

# CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105 – (415) 538-2352 – (415) 538-2524/fax

## NOTES AND ACTION ITEMS SUMMARY

Tuesday, April 25, 2018 | 10:00 a.m. – 2:00 p.m.

### Access to Justice Commission Video Conference Meeting San Francisco and Los Angeles State Bar Offices

#### Roll Call

##### Commissioners

Judge Mark Juhas  
Catherine Blakemore  
John Adkins  
Beverly Cole  
David Daniels  
Judge Timothy Dillon  
Erika Frank  
Amos Hartston  
Judge James Herman  
Janis Hirohama  
Judge Lisa Jaskol  
Venus Johnson  
Michael Levy  
Justice Goodwin Liu  
Anne Marie Murphy  
Lisa Pruitt  
Panida Rzonca  
Lorena Slomanson  
Shumika Sookdeo  
Johanna Valle Sobalvarro

##### Ex Officio

Jim Meeker  
Justice Ron Robie  
Toby Rothschild

##### Board of Trustees

Hailyn Chen

##### Public

Hilarie Atkisson  
Salena Copeland  
Bonnie Hough  
Lorin Kline  
Justice Martin Jenkins  
Deborah Moss-West

##### Guest Speakers

Carlos Garcia  
Jazmyn Larimer  
Carlos Manjarrez  
Evonne Silva

##### Staff

Stephanie Choy  
Donna Hershkowitz  
Elizabeth Hom  
Steve Moawad  
Leah Wilson

#### I. WELCOME

##### A. Roll Call

Judge Juhas called the meeting to order and welcomed the attendees. Roll call was taken and a quorum was established.

##### B. Call For Public Comment

Judge Juhas invited any member of the public to comment on any items on the agenda. No one from the public responded.

## **II. CONSENT**

### **A. Approval of February 9, 2018 Meeting Minutes**

With two corrections to indicate that Commissioner Shumika Sookdeo was present, and Jim Meeker was present as an ex officio member, the Notes and Action Items Summary from the February 9 meeting were approved by acclamation.

## **III. CHAIR AND VICE CHAIR'S REPORT**

Judge Juhas thanked Board of Trustee (BOT) member Hailyn Chen for attending the meeting and invited her to make comments regarding the BOT Strategic Plan. Hailyn reported that the BOT adopted new access to justice objectives for its five-year strategic plan. The initiatives include: completing Justice Gap study of California by December 31, 2019; exploring options for increased access through the licensing of Limited Licensed Legal Technicians (LLLT) and paraprofessionals by December 2020; studying online legal service delivery models with the dual role of expanding access and protecting the public, and revising special admission rules and Lawyer Referral Service Rules with an access to justice lens. Hailyn emphasized that the BOT looks forward to partnering with the Commission, and relying on its expertise.

There was discussion about whether rural access issues and the study of navigators were included in the BOT strategic plan. The Commission requested that the final portions of the BOT Strategic Plan relating to access to justice issues be circulated. Stephanie Choy will follow up. The Commission members expressed their eagerness to share expertise and partner with the BOT.

### **A. Report on Commission activities and any new business**

Judge Juhas reported on recent discussions between Commission leadership and Bar leadership. He expressed his appreciation to Bar leadership for their accessibility and transparency in working towards the shared goal of improving the relationship between the Commission and the Bar.

### **B. Report on April 2 Meeting with Bar Executives and Board of Trustee Members**

Catherine Blakemore reported further on the recent meeting between Commission and Bar leadership. They were very candid in discussing the best path forward for the Commission, and it was a good opportunity to learn about and understand recent changes at the Bar, and its constraints on staffing. The Bar continues its Appendix I review, and Commission leadership will have the opportunity to provide feedback.

There was also discussion about pro bono awards. There will be a recommendation to the BOT in May that the Bar no longer give out awards. California Lawyers Association may be an appropriate entity to give the pro bono awards. Judge Juhas will outreach to them.

Catherine further reported that the Executive Committee will look at the Commission's strategic plan to streamline it and make it a more workable and focused document. There will be an concerted effort to identify initiatives where the Commission and the Bar can collaborate. Catherine also expressed her appreciation to the BOT and senior staff for their time and efforts.

There was discussion to put some Commission committees on hiatus due to Appendix I review and current staffing resources. There was discussion about independence of the Commission, the timing of the Appendix I review, as well as Bar funding.

#### **IV. STAFF REPORTS**

##### **A. Tips for Bagley-Keene Open Meeting Act Compliance**

Interim Director of Office of Legal Services (OLS) Stephanie Choy thanked the commission members for their patience with trainings and instruction regarding Bagley-Keene Open Meeting Act compliance. She noted that staff could no longer accept multiple physical locations on notice and agendas, and that commissioners participating as public members can only listen and comment during public comment periods. Stephanie invited commissioners to subscribe to the State Bar public notice email list. She explained that there would only be one list for all Commission activities, and subscribers would receive email notices for all agendas, materials, and address changes.

