

#### **MINUTES**

Access to Justice Board
July 30, 2010
9:30 a.m. – 4:00 p.m.
Washington State Bar Association

<u>Present:</u> ATJ Board Members Chair Judge Steve González; Kirsten Barron, Wayne Blair, Greg Dallaire, Ishbel Dickens, Judge Elizabeth Fry, Aiko Schaefer, and Elizabeth Schoedel,;

Liaisons Jim Bamberger (Office of Civil Legal Aid), Jorge Báron (Northwest Immigrant Rights Project), Joanna Plichta Boisen (WSBA Pro Bono and Legal Aid Committee), Caitlin Davis Carlson (Legal Foundation of Washington), Dirk Marler (Administrative Office of the Courts), John Midgley (Columbia Legal Services), César Torres (Northwest Justice Project);

Guests Nick Allen (Equal Justice Works Fellow/Columbia Legal Services), Lisa Brodoff (Seattle University School of Law, by phone), Maria Chavez (Northwest Immigrant Rights Project Justice Fellow), Jill Dutton (Seattle University School of Law), Loren Etengoff (WSBA Board of Governors), Bette Fleishman (Justice Fellow/Disability Rights Washington), Lynn Greiner, Don Horowitz, Steve Larsen (WSBA Deputy Director of External Relations), Kathryn Leathers (WSBA Legislative Liaison), Paula Littlewood (WSBA Executive Director), Diana Singleton (Seattle University School of Law), Casey Trupin (Columbia Legal Services); Staff: Allison Durazzi, Brian Ledbetter, Sharlene Steele

# **ATJ Board Chair Report**

Judge González announced that Colleen Kinerk, Chair of the ATJ Board's Conference Planning Committee, resigned her post. It was noted that Colleen has chaired the committee for fourteen years, and the ATJ Board should find a way to thank her for her years of service. Judge González asked the ATJ Board to give some thought to a new volunteer for that position.

Judge González reminded the Board of the ATJ Board priorities it approved for 2010-2011, which are consistent with the goals of the ATJ Board's State Plan:

- 1. Strengthening the pro bono function of the civil legal aid delivery system:
- 2. Addressing the issues facing pro se individuals in the justice system;
- 3. Securing ample funding for civil legal aid and the courts;
- 4. Using and integrating technology in the work of the ATJ Board and its committees consistent with the ATJ Technology Principles; and,
- 5. Leadership development.

He provided an overview of the leadership development piece, an initiative developed by the ATJ Board Nominating and Leadership Development Committee. After several discussions in consideration of the current financial crisis, the ATJ Board has decided to go forward with the design phase of the initiative and to make decisions about whether to move forward after that phase. The design phase will cost \$15,000, of which the ATJ Board will allocate \$5,000 and the Office of Civil Legal Aid will allocate \$10,000. A steering committee, consisting of the following members, will be working to develop the design phase:

- Hon. Elizabeth Fry, Access to Justice Board member / Colville Tribes; chair of the Nominating and Leadership Development Committee
- Lisa Atkinson, private attorney / Northwest Justice Project board member
- Jim Bamberger, Office of Civil Legal Aid
- Jorge Báron, Northwest Immigrant Rights Project
- Aline Carton, WSBA Home Foreclosure Legal Aid Project
- Loren Etengoff, private attorney / WSBA Governor
- Joan Fairbanks, WSBA Justice Programs Manager
- Pam Feinstein, Statewide Coordinator of Pro Bono Support
- Lisa Giuffré, Northwest Justice Project
- Rosalinda Guillen, Community to Community Development
- Hon. Don Horowitz (ret.)
- Paul Mack, Legal Foundation of Washington Board member
- Aurora Martin, Columbia Legal Services
- Threesa Milligan, King County Bar Association Pro Bono Services
- Barb Otte, Benton-Franklin Legal Aid Program
- Elizabeth Schoedel, Access to Justice Board member
- Ada Shen-Jaffe, Seattle University School of Law
- Diana Singleton, Seattle University School of Law
- César Torres, Northwest Justice Project
- Tom Tremaine, Northwest Justice Project
- Allison Durazzi, WSBA staff liaison

Judge Fry invited others to consider joining the steering committee. The plan is to have the proposed design ready for review by November 15. Judge González will send a memo to members of the Alliance next week to let them know about the ATJ Board's priorities, and to explain the rationale for moving forward with the leadership development initiative. He will also invite input from members of the Alliance.

