

**Arizona Commission on Access to Justice**  
**MINUTES**  
**August 12, 2015**  
**10:00 a.m. to 2:00 p.m., Room 119**  
**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; Judge Marie Elena Cruz; Michael Jeanes; Ellen Katz; Judge James Marner; John Phelps; Janet Regner; Kevin Ruegg; Judge Rachel Torres Carrillo

**Telephonic:** Stacey Butler; Cari Gerchick

**Absent/Excused:** Millie Cisneros; Barb Dawson; Steve Seleznow; Lisa Urias; Anthony Young

**Presenters/Guests:** Kim Bernhart; Dan Christensen; Judge Dean Fink; Janet Fisher; Shawn Friend; Pat Gerrich; Maggie Kiel-Morse; Billie Jo Garcia; Chris Groninger; Tara Jackson; Paul Julien; Judge Joseph Kreamer; Judge Paul McMurdie; Lara Slifko; Deborah Tanner; Merri Tiseth; Scott Uthe

**Administrative Office of the Courts (AOC):** Dave Byers; Paul Julien; Alicia Moffat

**AOC 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 August 12, 2015 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by the Chair, Judge Larry Winthrop, at 10:10 a.m.

**Motion:** Judge Cruz moved to approve the May 20, 2015 minutes. The motion was seconded and passed unanimously.

### **B. Chairperson's Report on Presentations and Meetings**

- Judge Winthrop met with the Arizona Supreme Court at its annual retreat to discuss the ACAJ's recommendations and the efforts of the workgroups.
- Judge Winthrop, along with Judge Carrillo and Paul Julien presented at the State Judicial Conference regarding self-represented litigants and judicial ethics.
- Judge Winthrop, along with Sheldon Krantz – a senior partner at DLA Piper in Washington D.C. and Judge Barton, presented at the State Bar Convention a session regarding handling self-represented litigants in family court.

- In July, Judge Winthrop, along with Janet Fisher and Maggie Kiel-Morse, traveled to the American Association of Law Librarians convention in Philadelphia to learn about the library legal resource projects around the country.
- Judge Winthrop met with the Pro Bono and Charitable Activities Committee of the Arizona Chapter of the Association of Corporate Counsel, which will explore potential partnerships with our civil legal aid providers and other pro bono opportunities.
- Judge Winthrop met with a representative from Legal Shield, an entity that provides pre-paid legal services to individuals and business entities. Judge Winthrop may ask a committee member to look further into this and make a recommendation to the ACAJ.
- Ellen Katz, Kevin Ruegg and other Arizona Foundation for Legal Services & Education representatives, proposed an amendment to Rule 23 of the Arizona Rules of Civil Procedure. The Arizona Supreme Court will consider it at the Rules Agenda scheduled for August 26, 2015.
- The U.S. Senate Appropriations Committee approved \$385 million for the Legal Services Corporation for fiscal year 2016 and the approval will move to the full Senate for consideration.
- Additional items to note:
  - Paulette Brown is the new president of the American Bar Association.
  - The Conference of Chief Justices and the Conference of State Court Administrators recently issued joint resolutions on access to justice issues.
  - Barb Dawson is working with the editor of the Arizona Attorney Magazine, Tim Eigo, to highlight in the April 2016 edition the generous efforts of pro bono lawyers in Arizona.
  - There may be an increase in the federal funds rate which could lead to a higher return on Interest on Lawyer Trust Account (IOLTA) funds.
  - The 40<sup>th</sup> Anniversary Legal Services Corporation Annual report has been published.
  - There are additional reading materials on the ACAJ webpage regarding access to justice topics.

## **II. REPORT FROM SRL-FAMILY COURT (SRL-FC) WORKGROUP**

### **A. Report from the SRL-FC workgroup.**

- Ms. Kiel-Morse reported that the Law4AZ training has had a few small sessions with positive feedback and attendees have stated that they would like a broader range of issues to be covered. They are currently working on expanding this program to the remaining nine counties in Arizona.
- Ms. Fisher reported that the workgroup is continually working on the list of FAQs and standard answers as well as updating and further expanding the 2007 Legal Information v. Legal Advice report. Judge Winthrop encouraged members to look at the draft FAQs and to provide their suggested edits by September 11, 2015.

