrepreneurs were illustrated:

- Many low-income entrepreneurs have difficulty complying with complex laws due to rigid and outdated regulations.
- Setting up a business and complying with the regulations can be overwhelming for any small-budget business.
 - The cost of federal regulations per employee is 36 percent higher for businesses with fewer than 20 employees.
 - For small manufacturers with less than 50 employees, compliance costs per employee are more than three times the average of all firms.
- According to PRI's 50-state small business regulation index, Arizona is rated 18th in burdensome regulations for small business, and second highest for low-income occupations that are licensed. Furthermore, individual cities may add another layer of barriers.

Ms. Kregor identified several *pro bono* opportunities for practicing attorneys, including serving interesting clients; structuring unusual deals; sharing expertise; learning about a new sector or community; making a difference; and remapping the course for future start-ups.

Member comments:

- The University of Arizona is working with different intellectual property programs regarding start-ups: 1) a clinic to help entrepreneurs get started and protect their intellectual property; and 2) an Arizona hub for the United States Patent and Trademark Office's *Pro Bono* Program that will assist with searches and patent applications.
- Ms. Kregor noted that political challenges are overcome by acting as an advocate for entrepreneurs who are too nervous to complain about an inspector or the amount of time it takes to get an inspection.
- Judge Winthrop noted that engaging transactional attorneys in *pro bono* initiatives would fit with the efforts from the Promoting *Pro Bono* Service and Funding Workgroup.

C. Presentation on the Michigan Online Court Project

MJ Cartwright, CEO and Director of Court Innovations, Inc., provided background information regarding the Matterhorn platform solution, which was originally developed in 2014 at the University of Michigan Law School and later launched by Court Innovations for use by courts and individuals. This online case resolution solution is a tool intended to promote meaningful access, fairness, accuracy, and efficiency by supplementing traditional courtroom access and services, giving people additional options, and maintaining discretion for law enforcement, prosecutors, and judges. The collaborative platform allows people to use the Internet and have their voices heard without having to go to court in person to resolve routine traffic tickets, parking tickets, misdemeanor warrants, suspended licenses, family court, and small claims.

Ms. Cartwright presented a demonstration of the dashboard and the steps involved in the online and mobile processes: 1) the person enters basic information (which is meant to interface with the case management system); 2) platform triaging occurs; 3) the person requests a review and provides information; 4) law enforcement recommends an offer based on the request and situation; and 5) the court and person accept or reject the offer. A final resolution notification is sent to the individual.

She discussed the platform's impact and cost savings:

- The combined court staff time per hearing decreased from 157 minutes to 27.36 minutes.
- The number of warrants issued was reduced by ten percent.
- The time to collection was reduced from up to two months to less than eight days.
- 43 percent of people would not have been able to come to court and resolve their case.
- The overall caseload increased by seven percent while decreasing costs by 30 percent for in-person cases.
- Preliminary findings have shown that fines are paid off faster and cases are resolved with very little defaulting.

Member comments:

- How is this software integrated with the different court systems? *The interface is kept as simple as possible and focuses on what is needed to reach a decision, whether it requires a real time interface or simple file transfers. To keep matters simple, the platform also links through the State's online payment system.*
- How are people informed about the platform's availability? *The information can be disseminated in the press and included on the citation, court websites, and social media.*
- Who uses the platform? *Over 50 percent of users are mobile users. In poorer areas, there are multiple access points, such as libraries, and many people use smartphones belonging to family and friends.*
- Can a person stop the process to obtain legal advice or choose to appear in person? *The platform offers an additional option for people and is not intended to limit the ability to appear in person or to cancel out of the platform to obtain legal advice.*
- How is the platform funded in Michigan? *Some courts have justified the costs through their operating budget and some share the cost with law enforcement agencies.*
- When resolving a case, does a person using the Internet pay more or less than someone appearing in person? *Data is not yet available that compares the offers and payments.*
- What are the payment options for those without checking accounts? *People have the option to pay in person, pay in cash at some convenience stores, and pay by credit card.*

Motion: Kevin Ruegg moved to request the SRL-Limited Jurisdiction Court Workgroup investigate the technological and cost issues of this type of software and to determine whether it is in Arizona's best interest to pilot this type of technology in some jurisdictions.