# Approval of 2010-11 ATJ Board Meeting Schedule

The Board reviewed and approved the proposed schedule, with a correction to the date of the annual meeting with ATJ Board Committee chairs (the correct date is October 8). It was noted that the ATJ Board Executive Committee meeting dates were not included on the schedule. Judge González explained that those meetings are open meetings, and invited others to attend. He asked Allison to post those meeting dates.

A meeting to discuss the roles of the ATJ Board, the Equal Justice Coalition and the Office of Civil Legal Aid during legislative session is scheduled for Monday, September 13, 2010, 12 - 3 pm, at the WSBA offices.

# Approval of July 2, 2010 ATJ Board Meeting Minutes

The minutes were approved as drafted.

# **Proposed Amendments to June 4 Meeting Minutes**

It was noted that the ATJ Board met on July 2 and July 18, without notice to non-ATJ Board members, and without posting the minutes for those meetings. Judge González commented that this was not intentional, and assured the community that in the future, meeting notices will be sent to the usual list of interested parties and liaisons.

Caitlin Davis Carlson did not receive the June 4 meeting minutes until July 29, and asked that the minutes be corrected to include the following statement: "Representatives from the Legal Foundation of Washington are concerned about the timing of the leadership development proposal, given the unprecedented decline in revenue and the increase in client need."

César Torres asked that the following statement also be incorporated into the June 4 meeting minutes: "A Northwest Justice Project representative expressed concern at the ATJ Board Nominating and Leadership Development Committee's recommendation that OCLA funds be used, given the clear priority expressed by Alliance stakeholders on May 19, and further anticipated reduction in the state support for civil legal aid."

Allison will add these to the minutes and redistribute for approval at the September ATJ Board meeting.

# **ATJ Board Assignments to Legal Community Events**

The Board reviewed the list of legal community events and agreed that it is ok for ATJ Board committee members to attend events on behalf of the ATJ Board. Board members agreed to the following representation at events:

September 9 ACLU 75<sup>th</sup> birthday event: Aiko Schaefer

October 1 MELAW First Annual Banquet: still open

October 2 Legal Voice Auction: Aiko Schaefer

October 7 LAW Advocates Annual Dinner & Fundraiser: Kirsten Barron

October 8 Washington Women Lawyers Annual Event and Dinner: Elizabeth Schoedel

October 14 Washington Appleseed Annual Luncheon: Ishbel Dickens

Caitlin will forward details about an upcoming event sponsored by Kitsap Legal Services. Additional upcoming events should be submitted to Allison.

# **Annual ATJ Board Committee Chairs Meeting**

Kirsten Barron, Judge González and Judge Elizabeth Fry agreed to work develop the agenda for this meeting, which is on Friday, October 8.

# The Washington State Plan for Integrated Pro Se Assistance Services

Kirsten Barron provided an overview of the history of the collaborative effort of the ATJ Board, the Administrative Office of the Courts and Office of Administrative Hearings in their efforts to draft a state pro se plan. She thanked Lynn Greiner for her significant and excellent work on the project.

The Board reviewed the plan and held a wide-ranging discussion about the project and the immediate impact it will have on legal services when implemented. Since the plan was published, the committee met and discussed additional ideas to improve access to understandable, plain language family law forms. Kirsten asked the Board for approval of the document, not just in concept, but to approve the plan presented in the document and to move forward with the project.