- Judge Barton reported that the state administrator of the AmeriCorps grant application suggested that Maricopa County update and provide additional information on their application. This was viewed as promising news and Maricopa County expects to be notified in September if they received the grant.
- Judge Barton also informed the commission that Maricopa County's new Law Library and Self-Help Resource Center should be opened to the public soon.
- Mr. Byers reported that the Administrative Office of the Courts (AOC) hosted and led a team of persons from the Attorney Generals' Office, AOC, Department of Economic Security/Division of Child Support Services and court administration from Coconino County, to visit Family Law Facilitator Programs in two small counties in California. The team was to observe the resource and self-help centers processes and to form ideas for a virtual self-help center. The team also visited the Coconino County Law Library, which will be the home of the new Arizona virtual resource and self-help center.
- Judge Barton presented the Parent Information Program videos on Maricopa County's YouTube page. Judge Barton offered to share this resource (link, videos, and scripts) with other counties so they can modify with their county-specific information.

### **III. REPORT FROM SRL-LIMITED JURISDICTION COURTS WORKGROUP:**

#### **A. Report from the Forms and Instructions sub-workgroup.**

- Judge Carrillo stated the sub-workgroup and other stakeholders met four times since the last ACAJ meeting and continued to work on the following documents: the 5-day Notice to Vacate; 5-Day notice of Health and Safety Violation; 10-day Notice of Material Breach; Immediate Notice to Move; Notice of Repeat Material or Health and Safety Breach; Notice of Non-Renewal of Rental Agreement; General Information about Landlord and Tenant Rights and Options Before You Come to Court; General Information for Tenants Who Have Been Served with Eviction Court Pleadings; General Information for a Landlord Filing an Eviction Action in Justice Court; Judgment; Complaint; and Summons.
- Judge Carrillo requested members of the commission to send any and all comments or suggestions for the forms to Nick Olm.

#### **B. Report from the Resources sub-workgroup.**

- Mr. Paul Julien stated he put together a team that is in the beginning stages of producing landlord/tenant videos for self-represented litigants. The team members include: Beverly Parker, Southern Arizona Legal Aid; Denise Holliday, landlord attorney; and Judge Steven McMurry, Justice of the Peace, Maricopa County. Additionally, the sub-workgroup has been discussing the possibilities of developing short videos for self-represented litigants concerning issues relating to consumer debt law.

- Regarding judicial education, Mr. Julien stated that there was a presentation by Judge Carrillo, Judge Winthrop and Mr. Julien at a recent judicial conference concerning interaction with self-represented litigants in the court. Mr. Julien reported he is working with the Judicial Education Officer of Maricopa County on a program called *Ensuring Access to Justice for Self-represented Litigants in Civil Cases* that Chief Justice Bales and Judge Barton will be participating in; 40 justices of the peace and hearing officers are scheduled to attend this program. Lastly, Mr. Julien and Judge Carrillo will be presenting on dealing with self-represented litigants at the annual Justice of the Peace Conference on September 2.

#### **IV. REPORT FROM *PRO BONO* SERVICES AND FUNDING WORKGROUP**

##### **A. Kevin Ruegg and Lara Slifko presented the [Online Arizona Justice](#) website and navigated the Arizona Foundation for Legal Services & Education Charitable Tax Credit website.**

- Ms. Slifko stated that the OnlineArizonaJustice.org website is an on-line portal for lawyers to learn of pro bono opportunities and to provide legal information to individuals who have submitted written questions. This website allows Arizona attorneys the opportunity to view cases that need legal assistance and make a selection to take a case on a *pro bono* basis -- the attorney will receive Continuing Legal Education (CLE) credit.
- Ms. Slifko and Dr. Ruegg stated that they plan to work further with *pro bono* lawyers to disseminate information regarding the availability of the state tax credit and they hope to have another informative tax credit video completed for this tax year.