Seconded: Judge Kreamer. **Vote:** Unanimous.

D. Report on the Fair Justice for All Task Force

Dave Byers, AOC Executive Director and Chair of the [Fair Justice for All Task Force](#), presented a summary of the task force's recommendations that are necessary to effectuate statewide changes and to reform the current criminal justice system. Mr. Byers outlined core values and introduced a two-component solution to achieve justice for all by creating reasonable sanctions and implementing pretrial bail reform.

Mr. Byers reviewed the average cost of a traffic ticket and illustrated how a small ticket can become a big problem later and have catastrophic consequences for low-income individuals. Although there should be consequences if a person breaks the law, criminal fines and penalties should not promote a cycle of poverty by imposing excessive amounts or unduly restricting people's ability to be gainfully employed. Mr. Byers highlighted the following principles to create reasonable sanctions as the first part to achieving justice for all:

1. Judges need discretion to set reasonable penalties–Legislative changes are needed for judges to mitigate mandatory minimum fines, fees, surcharges, and penalties for those it would cause undue economic hardship.
2. Provide convenient payment options and reasonable time payment plans–Test techniques that make it easier for defendants to make payment.
3. Provide alternatives to paying a fine–Allow judges additional discretion to convert fines into restitution hours and apply to sentences imposed by Superior Courts.
4. Employ practices that promote voluntary appearance–Implement an interactive messaging system that reminds defendants of court dates and missed payments.
5. Suspension of a driver’s license should be a last resort–The first offense of driving on a suspended license should be a civil violation rather than a criminal offense.
6. Non-jail enforcement alternatives should be available–Restitution court and the FARE program provide non-jail and less costly compliance alternatives.
7. Special needs offenders should be addressed appropriately–People suffering from mental illness or drug addiction should be handled differently.

He noted that even short periods of pretrial incarceration cause collateral damage in terms of loss of employment, economic hardship, loss of place of residence, and inability to care for children or family, as well as the likelihood to commit new crimes before trial.

The second part to achieving justice for all is to implement pretrial reforms by eliminating money for freedom to the greatest extent possible and shifting from bail and bond to risk-based release criteria.

8. Detaining low- and moderate-risk defendants causes harm and higher rates of new criminal activity–Eliminate the use of non-traffic criminal bond schedules.
9. Only defendants who present a high risk to the community or individuals who repeatedly fail to appear in court should be held in custody–Amend the Arizona Constitution to expand the use of detention without the requirement for money bail.
10. Money bond is not required to secure appearance of defendants–The bond should be actual cash with the amount paid returned to the defendant if charges are not filed, the person is found innocent, or if no violations of the release conditions occur.
11. Release decisions must be individualized and based on a defendant’s level of risk–Expand the use of the Public Safety Assessment (PSA), a validated pretrial risk assessment tool, to limited jurisdiction courts.

Motion: Judge Winthrop moved to recommend that the ACAJ support the recommendations of the Fair Justice for All Task Force and approve the filing of a rule petition to implement the recommendations and approve the inclusion of the legislative proposals in the AJC package for next session.

Seconded: Judge Cruz. **Vote:** Unanimous.

E. Report on Law4AZ Project (*item out of order*)

Jonathan Voigt, State Library of Arizona, reported on the progress of the Law4AZ project, which trains public library staff to answer law-related questions from the public. The training has occurred in all counties, except La Paz, and consists of in-person and webinar sessions that differentiate between legal information v. legal advice, and help locate

available resources. Mr. Voigt outlined the plan for next year to continue trainings to maintain the knowledge base; establish a lawyers-in-the-library program; and establish a mini self-help center to help the public access forms and court information.

Member Comments:

- Judge Winthrop thanked Shawn Friend for her assistance with training the librarians and followed up on John Phelps' previous offer for the State Bar to help libraries connect with attorneys for clinics and programs.

F. Proposed rule change petition regarding stipulated judgments in eviction actions

Ellen Katz and Pamela Bridge, Community Legal Services, Inc., presented a proposed rule change regarding stipulated judgments in eviction actions, which was previously discussed with the SRL-Limited Jurisdiction Courts Workgroup and further amended by a sub-workgroup. The proposal is intended to protect tenants who sign a stipulated judgment. The proposal will require the tenant to physically appear in front of the judge who will determine if the tenant understands what they signed since the tenant is waiving the right to appeal. The presenters requested that the proposed rule change be filed under the ACAJ's name.