##### **B. IOLTA Revenue Report**

Stephanie reported that interest rates are rising and the Legal Services Trust Fund anticipates at least \$1 million to \$1.5 million in revenue over last year. The Trust Fund office is recertifying banks and anticipate an increase in revenue. The Justice Gap Fund increased \$790,000, which is up 4%. Unfortunately, contribution to Legal Services Fund (\$40 opt-in) is down 12% to \$5.6

million. This is down from \$7 million last year; however this year's fund is tracking with year prior.

### **C. Staff Changes and other State Bar developments**

Stephanie reported that the Director of Office of Legal Service continues. She also noted that in addition to funding issues, staffing resources are limited due to a medical leave, vacancies that have not yet been filled, as well as another staff member transitioning out. Stephanie expressed her thanks and appreciation to Judge Juhas and Catherine for their patience and understanding.

State Bar Chief Trial Counsel Steve Moawad presented on his office's work to investigate unauthorized practice of law (UPL) cases. He noted several new initiatives to alert communities and to educate communities on how to identify and report fraud. Steve also noted, that after April 30, the U.S. Department of Justice has defunded the Legal Orientation Program (LOP) that the Vera Institute delivers at immigration detention centers. Steve reported he and his staff visited a detention center and met with detainees to identify gaps in public education. The Office of Chief Trial Counsel's goal is to provide resources and plans to put laminated information including attorney complaint forms and fraud alerts in the detention facilities. He asked the Commission for additional ideas for collaboration in this area.

There was a discussion about potential areas for collaboration. Catherine will provide information about One California funding. Salena Copeland will obtain a list of legal services providers that go to detention centers to provider services.

### **V. COMMITTEE REPORTS**

Judge Juhas explained that due to the BOT Appendix I review and staffing resources, there is a recommendation that some of the Commission committees be put on hold.

There was agreement that Amicus Curiae Standing Committee, Communications Committees, Funding Committee, Judicial Branch Support Committee, Language Access Committee, and Right to Counsel Committee be temporarily put on hold.

The following committees provided reports:

Judicial Branch Support: Judge Herman reported on the three projects that this Committee was working on: 1) Updating the Minimum Standards for Access, which was developed in 2013; 2) Reviewing the Chief Justice's Futures Committee's report; and 3) Investigating navigator programs. Judge Herman noted that court funding often impairs access to justice initiatives.

Language Access Committee: Judge Juhas reported that much of the work of this Committee is covered through the Judicial Branch and Justice Cuellar's efforts.

Amicus Curiae Standing Committee: Mike Levy reported the *Jameson* case was set for oral argument in May. The Commission debated whether the activities of this Committee are appropriate for Commission. Mike emphasized that the perspectives and positions that Committee brought forth were often unique and might not otherwise be conveyed in important access to justice cases. He urged the BOT to consider this with regard to the Committee's work.

Modest Means Committee: OLS Staff Elizabeth Hom reported that the Committee was working on the California adaptation of the Colorado Bar's "Representing the Moderate Income Client," the evaluation of the Incubator Projects, studying technology platforms used to reach modest means clients, and studying navigator projects.

Pro Bono Coordinating Committee (PBCC): Co-chair Hilarie Atkisson reported that PBCC had its first joint meeting with PBCC and former Standing Committee on the Delivery of Legal Services (SCDLS) members. They are committed to ensuring that information flow and sharing continue as well as the important substantive work on specific pro bono projects. The Committee agreed to work on the following for 2018: review of Pro Bono Directory that will be launched on the State Bar website, studying pro bono as a requirement for admission to the bar, monitoring legislation affecting pro bono, reviewing the ABA Pro Bono survey with a focus on California results, and helping to update the Pro Bono Toolkit for Judges.

Right to Counsel Committee: Co-chair Amos Hartston reported that the Committee was discussing the Shriver Civil Counsel Act and next steps in Shriver funding. They are also monitoring New York City's right to counsel work, the San Francisco right to counsel ballot initiative, related issues in immigration court, and right to counsel as an accommodation under the Americans with Disabilities Act.

Rural Task Force Committee: Co-chair Lisa Pruitt reported that the Committee was primarily focused on policy briefs on specific issues in lieu of updating the 2010 report. The committee will focus on publishing four reports on: legal deserts in rural areas, natural disasters and disparate impact in rural areas, rural housing shortages, and immigration issues in rural areas.

Lisa also highlighted the March issue of *Los Angeles Lawyer* magazine, which has two access to justice focused articles. There will be additional access to justice focused

articles in upcoming issues as well. The Commission expressed thanks to Paul Marks for his work on this.

Communications and Outreach: Chair Janis Hirohama asserted that it was an appropriate time for this Committee to go on hiatus now that the *Los Angeles Lawyer* magazine had been published and additional plans were underway to publish additional access focused articles.

Funding Committee: Catherine reported that the main functions of this committee are now covered through the budget advocacy work of LAAC. She encourages the a liaison function between LAAC and the Commission for funding updates. Salena Copeland also noted the important Justice in Government funding work, which OLS staff has been involved with.

Nominations Committee: Chair Janis Hirohama reported that there is one vacancy on the Commission for 2018-2019. The Committee has received applications and have a meeting to review, discuss, and make recommendations scheduled.