The group will develop a budget and will look at various funding options, taking care not to compete with the Alliance. It was noted that this a project that could be of interest to the state's Indian tribes, and they might be willing to provide funding. A member of the tribal council will be invited to participate. It is understood that the ATJ Board cannot be considered a "home" for the project. The Supreme Court Pattern Forms Committee is already in the loop, is participating in

the planning process, and will be consulted as the project moves forward. AOC supports the document, although has some trepidation that it may be overly complicated to convert all forms to plain language. AOC is in favor of an incremental approach. After considerable discussion about the use of technology and funding issues, the ATJ Board agreed to support the plan.

Lynn Greiner announced that she is not renewing her contract with the WSBA/Access to Justice Board to staff to the ATJ Board Justice Without Barriers Committee. She does plan to remain on the committee and will help to transition a new staff liaison. She has drafted a job announcement to be distributed after Joan Fairbanks returns.

# **Technology Issues Update**

Don Horowitz reported on two technology-related access to justice issues:

- 1) Don has been contacted by the office of Larry Tribe at the US Department of Justice, inviting him to consult with them about access to justice issues, including technology related issues. Tribe, a constitutional law professor, is interested in putting a group of people together to talk about what justice system systemic change could look like (including factors besides technology). They asked Don to provide them with a copy of the draft forms project. Don agreed to meet with the group in Washington, DC right after Labor Day for a 2-day brainstorming session. Tribe is also interested in learning about how the ATJ movement in Washington state was coordinated and implemented, and is considering using Washington state as a model to replicate. Don will consult with the ATJ Board about talking points, and invited others to let him know if they have ideas/comments to share. Don plans to recommend Tribe as a speaker at a future ATJ Conference.
- 2) Don received a phone call from Kevin Stock, Pierce County Superior Court Clerk, indicating his interest in working with the access to justice community on access to electronic court record issues. Kevin recently became president of the Washington Court Clerks Association (WCCA). He has ideas for improved access to court records, both generally and specifically for legal aid organizations. Kevin is also interested in helping to improve relations and communication between the ATJ Board and the WCCA. He has recently spoken to Jim Bamberger about proposed amendments to GR 34. It was suggested that the ATJ Board consider including a court clerk on the Board.

The Board discussed ways to approach and work with counties that are implementing online systems for accessing electronic court records. It was suggested the ATJ Board consider developing a court rule to ensure consistent court fees for access to court records, as several counties are making a variety of changes. Judge González asked the Justice Without Barriers Committee to work with the Technology Committee to convene a work group to study the issue and to make a recommendation to the ATJ Board.

# Legal Foundation of Washington (LFW) Update

Caitlin distributed a memo that was sent to LFW grantees on July 12. The memo included a chart which reflects IOLTA revenue for 2007-2010. The purpose of the memo is to update grantees about LFW's financial situation and to let them know that grant cuts for 2011 are likely. Caitlin explained that there will not be any significant increase in IOLTA revenue until interest rates go up. In spite of additional revenue in 2010 from the WSBA (\$1.5 million grant and membership licensing contributions) and the Bill and Melinda Gates Foundation, the outlook for

2011 is bleak. Unfortunately, reduced revenue is expected while the number of expectant grantees is increasing. Applications for Continued Funding (new name for LFW grant applications) are due August 31, with decisions to be made in November.

#### **ATJ Board Outreach Taskforce**

Aiko Schaefer reported that the task force (César Torres, Judge Fry, Nell McNamara, Michele Storms, Joan Fairbanks and Aiko) have met twice to look closely at how the ATJ Board could be putting resources into community outreach efforts. The task force suggests the outreach effort should focus on deepening the understanding of problems outside of the legal community, to foster collaboration and to identify partners to work with on access to justice issues.

The group will work to identify roles the Board can play in communicating with non-legal communities, with a goal of becoming more proactive. They are considering connecting with the ATJ Board Communications Committee to look at training on messaging and communication. Ideas include non-traditional roles, such as visiting local offices to talk about challenges and to educate organizations such as United Way about the work of the ATJ Board and the Alliance. The ATJ Board could benefit from hearing from on-the-ground legal aid attorneys about the challenges they face. The task force realizes this is a significant undertaking and is considering how to manage such an endeavor in a cost-and time-effective manner.