Member comments:

- Members raised procedural questions and concerns about the timing of the proposal and whether tenants signing stipulated judgements without understanding their rights is a problem only in Maricopa County justice courts.

Motion: Mike Baumstark moved to support the proposed rule change in concept, however, to continue to circulate to stakeholders for more vetting, and to be reconsidered at the November meeting.

Seconded: John Phelps. **Vote:** Unanimous.

G. Update on the AZCourtHelp.org website

Judge Winthrop reported that the website is proceeding forward but is not yet operational.

H. Report from *Pro Bono* Service and Funding Workgroup

This agenda item was tabled to the next meeting.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

B. Next Committee Meeting Date

Wednesday, November 9, 2016
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

The meeting adjourned at 2:10 p.m.

**ARIZONA COMMISSION ON ACCESS TO JUSTICE
MINUTES**

Wednesday, November 9, 2016

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, Judge Janet Barton, Mike Baumstark, Millie Cisneros, Nancy Gray-Eade (proxy for Judge Maria Elena Cruz), Michael Jeanes, Ellen Katz, Judge Joseph C. Kreamer, John Phelps, Janet K. Regner, Kevin Ruegg

Absent/Excused: Judge Thomas Berning, Judge Rachel Torres Carrillo, Steven A. Hirsch, Michael T. Liburdi, Judge James Marner, Lisa Urias, Anthony Young

Presenters/Guests: Pamela Bridge, Shawn Friend, Kevin Groman, Chris Groninger, Laura Guild, Paul Julien, Lara Slifko

AOC Staff: Theresa Barrett, Kathy Sekardi, Julie Graber, Karla Williams

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the November 9, 2016 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Chairperson Judge Larry Winthrop, at 10:04 a.m.

B. Approval of Minutes

The draft minutes from the August 17, 2016 meeting of the ACAJ were presented for approval.

Motion: Judge Joseph Kreamer moved to approve the August 17, 2016 meeting minutes, as presented. **Action:** Approved **Seconded:** Mike Baumstark. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

To encourage continued discussions of opportunities to further the commission's charge, Judge Winthrop provided an overview of collaborative efforts between private, public, and governmental entities. Highlights included:

- The "Healthy Together Care Partnership" is a medical-legal partnership between the Arizona Health Care Cost Containment System (AHCCCS) and a Tucson Medicaid provider, which employs medical, legal and social services interventions on behalf of vulnerable members. Judge Winthrop suggested the possibility of making the "Healthy Together Care Partnership" available to all Medicare and Medicaid patients when he met

with Christina Corieri, the Governor's Policy Advisor for Health and Human Services.

- The [ASU Law School Legal Triage and Referral project](#) has been screening approximately 100 contacts each week and referring those contacts to appropriate social service providers, legal aid organizations, and private attorneys. The project is developing relationships with private law firms, corporate law departments, and lawyer professional groups to address veterans, financial management, guardianship, and immigration issues. Judge Winthrop noted a medical-legal partnership was launched based at the Central Arizona Shelter Services.
- Judge Lilia Alvarez and Judge Winthrop made a presentation at the Arizona Utility Partners Summit regarding "Justice for Financially Brittle Families."

Judge Winthrop reminded members to promote the Arizona Charitable Tax Credit and shared an updated flyer and outline presentation for those who would like to present to a group. He highlighted the following legislative changes impacting the program:

- The amount that can be donated that qualifies for the credit was doubled.
- Contributions made through April 15, 2017, can now be applied to either the current or preceding taxable year.
- The school tax credit and foster care tax credit can be claimed as separate credits.

Finally, Judge Winthrop reported on statistics from the latest census, which are improving but reflect Arizona's challenging demographics. Statistics of interest that were noted:

- The national poverty rate fell from 15.5 percent in 2014 to 14.7 percent in 2015.
- The Arizona poverty rate decreased from 18.2 percent to 17.4 percent.
- The poverty rate in the Phoenix, Scottsdale, and Mesa area fell from 17.2 percent to 16.2 percent.