##### **B. Intel colleagues, Dan Christensen and Scott Uthe, provided a brief report on the potential for corporate *pro bono* assistance.**

- Mr. Christensen and Mr. Uthe stated that in-house counsel are an untapped resource for *pro bono* services and they are reaching out to other corporations, such as Honeywell, WalMart, and SRP to encourage others to provide *pro bono* legal services, to educate on the value of *pro bono* participation, and for in-house counsel to receive education and resources they need in order to provide *pro bono* services.

#### **VI. INFORMATION REGARDING NON-LAWYER REPRESENTATION ISSUES**

##### **A. Kay Radwanski, AOC staff to the Committee on the Impact of Domestic Violence and the Courts (CIDVC), presented on the Arizona Rules of Order of Protection Procedure (ARPOP) Rule Change Petition and Amendments**

- Ms. Radwanski stated that, as part of the Advancing Justice Together Strategic Agenda, CIDVC reorganized ARPOP into 42 rules with subparts, including two new rules. Rule

20b states that a plaintiff cannot be asked to disclose the location of a domestic violence shelter residence. The second addition to Rule 20 allows a plaintiff to use a substitute address provided through the Secretary of State's Address Confidentiality Program.

- Ms. Radwanski further related that Barbara LaWall, Pima County Attorney, suggested two additions: that there be a rule that allows a lay domestic violence advocate accompany the plaintiff in an *ex parte* protective order hearing; second, that would allow a plaintiff to appear at an *ex parte* protective order hearing with children if the plaintiff would otherwise be denied access to the courts. CIDVC filed a reply to their rules petition that supported the incorporation of Ms. LaWall's suggestions.
- The proposed changes are slated for the Supreme Court's rules agenda on August 26.

**B. Chris Groninger and Merri Tiseth presented on increasing the effectiveness of the "Lay Legal Advocates" and information regarding the Arizona Town Hall discussion regarding non-lawyer representation.**

- Ms. Groninger proposed expanding the definition and role of the Domestic Violence Lay Legal Advocated to include sitting with the client at the litigant table and providing factual information to the judge. The expanded definition also envisions the advocate becoming a licensed Certified Legal Document Preparer, which would allow the advocate to prepare forms on behalf of the client. A proposed pilot project would be slated to last 24 months.
- Member responses included a recognition that the State needs to start the discussion and examine standards, accountability, ethical requirements, and protocols of this type of advocate, in addition to discussing expectations of an "advocate." Other members recognized and discussed the statutory and historical protections, privileges, and scope of representation that are afforded formal attorney/client relationships.

**Motion:** Ms. Ruegg moved to have the commission move forward with evaluating non-lawyer representation in Arizona. The motion was seconded by Judge Barton and passed unanimously.

- Judge Winthrop delegated the task of initial investigation and recommendations concerning this topic to Todd Lang and Judge Joseph Kreamer. If others would like to volunteer for this project, they should contact Judge Winthrop.

## **VII. OTHER BUSINESS**

### **A. Miscellaneous**

Judge Winthrop mentioned that the Supreme Court is considering an amendment to Rule 23 of the Arizona Rules of Civil Procedure that deals with class actions. This amendment would allow the court to direct unallocated funds for class action settlements to the Bar Foundation in trust to be distributed to legal aid providers and other non-profit organizations providing

legal services, particularly related to the class action itself, rather than being returned to the defendant(s) whose conduct was the subject of the class action lawsuit.

**Motion:** Judge Berning moved to support the petition for the Supreme Court to consider amending Rule 23 of the Arizona Rules of Civil Procedure as stated above. The motion was seconded by Judge Cruz and passed unanimously.

Judge Winthrop concluded the meeting by thanking members and guests for their presence and contributions at today's meeting.

**B. Good of the Order/ Call to the Public**

There was no response to a call to the public.

**C. Adjournment**

Meeting adjourned at 2:11 p.m.

**D. Next Commission Meeting Date**

November 18, 2015

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

State Courts Building, Conference Room 119A/B

1501 W. Washington

Phoenix, Arizona 85007