

STAKEHOLDERS & ACCESS TO JUSTICE COMMITTEE AGENDA ITEM

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TO: Members, Stakeholders & Access to Justice Committee

FROM: Kelli Evans, Senior Director Administration of Justice
Office of Legal Services

SUBJECT: California Commission on Access to Justice Annual Report

EXECUTIVE SUMMARY

The California Commission on Access to Justice was established in 1997 to pursue long-term fundamental improvements in our civil justice system so that it is truly accessible for all, regardless of income, geography, language ability, or other factors.

The Access Commission had a productive year under the leadership of 2014 Chair, Justice Ronald B. Robie of the Third District Court of Appeal, and Vice-Chair, Joanne Caruso of Jacobs Engineering Group in Pasadena.

Highlights of the year include:

- **Incubator/Modest Means Task Force.** The Commission hosted three well-attended regional outreach and education sessions on incubators programs throughout the state, and produced and nationally distributed *Incubator Guide*, a basic primer on incubators—the first of its kind. The Commission, together with the State Bar, secured additional foundation funding and selected four projects to provide seed grants of \$45,000 each to jumpstart or expand incubator programs that teach new lawyers how to create sustainable practices that provide affordable legal services.

The Commission's selection and funding of the new projects from a large and diverse applicant pool is resulting in new partnerships and collaborations between law schools, lawyer referral services, legal services organizations, law libraries, and others. The Commission's work on this project has been featured in several publications, including the *National Law Journal*.

- **Impact of Court Distances and Travel Time on Access to Justice.** The Trial Court Budget Advisory Committee sought the Commission's input on the impact

of lengthy distances and/or amounts of time that litigants and witnesses must spend to travel in order to access a court. These issues have become particularly acute as courts have closed or reduced service hours due to budget cuts. In response, the Commission developed a set of recommended factors for the judicial branch to consider when deciding on court closures, openings, or other matters that may impact the distance or time spent traveling to court.

- **Modernizing Legal Services Corporation Rules.** At the request of ‘Access to Justice’ colleagues in other states, the Commission urged the Legal Services Corporation (LSC) to update its rules regarding how funded legal services organizations may use private attorneys. LSC took particular note of the Commission’s comments and made revisions to its rules as a result.

A more detailed overview of the Commission’s accomplishments follows.

SUPPORT FOR THE JUDICIAL BRANCH

Continuing Efforts for Judicial Branch Support Committee

The Judicial Branch Support Committee continued its mission to support and promote efforts for adequate funding for the courts and to address legislative issues that concern the branch. The committee, on behalf of the Commission, continued to work with key stakeholders to support efforts to improve access to justice through the submission of the following public comment letters:

- In March, the Commission recommended that the Trial Court Budget Advisory Committee take into account the impact of lengthy distances and/or the amounts of time that litigants and witnesses must spend traveling in order to access courts.
- In their June letter to the Judicial Branch’s Technology Planning Task Force, the Commission expressed support for the document, *Technology, Strategy, and Funding Proposal*. The letter also included recommendations for further strengthening the proposed technology plan.
- In July, the Commission sent a letter to the Governor’s office and the legislature showing appreciation for partially restoring funding to the judicial branch, but also urging full funding of the branch as soon as possible in order to promote access to justice.

Language Access Committee

The Language Access Committee continued to support the Judicial Council on the development of the Language Access Plan Joint Working Group’s *Strategic Plan for Language Access in the Courts*. Commission Chair, Justice Robie, provided testimony at one of the three public hearings around the state, sharing the concerns of Californians and discussing policy recommendations. The committee also provided a letter supporting the plan’s recommendations regarding basic implementation issues.

Commission members continued to play key leadership roles in the development and implementation of the statewide language access action plan.

The Commission sponsored convenings for indigenous language interpreters hosted by the Legal Aid Association of California (LAAC) and California Rural Legal Assistance (CRLA).

Benjamin Aranda Judicial Access to Justice Awards

Every year, the Access Commission recommends a judge to be honored jointly by the State Bar, the Judicial Council, and the California Judges Association for his or her dedication to improving access to our judicial system. The Award, presented by the Chief Justice, has become one of the most prestigious and competitive awards in the state, and it helps to focus the attention of court and bar leaders on the issue of access.

This year's recipient was **Commissioner Sue Alexander**, of the Alameda County Superior Court. Commissioner Alexander was recognized for improving access to the courts for family law litigants, including the groundbreaking implementation of new methods under landmark 1997 legislation that transformed the way child support cases are handled in California. She also created a system that allowed family law and child support cases to be heard by the same judicial officer at the same time, making it easier on litigants and more efficient for the court. She is the first court commissioner to receive this award.

Administrative Agency Committee

Building on its outreach efforts and in-depth research, the Administrative Agency Committee continued to work toward finalization of its report on best practices and minimum standards. The report will be completed in 2015 and will provide a comprehensive set of recommendations to assist administrative agencies in serving self-represented parties.

SUPPORT OF THE DELIVERY OF LEGAL SERVICES

Incubator/Modest Means Task Force

The Incubator/Modest Means Task Force worked with the State Bar to promote the creation and/or expansion of modest means incubator programs through the Modest Means Incubator Project. Modest means incubator programs are programs that accomplish two primary goals: 1) expand legal services for low and moderate income people, and 2) assist California lawyers in establishing sustainable law practices that primarily serve low and moderate income people.