B. Report from *Pro Bono* Service and Funding Workgroup

Judge Kreamer noted that one of the goals of the workgroup is to move forward a model *pro bono* policy proposal with the State Bar of Arizona's (SBA) Board of Governors that would allow a public attorney to provide *pro bono* services. He also shared that the Public Lawyer *Pro Bono* Conference, co-sponsored by the Arizona Attorney General's Office, will take place on February 24, 2017. Chief Justice Bales and Attorney General Brnovich are confirmed speakers.

Judge Kreamer then reported on efforts of the *Pro Bono* Service and Funding Workgroup. Highlights included:

- Judge Kreamer and Kevin Groman will be meeting with Judge Randall Warner about a proposal that would allow in-house counsel to provide mediation services on a *pro bono* basis in Superior Court.

- An unintended consequence has been identified from the recent change to Rule 38(B), *Rules of the Supreme Court*, which now requires a secondary registration for in-house counsel who want to do *pro bono* service. Kevin Groman will be working with the Arizona Foundation for Legal Services & Education (AZFLSE) and Ellen Katz to draft a rule change petition requesting the removal of this unintended barrier on an expedited basis.
 - The consensus of the commission was to support the rule petition fully.
- Judge Kreamer will provide more details at the next commission meeting about the progress of the law firm *pro bono* network and the efforts to reach out to law firms to develop resources and to continue past efforts.
- John Phelps discussed the SBA’s initiatives regarding *pro bono* services in light of its new mission statement centered on protecting the public and its declining *pro bono* statistics from year to year.
 - In Arizona, only 1,400 out of the 24,000 attorneys reported *pro bono* hours. Ethics rules establish a 50-hour aspirational goal but the average is only 21 hours.
 - The SBA is looking at possibly launching a mobile online platform supported by a dedicated team within the SBA that would coordinate opportunities between members and the public across a full spectrum; create visibility; and take back ownership of the SBA’s responsibilities. The Board of Governors will vote on whether to support funding for this “Public Service Center” at their December 9, 2016 meeting.
 - Judge Winthrop raised a potential issue regarding the interactive software that connects potential attorneys to clients and whether it constitutes the unauthorized practice of law. The Federal Trade Commission and U.S. Department of Justice have weighed in on exempting websites from the practice of law in this [article](#).
- The next workgroup meeting is scheduled on December 9, 2016, at 12:00 p.m. at AZFLSE.

C. Update on the AZCourtHelp.org website

Kevin Ruegg updated members on the progress of the [AZCourtHelp.org](#) website, which was launched in a “soft opening” on October 1, 2016. The official launch is scheduled for January, 2017. Dr. Ruegg noted that the website provides increased access to information for users, satisfies legal needs on demand, and reflects increased coordination between courts. She sought members’ assistance with spreading the word about this collaborative project.

Dr. Ruegg demonstrated the website’s features:

- Feedback button
- Hide screen for domestic violence victims
- Automatic translation and “enhancements” for legal terms were noted.
- Increased font to meet ADA compatibility
- Listen feature for visually-impaired users

- Chat function with law librarians to allow users to type legal information inquiries that law librarians will answer when available
- Find my court
- Mobile friendly capability
- Glossary allows to mouse over terms that are highlighted in the text to view a definition.

Dr. Ruegg noted that Legal Talks started in August and are being led by representatives from different government agencies, legal aid, and other partners. Topics for Legal Talks included guardianship, divorce and custody, child support, and adoption. The clinics are being recorded for possible use in developing other types of educational videos for posting to the site in both English and Spanish. Upcoming Legal Talks will be featured on an event calendar.

Member comments:

- Judge Winthrop noted that the Legal Talks project is consistent with the objective of increasing collaboration across governmental branches to meet the needs of the public (e.g., the Arizona State Library, Archives, and Public Records, the Department of Economic Security, and the Attorney General’s Office). This type of project could bring more agency participation if the value of providing services in this way can be shown.

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

Rule Petition R-16-0040 regarding mandatory eviction forms: Mike Baumstark provided an update on rule petition R-16-0040, which was circulated to Supreme Court standing committees and stakeholders.

