

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

**c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105 – (415) 538-2352 –
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NOTES AND ACTION ITEMS SUMMARY

Friday, July 13, 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
Beverly Cole
David Daniels
Judge Timothy Dillon
Amos Hartston
Janis Hirohama
Judge Lisa Jaskol
Judge Victoria Kolakowski
Deborah Moss-West
Shumika Sookdeo

Ex Officio

Jim Meeker
Justice Ron Robie
Toby Rothschild

Board of Trustees

Mark Broughton

Public

Salena Copeland
Carin Fujisaki
Bonnie Hough
Mary Kelly
Lorin Kline
Lorena Slomanson

Staff

Stephanie Choy
Brady Dewar
Donna Hershkowitz
Elizabeth Hom
Doan Nguyen
Leah Wilson

I. WELCOME

A. Roll Call

Judge Juhas called the meeting to order and welcomed the attendees. Roll call was taken; a quorum was not 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 April 25, 2018 Meeting Minutes

This item was tabled due to lack of quorum.

III. CHAIR AND VICE CHAIR'S REPORT

Judge Juhas reported that he received a survey report from Marina Hall from the Los Angeles Incubator Consortium (LAIC). The report highlighted the experience of an incubator participant who is also a former military officer. The incubator attorney reflected that after participating in the incubator program, she is more comfortable with being a solo attorney, and excited about and interested in learning new areas of law. She reported that six months prior, she felt burned out from a demanding command schedule, travel, and personal issues, but after participating in the incubator program, she felt calm and confident in her ability as an attorney.

Catherine reported on the *Jameson v. Desta* case. With Mike Levy taking the lead, CCAJ submitted an amicus brief. In a unanimous decision, the California Supreme Court held that court reporters must generally be made available to indigent litigants. Catherine highlighted that electronic recordings were mentioned in three footnotes. Justice Robie commented how important this decision is, in that he has seen many litigants automatically lose at the appellate level because they have no record.

A. Report on Appendix I Sub-Entity Review

Judge Juhas provided a brief overview of CCAJ, and the Bar's current Appendix I sub-entity review, which was initiated by the Governance in the Public Interest Taskforce report in 2017. Judge Juhas noted that there are between 35-40 Access Commissions nationally, and that there are different governance approaches for these Commissions. CCAJ is a creature of the BOT and was not enabled by statute. The BOT appoints the chair and vice chair. The Bar is primarily focused on regulatory functions like admissions and discipline of attorneys. The Bar's mission statement includes access and diversity as does the current version of the State Bar fee bill. In the last year, the Commission has tried to be fiscally responsible and has made administrative changes to be mindful of Bar resources. Currently, CCAJ is funded through the Bar's general fund. Judge Juhas also noted that there have been two opinions from the Office of General Counsel regarding the relationship between CCAJ and the Bar.

There have been two meetings between Commission leadership and Bar leadership. The Bar has been open to the concerns raised by Judge Juhas and Catherine. They remain open to suggestions on a path forward.

The Commission discussed its role in access to justice issues, which includes being a convener of ideas, leveraging ideas and relationships to be on the cutting edge of access issues, including language access, incubators, Shriver Civil Counsel Act, funding for legal aid, including the Equal Access Fund, rural access issues, and civil justice hearings in Irvine, San Francisco, Sacramento,

Los Angeles, and Fresno. There was also a discussion about the ability of the commission to coordinate on a statewide level and have national influence and respect.

There was discussion about the independence of the Commission. Leah noted that the Appendix I review was a part of reform measures bar-wide and included most commissions and committees. She indicated that as currently structured, there are 200+ volunteers working on various initiatives; this structure presents a management challenge in the Bar's ability to meet its goals and objectives. One of the goals of the Appendix I review is to clarify the role of the commissions and committees vis-à-vis the Board of Trustees, and to determine the best structure for the Bar as a whole.

The Commission asked Bar leadership what the Bar envisions CCAJ's role to be. Leah responded that the work of the Commission serves a valuable role. One possibility is for CCAJ to be an idea generating body, work with the Programs Committee for the BOT to adopt recommendations that would manifest in the BOT Strategic Plan. One example of an initiative staff and CCAJ could work on together is the California Justice Gap study. Concerns regarding whether other appointing entities might have different goals and objectives and how those goals may align with the BOT and CCAJ was raised as well as how the Bar communicates with these entities.

There was further discussion of other potential working models for CCAJ. Judge Juhas and Catherine will work with ExCom and others to draft proposals to present to the Bar.

B. Administrative Agency Report Update and Discussion

Catherine provided background on the Administrative Agency Report, which was first drafted by Mary Kelly two years ago. Mary Kelly submitted some areas for revision but lauded the Commission's work on the draft. Catherine indicated that Joann Lee from Legal Aid Foundation of Los Angeles reviewed and commented on the language access sections of the report, and that Panida Rzonca would also review before the report is finalized. She encouraged Commissioners to review and provide additional comment to her and Mike Levy. Commissioners commented that it was a good document that could apply to many agencies. The Commission plans to finalize the document and discuss how to issue the report at the August ExCom meeting. The Commission thanked Mary Kelly and others for their work on it.