It was noted that a good example of a legal/non-legal collaboration effort is the joint Northwest Justice Project/Odessa Brown Clinic. The important piece of this successful project is to educate doctors and social workers to identify issues that need to go to a lawyer.

Aiko commented that the task force is still in the brainstorming phase, suggesting that some of the ideas will be easy to fold into work the ATJ Board is already doing.

# **ATJ Board Performance Standards Workgroup Recommendations**

Judge González referred to the July 20, 2010 memo from Joan Fairbanks to the ATJ Board, which states, "The Performance Standards Workgroup met with Consultant John Tull on June 22, 2010 and recommends to the ATJ Board that the Workgroup continue to meet to address the following: (1) Define and develop models for peer review and make recommendations to the ATJ Board for implementation. (2) Develop and recommend tools that Alliance members and supporters can use to implement the Performance Standards."

Judge González explained that now that the Standards are complete, the workgroup is looking for ways and tools to begin the implementation phase. It was noted that some organizations, such as the Legal Foundation of Washington and the Office of Civil Legal Aid, have already adopted the Standards.

The ATJ Board approved the workgroup recommendations.

# **Presentation on the proposed WSBA Moderate Means Program**

Aline Carton, WSBA Home Foreclosure Legal Aid Project Manager, provided an overview of the history of local GAAPs (Greater Access and Assistance Project), explaining that since 2000 this has been a joint project of the ATJ Board and the Washington Young Lawyers Division. GAAPs provided reduced-fee services to moderate means clients. She reported that the WSBA Board of Governors has made the decision to fund a statewide centralized project to serve moderate-means (200% - 400% of the federal poverty level), and will collaborate with the three Washington state law schools to create a statewide intake and lawyer referral system. The WSBA will be responsible for outreach and recruitment at local and statewide levels. The WSBA also plans to provide free or low-cost CLE

training online for program attorneys, which will also available to volunteer attorneys. The outreach/recruitment efforts will begin in the fall. The law schools will train law students to provide intake and referral. Law students will return phone calls from clients who left a message on the toll free number (two extensions: one for western Washington and one for eastern Washington). At the outset, the program will limit the legal substantive scope to family law, consumer and housing issues. Referrals to attorneys are expected to begin in early winter.

Aline and Steve Larsen answered questions and addressed concerns relating to: the huge demand for reduced fee services (only 30% of the population is over 400% of the federal poverty level), how to keep program open during school breaks, services for clients who are *low-income*, but for a variety of reasons, are not served by the pro bono programs, language barriers, and competition with pro bono programs for lawyers.

It was suggested that members of the WSBA Board of Governors be asked to help in the outreach/recruitment efforts and to build support for the project in their districts. Steve Larsen agreed to talk to BOG members about this idea.

# <u>Proposal for Pilot Project to Provide Counsel to Low-income Litigants in Adversarial Proceedings</u>

Debi Perluss provided the ATJ Board with a summary of the current efforts to address the concerns of a right to counsel: history of issue civil right to counsel for low-income people in adversarial proceedings when basic human needs are at stake, as outlined in her proposal at pages 46-50 of the meeting materials. In her presentation, Debi noted:

"The WSBA BOG agreed unanimously to co-sponsor ABA Reports Nos. 104 and 105 that are going before the ABA House of Delegates for adoption as office ABA policy on August 9. They provide for Basic Principles of a Civil Right to Counsel (105) and Model Access Act (104) which sets out a statutory structure for a implementing access to legal services and a civil right to counsel in basic needs cases pursuant to ABA Policy adopted in 2006."

While the presentation from Debi, Jill Dutton and Lisa Brodoff was informational, they indicated they would like the ATJ Board to affirmatively support the proposed pilot project. Debi indicated that Washington Appleseed has offered to develop a plan for a pilot project.

The ATJ Board entertained discussion about a pilot project, and what specifically the ATJ Board would be supporting. The ATJ Board deferred action until a time when the workgroup may present a recommendation to accept guiding principles for planning the development of the proposed pilot project.