There was a discussion about best practices for equity and inclusion for all committees, particularly the Nominations Committee.

## **VI. PRESENTATION ON LANGUAGE ACCESS ISSUE IN FIELD OF WORKERS' COMPENSATION**

Carlos Garcia from the Pacific Media Workers Guild was invited by Language Access Committee to make a presentation on language access issues in the area of workers' compensation. Carlos discussed medical interpreting and SB 863 (2012) which impacts who may be qualified as a medical interpreters and the fees they may charge. Carlos highlighted current regulations that may put patients at risk as well as the Interpreters Guild of America's recommendations for implementation of SB 863. Carlos requested that Commissioners, through their organizations, submit public comment on the recommendations to the Workers Compensation Forum. Commissioners requested additional information and for the presentation be shared.

## **VII. STATE BAR STRATEGIC PLANNING AND APPENDIX I INQUIRY**

### **A. Overview**

Referring to Hailyn's earlier remarks, Chief of Programs Donna Hershkowitz highlighted areas of potential collaboration between the Commission and BOT, including exploring licensing of

paraprofessionals, reviewing rules and regulations on special admissions and lawyer referral services with the access to justice lens.

B. State Bar Strategic Planning

i. *Justice Gap Study* - Speaker Carlos Manjarrez from Legal Services Corporation

Carlos Manjarrez from the Legal Services Corporation (LSC) presented on the nationwide *Justice Gap Study* published last year, and made suggestions on conducting a California focused study. For efficiencies and cost-effectiveness, the LSC study utilized the panel survey method and a national representative household survey to narrowly target families at or below 125% of the poverty level. The survey posed 86 different scenarios to participants. Carlos can make the survey instrument available should the State Bar and Commission be interested in reviewing or using it. The survey studied civil legal problems, help seeking activities, and trust in the legal system. Carlos stressed the importance of working with a professional survey group and determining what information is to be gathered in advance. He also encouraged use of secondary analysis of administrative data (e.g. court data, LawHelp, CMS, google trends.) Commissioners requested a copy of the presentation PowerPoint.

ii. Explore recommendations re. Licensing of Paraprofessionals, including Limited License Legal Technician

Elizabeth Hom provided background on paraprofessionals including Licensed Document Assistants (LDA) in California and a comparison to Washington state's Limited Licensed Legal Technicians (LLLT), highlighting the challenges faced in Washington. Elizabeth noted the California Association of Legal Document Assistants' role in professional development and self-regulation of LDAs.

There was discussion about law school engagement in training and education, and the potential opportunities for California accredited and unaccredited law schools in rural and quasi-rural areas to play a meaningful role.

iii. Review of Rules that may impact Access to Justice, including rules governing 1) Special Admissions, 2) Lawyer Referral Service Certification, and other rules

Donna reported on the status of special admissions rules, including Registered In-House Counsel (RIHC), Registered Legal Services Attorneys (RLSA). She called for volunteers to assist in

review of the rules before they go to the BOT in September. The Pro Bono Coordinating committee and Catherine volunteered.

Donna reported on the Lawyer Referral Service Certification rules, which are debating the role of automated referrals as both an access to justice issue and a public protection issue. These rules will be presented at the BOT Programs Committee meeting in July and then be open for public comment. Donna called for volunteers to help review. Commissioners Amos Hartston, Panida Rzonca, Shumika Sookdeo and Ex Officio member Toby Rothschild volunteered to help review.

- C. Review of Access to Justice Commission priorities, including current committees

This item was tabled.

- D. Discussion about Commission priorities

This item was tabled.

#### **VIII. JULY BOARD OF TRUSTEES MEETING - PLANNING FOR PRESENTATION ON ACCESS TO JUSTICE POLICY INITIATIVES**

This item was tabled.

#### **IX. PUBLIC WELFARE GRANT ON REMOVING BARRIERS TO CLEARING CRIMINAL RECORDS IN CALIFORNIA: PRESENTATION BY CODE FOR AMERICA**

Chief of Mission Advancement and Accountability Dag McLeod reported that the Commission received a grant from Public Welfare Foundation to study barriers to re-entry; the Commission and staff agreed to work with Code for America. Dag introduced Code for America staff Evonne Silva and Jazmyn Latimer. Evonne and Jazmyn presented on the background and vision of Code for America, their “Clear My Record” tool, and the draft report. The organization works with government to build technology so that people can access services. The “Clear My Record Tool” has helped provide access to people wishing to expunge criminal records in an accessible way—the tool is available online and via mobile, and is accessible at all hours. Jazmyn also highlighted policy recommendations outlined in the draft report. Evonne encouraged Commissioners to review the draft report and submit feedback to Dag. Evonne thanked the State Bar for their support and interest.

**X. COMMUNITY LIAISON UPDATES, IF ANY**

- A. State Bar of California Board of Trustees
- B. Council on Access & Fairness (COAF)
- C. Legal Aid Association of California (LAAC)
- D. Judicial Council

This item was tabled.

**XI. ADJOURNMENT**

There being no other business, Judge Juhas moved to adjourn the meeting.