IV. STAFF REPORTS

A. Office of Legal Services Staffing Update and Other State Bar Developments

Stephanie reported that there will be a consultant to help conduct a national search for the Director of OLS. She also highlighted the staffing restructure and integration of grant administration functions with the policy and program development work, and announced that Doan Nguyen and Elizabeth Hom were promoted to Program Supervisors.

Stephanie also reported that the BOT would receive a presentation on the grant administration functions as well as the policy and program development work at its meeting next week. Judge Juhas will participate as well as the Trust Fund Commission chair, an executive director from a grantee, and Pat Lee who will speak on the diversity and inclusion work of the office.

B. IOLTA Revenue Report

Stephanie reported that staff anticipates grants go up 97% to \$26 million, due largely to the economy and staff work to encourage banks to increase yields. Stephanie noted as the fed fund target rate moves up, staff are working with banks to adjust their rates.

V. COMMITTEE REPORTS

A. Modest Means Committee Report

Deborah reported that the Committee met on June 11, and determined three topics of focus: incubator evaluation, use of navigators in the courtroom, and updating the Colorado guide “Successful Business Planning for the Modern Law Practice” for California use.

B. Pro Bono Coordinating Committee Report

David reports that the Committee is focusing on four areas: Pro Bono Opportunities Directory, monitoring pro bono legislation, reviewing the 2017 ABA Pro Bono Survey of California attorneys, and refreshing the Judicial Council Pro Bono Toolkit. David noted that the ABA study as well as a recent State Bar survey indicate that a significant incentive for attorneys to do pro bono is CLE credit.

C. Rural Task Force Committee Report

Salena reported that the Rural Task Force is updating its prior 2010 report with a series of whitepapers, focusing on attorney deserts, disaster, immigration and housing.

D. Nominations Committee Report

Janis reported that there is one State Bar appointment vacancy to the Commission. She reported that the Committee reviewed applications, interviewed applicants and agreed to recommend to the BOT that Hilarie Atkisson of Fenwick and West be appointed to CCAJ. The

ExCom unanimous agreed to the recommendation. The State Bar has indicated that the recommendation needs to be held pending completion of the State Bar's sub-entity review.

Other reports

Toby reported that there are updated Rules of Professional Conduct that will go into effect on November 1. He highlighted several that would be of interest to the Commission:

- Rule 1.0, comment 5 adopts the equivalent to ABA Rule 6.1 to encourage pro bono
- Rule 1.2: the text and comments make specific reference to limited scope representation
- Paying expenses for client: attorneys may pay expenses that advance a client's cause (e.g. breakfast and bus fare to court on the day of a hearing)
- Client trust funds: if attorney receives an advance of fees, it must go in a trust account.
- Financial arrangements with non-lawyers: this rule now authorizes pro bono attorneys to agree to pay a portion of fees to the organization that involved them in the case.
- Rule 6.3 allows and encourages attorneys to serve on legal aid board of directors without creating a conflict. The Board member would not have access to client information or have a say in how cases are handled. If a conflict arises, the lawyer will be required to step out of the case.

There was a question on advising clients when their behavior is legal in California, but may violate a federal law (e.g. cannabis, immigration, tribal law, sanctuary city laws). Toby responded that an attorney can advise the client on how to comply with California law, and include risks of violating federal laws.

Amos reported that though the Right to Counsel Committee had not met, there have been developments. In San Francisco, a ballot initiative was passed to provide counsel in eviction cases in housing court. There was also a recent movement in Los Angeles to investigate what right to counsel might look like.

Leah raised the issue of mandatory malpractice insurance and outreach to lawyers serving low and moderate income clients. It was suggested that Leah consider contacting incubator participants and their insurance carrier.

VI. LANGUAGE ACCESS ISSUE IN FIELD OF WORKERS' COMPENSATION CASES PRESENTATION

This item was tabled.

VII. COMMUNITY LIASION UPDATES, IF ANY

A. State Bar of California Board of Trustees

There was no report.

B. Council on Access & Fairness (COAF)

There was no report.

C. Legal Aid Association of California (LAAC)

Salena reported that the final state budget includes an additional \$19.1 million for court self-help centers. She also announced the Judicial Council/LAAC Family Law Conference will be held on August 23-24 with pre-conference on August 22 at the Judicial Council office in San Francisco. There are scholarship funds available, and she encourages staff in rural areas to attend.

Legal Aid Day with the California legislature took place in February with 60 visits to legislators. The goal of Legal Aid Day is to educate legislators about the importance of legal aid. There were 50 volunteers from legal aid offices. In a survey following Legal Aid Day, 100% felt they could now reach out to a legislator if there was an issue affecting clients and 75% had actually reached out.

D. Judicial Council

Bonnie echoed Salena's report on the increased self-help funding, which has the potential to bring an additional 100 attorneys and paralegals into self-help centers, improve self-help websites, and develop additional transactional tools. Bonnie also reported that there is \$13.7 million for language access and court reporters in family law.

VIII. ADJOURNMENT

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