- Committee on Superior Court supported the filing of the rule petition provided that the eviction forms are not mandatory for use in forcible detainer actions after trustee sales are brought in superior court.
- Committee on Limited Jurisdiction Courts recommended that the forms be model forms for one year before making them mandatory.

Three comments were filed in support and six were in opposition. Mr. Baumstark summarized the comments filed in opposition:

- The proposed rule exceeds the authority of the Supreme Court under the Arizona Constitution and applicable statutes.
- Mandating the use of notices and forms deprives Arizona Realtors and their clients of the right to use established and proven forms.
- “Full participation” by all parties is being questioned and accordingly some participants allege the workgroup’s decision-making was unfair.
- The proposed notices and forms are legally deficient, confusing, and misleading.

He then discussed the reply and explained the next steps in the process. Specifically, he noted the forms and notices are being revised to make them easier

to understand and legally correct in response to the comments filed. For example, the references to commercial property and mobile homes were removed. The rule petition will be considered at the December Rules Agenda.

Member questions/comments:

- Why are we not addressing mobile home evictions? Answer: Due to the legal nuances, mobile home evictions need to be addressed separately and should be the next project.
- Why are the eviction forms mandatory when they are not dictated in other areas of law? Answer: There is precedent for the Supreme Court mandating forms (e.g., domestic violence and probate forms).
- There is no guidance provided if someone files an eviction action on another form – which elements must be included? Answer: It was clarified that there is a provision in the rule for the court to accept a form or notice if it contains the required information. The intent of the rule petition was not to promote undue delay or let people stay in the dwelling units longer.
- Should “upon showing of good cause” be removed from the rule language? Answer: The intent was for judicial officers to have some discretion to accept a notice or pleading rather than require the tenant to make an affirmative showing.
- Finally, some members suggested delaying the implementation date, moving with a pilot court to take on the forms and notices for a few months, and encouraging courts to use the forms as model forms. Judge Winthrop reminded members that the rule petition was designed to provide tenants with useful information when being served with an eviction, available options, and access to more information.

Proposed rule change regarding stipulated judgments: Judge Winthrop shared with members that he vetted the proposed rule change to Committee on Limited Jurisdiction Courts (LJC). He explained the proposed change would require judicial officers to determine whether tenants who sign a stipulated judgment understand what they are signing (i.e., tenants acknowledge the debt, agree to leave the premises, and waive the right to appeal). LJC members reported that it is the current practice in all counties except Maricopa. Judge Winthrop inquired whether the commission should support moving forward with drafting a rule petition.

Member comments:

- Some members questioned the need for a statewide rule when the issue is perceived only in Maricopa County.
- While members agreed that current eviction practices should be changed, some raised concerns about the impact of the proposed rule change on judicial officers and eviction calendars. There are usually 60 eviction actions scheduled for each hour. Members requested statistics on the number of tenants appearing in person and the number of stipulated judgments in each eviction calendar.

- Several members suggested obtaining input and possible alternatives from Justices of the Peace before filing a rule petition but others felt it would cause unnecessary delay.
- As a result of discussion, this matter was tabled to the afternoon's item regarding Community Legal Services' Justice Court Project.

E. Effective Public-Private Collaboration: Arizona Domestic Violence Legal Assistance Project

Chris Groninger, Director of Strategic Initiatives for the Arizona Foundation for Legal Services & Education, provided an overview and history of the Arizona Domestic Violence Legal Assistance Project (DVLAP) and described its funding, partnerships, goals and objectives, and legal services provided by attorneys, paralegals and lay legal advocates. She shared that currently domestic violence shelter providers, legal services agencies and their volunteer lawyer programs, and the Arizona Department of Economic Security, work together to assist victims of domestic violence obtain direct legal assistance and address longer term safety and economic sufficiency issues. In addition, the project aims to recruit, train, mentor, and support volunteer attorneys with the long-term goal of continued *pro bono* participation. Volunteer attorneys obtain free continuing legal education opportunities, recognition and awards, tailored volunteer opportunities, case support, logistical resources, and case screening. Ms. Groninger reported on the statistics for fiscal year 2016:

- Volunteer attorneys provided legal assistance to more than 7,000 victims of domestic violence and donated over 2,000 *pro bono* hours
- 148 new volunteers were recruited
- Since 2000 volunteer attorneys have donated \$11,500,000 in service

Member questions/comments:

- Are victims of domestic violence limited to the same means test as legal aid services? Answer: There is a higher income threshold for victims of domestic violence (250% of federal poverty level).
- Is there a population not served by the project? Answer: The volunteer lawyer programs fill any gap.