The task force, led by Commission members Justice Goodwin Liu and Judge Mark Juhas, implemented the Modest Means Incubator Project with the aid of grants from the California Bar Foundation, the Ford Foundation and the Public Welfare Foundation.

The first phase of the project included three Commission-hosted regional outreach and education sessions throughout the state. These meetings were attended by law school deans, clinical professors, legal services directors, pro bono managers, law librarians, and others interested in the topic. Each session included morning presentations by individuals working with incubators or modest means programs, lunch, and afternoon working group sessions. In addition to hosting these convenings, the Commission produced and widely distributed *Incubator Guide*, which was featured on the ABA's incubator web page. The guide is a basic primer on incubators and has been well received by colleagues in California and across the country.

In October, the Commission issued a request for grant proposals—which resulted in 24 grant proposal submissions from around the state, 10 of which were for rural programs. The Commission selected four grantees: one in the Bay Area, one in Los Angeles, one in Orange County, and one in the rural northern part of the state. During 2015, the Commission will provide technical assistance to the grantees and begin to evaluate their progress.

Federal Courts Committee

In 2014, the Federal Courts Committee continued to focus on improving court functions and access for federal litigants. Committee members shared district practices and data, and provided recommendations and suggestions for systems and process improvements to key stakeholders, including in the following areas:

- Prisoner civil rights, habeas cases, and alternative dispute resolution: committee members are considering ways to improve habeas forms. The Committee is also monitoring a pilot e-filing program at Lancaster prison and discussing language access issues for federal courts.
- Limited scope appointments – the Committee is looking at practices throughout the state, including their efficacy and acceptance by judges.
- General prison litigation matters (committee members met with the plaintiffs/petitioners bar and representatives of the Attorney General's office and CDCR; future meeting is being planned). Committee members are discussing ways to improve settlement of prisoner civil rights cases and improving habeas procedures throughout the state.
- Continuing discussion of funding for self-help clinics; working with law students regarding law review article on federal pro se clinics. Committee members also work on access to courts issues for bankruptcy litigants.

Modernizing Legal Services Corporation Rules

In June, the Commission submitted comments regarding proposed revisions to the Legal Services Corporation (LSC) Private Attorney Involvement (PAI) requirement, specifically in the definition of individuals authorized to provide PAI-qualified services, exempting incubator programs from PAI compensation restrictions, and screenings/referrals. LSC took particular note of the Commission's comments and

made revisions to its rules regarding how funded legal services organizations may use private attorneys.

Civil Justice Strategies Task Force

The Commission supported the efforts of the State Bar's Civil Justice Strategies Task Force in analyzing the reasons for the existing "justice gap," evaluating the role of the legal profession in addressing the crisis, and studying creative solutions being considered in other states and other countries. Current and former commission members testified in front of the task force and participated in the task force's process of developing an action plan with recommendations for steps that should be taken to fill the justice gap and achieve true access to justice in California. The Commission's Vice Chair served as the commission liaison to the Task Force.

Task Force on Admissions Regulation Reform

The Commission closely followed the development of the task force's Working Group B recommendations, based on the proposed requirement that all new bar members provide 50 hours of pro bono or reduced-fee legal services. When the task force's final phase II report was released for public comment, the Commission submitted comments to recommend revising the supervising attorney qualifications and duties, as well as reviewing/considering adjusting the eligibility criteria for the State Bar's Wiley W. Manual Certificate for Pro Bono Legal Services.

SUPPORT FOR COMMUNICATION, FUNDING, AND OUTREACH OF LEGAL SERVICES

Communications and Outreach Committee

The Communications Committee continued to update their resource and outreach toolkit of access to justice materials, which contains talking points, PowerPoint Presentations, and hand-out materials. The Committee also continued periodic publication of the Access Commission e-newsletter, JUSTICE, which highlights current Access Commission activities as well as other developments and events throughout California that impact access to justice issues in California. Additionally, the Committee solicited and obtained the publication of several articles in various legal publications around the state relating to access to justice issues.

Campaign for Justice

The Campaign for Justice, in which the Commission participates, produced a 4-page cy pres brochure to accompany the 16-page cy pres toolkit created in 2013. The committee distributed both the brochure and toolkit, and conducted outreach to the bench, bar, and numerous programs and organizations, including the Consumer Attorneys of California, Bay Area Legal Aid, Legal Aid Association of California.

Funding Committee

The Funding Committee, with assistance from the Campaign for Justice, performed initial research on possible fundraising for legal services through large law firm

outreach. As a result, the Commission is launching a working group to explore a law firm outreach campaign based on similar strategies by groups in Washington, D.C. and Chicago.

The Committee also worked with the State Bar's R&D Legal Services Funding Task Force to increase the opt-out fee for legal services on State Bar member dues statements from \$30 to \$40. As of January 31, 2015, over \$3.3 million has been raised (with 55% of attorney fees paid).

Developments in Access to Justice: New California Language Access Plan Workshop

The Access Commission sponsored an educational workshop at the State Bar's Annual Meeting that addressed recent developments in language access. Panelists, including attorneys and other subject matter experts, provided historical context on the new statewide language access plan, shared the current plan's progress, and discussed the importance of the role of the court interpreter.

CLOSING

During 2014, the Commission continued its ongoing effort to make significant improvements in the administration of justice and to increase access to the judicial system for low and moderate income Californians.

FISCAL / PERSONNEL IMPACT

None

RECOMMENDATION

None

PROPOSED BOARD COMMITTEE RESOLUTION

None