F. Community Legal Services Justice Court Project

Pamela Bridge, Director of Litigation and Advocacy at Community Legal Services (CLS), described CLS's Justice Court Eviction Calendar Project, which took place last summer in collaboration with six Maricopa County Justice Courts and volunteer law students.

- Students wore nametags, sat at a table outside the courtroom, and provided free tenant informational documents color-coded in English and in Spanish to help tenants navigate through the eviction process.
- One student was allowed in the courtroom to sit in the jury box and take a survey of the evictions called to measure the effectiveness of the materials and whether there were any systemic problems that could be fixed.

Ms. Bridge reviewed the survey results:

- 50 percent of the tenants who used the materials raised a valid defense or a valid counterclaim.
- 50 percent of those who used the materials were not evicted that day.
- The other 50 percent had their cases dismissed or set for trial to a different date.

Given the project's usefulness for self-represented litigants, she sought assistance from the commission in replicating the project on a statewide basis. She noted that the project would not be as effective if students were not present as navigators.

Member questions/comments:

- What was the court's response to the project? Answer: Judge McMurry welcomed the project and would like the students to return.
- What was the feedback from the Justices of the Peace? Answer: It was very positive.
- How many students were there? At each eviction calendar, there were at least two students at the table and one in the courtroom.
- How many tenants appeared versus failed to appear? In the six courts, over eight weeks, students observed the following:
 - 1740 were defaulted for not showing up.
 - 790 tenants appeared in person, which averaged 16 per week per court (This number was not for full trials but rather initial statements by the parties in which the judges decided if judgment could be awarded initially to one side or if the case needed to be set for trial.)
 - 96 stipulated judgments, which averaged two per week per court.

Motion: Mike Baumstark moved to engage the Resources Sub-Workgroup and neutral experts in looking at the tenant informational documents and the best way to use them, as discussed. The group will consist of: Judge Janet Barton, Pamela Bridge, Millie Cisneros, Paul Julien, Judge Todd Lang, Judge Anna Huberman and Judge Bill Rummer. **Action:** Approve, **Seconded:** Judge Joseph Kreamer. **Vote:** Unanimous.

Discussion about proposed rule change regarding stipulation judgments (item was tabled in the morning)

Ms. Bridge stressed that addressing concerns surrounding stipulated judgments is the most important priorities facing CLS and low-income tenants. Although the proposal would place a burden on judicial officers by requiring interaction with the tenants to determine if they understand what they are signing, the number of stipulated judgments is low and would only require a one-minute conversation. If tenants take the time to show up to court, Ms. Bridge argued we should make sure they understand what they are signing. Ms. Bridge further acknowledged that the issue is localized in Maricopa County.

Member comments:

- The commission should move forward in a meaningful collaborative manner with the Justices of the Peace by reaching out to them and soliciting workable scenarios as an alternative to the rule petition or in addition to any rule change.
- There should be two comment periods if a rule petition is filed.
- The commission requested statistics about the number of stipulated judgments during eviction calendars.

Motion: Mike Baumstark moved to proceed with filing a rule change petition on stipulated judgments before January 10, 2017; to reach out to Justices of the Peace before the end of the year through Judge Barton to obtain input on the proposal; and to gather official statistics about the number of stipulated judgments, as discussed. **Action:** Approve, **Seconded:** Judge Joseph Kreamer. **Vote:** Unanimous.

Action Item: Ms. Bridge will share her summary report with the commission.

III. OTHER BUSINESS

A. Good of the Order/Call the Public

Kevin Groman expressed gratitude that the commission is taking action regarding access to justice issues.

B. Next Commission Meeting Date

February 15, 2017, 10:00 a.m. to 2:00 p.m.
Arizona State Courts Building, Conference Room 119A/B

Judge Winthrop noted that May 17, 2017, Commission meeting will be rescheduled to May 10 or May 31, 2017.

The meeting adjourned at 1:51 p.m.