# Washington State Bar Association Updates

WSBA Executive Director Paula Littlewood joined the meeting to share the status of the WSBA annual budget process. She indicated that the current WSBA Treasurer estimated the first proposed 2010-11 budget is not long-term sustainable. As a result, the Treasure asked the WSBA Board of Governors to assess programming goals and needs. Paula shared that the WSBA is considering reorganization ideas, but several of the potential changes are closely tied to the outcomes of the budget approval process. Therefore, she said, it is too early to finalize any such considerations. She noted that one upcoming change is the creation of a new "Education & Outreach Department" to be comprised of WSBA Sections, Washington Young Lawyers Division, and WSBA Continuing Legal Education. This development will enhance WSBA's ability to offer more training and development opportunities, including low- to no-cost trainings for attorneys providing work *pro bono*. Paula further spoke to the WSBA's work to support the efforts to increase the *pro bono* services provided in Washington state.

# **Alliance Advocacy Report**

Casey Trupin, staff attorney at Columbia Legal Services, joined the meeting to share with the ATJ Board the nature of his work. Casey primarily focuses on advocacy for juvenile justice, particularly youth in dependency hearings. CLS Executive Director John Midgley noted that Casey is nationally regarded as a pioneer and expert in this area of advocacy. Casey highlighted his work on *Braam v. State of Washington*, as an example of multi-forum advocacy (litigation, legislation, public relations, etc.). That case addressed the foster home placements of plaintiff Jessica Brahm, who at time of the case filing in 1998 was 12 years old and had been in 34 foster home placements. The case was concerned with not only the high number of placements, but also the lack of health care, mental health support, quality living conditions, and treatment. CLS prevailed at a jury trial in 2001. There was mandatory appeal in 2002, and the case was settled in 2004. The 7-year settlement is intended to effect change on the back end of the of foster care system in six key areas:

- Placement Stability
- Mental Health
- Foster Parent Training and Information
- Unsafe/Inappropriate Placements
- Sibling Separation; and
- Adolescent Services

Casey said they are one year away from the end of the settlement. Before the reforms were enacted, less than one-third of children in foster care were receiving visits from their case workers; now, it's 93%. He said they will be negotiating an extension to the settlement. For more information on the implementation of the Braam settlement, you may visit the website for the Braam Oversight Panel at <a href="https://www.braampanel.org">www.braampanel.org</a>.

# Presentations by new Seattle University School of Law Post-Graduate Fellows

Maria Chavez was awarded the NWIRP Immigrant Justice Fellowship to work at the Northwest Immigrant Rights Project to create a model of coordinated advocacy to secure lawful immigration status for immigrant survivors of violence in North Central and Eastern Washington State through direct legal representation, community outreach, and education.

Nick Allen was awarded an Equal Justice Works Fellowship to work at Columbia Legal Services to provide legal representation, community outreach, and legislative advocacy for persons convicted of crimes in Washington State who owe Legal Financial Obligations in order to promote successful community reentry.

Bette Fleishman was awarded the Seattle University School of Law Leadership for Justice Fellowship to work at Disability Rights Washington to address the criminalization of individuals with mental illness, developmental disabilities, and traumatic brain injuries in county jails across the state of Washington.

# **Additional Liaison Updates:**

# **Board for Judicial Administration**

Dirk Marler reported that there was not a BJA meeting last month, so no update. Judge González reported that he will be going before the BJA in September to discuss King County Superior Court's policy that arrest warrants for individuals based on their immigration status shall not be executed within any of the King County Superior Court courtrooms.

Office of Civil Legal Aid – Director Jim Bamberger reported that the 2011-2013 budget development process is underway, and is asking to reinstate capacity lost at Northwest Justice Project.

<u>WSBA Pro Bono and Legal Aid Committee</u> – Committee member Jim Bamberger reported that the comment period for proposed GR34 has been extended.

<u>WSBA Board of Governors Update</u> – most was covered in Paula's presentation. Additional updates from Loren Etengoff and Steve Larsen were that the WSBA Board of Governors endorsed Civil Right to Counsel Initiative (as reported earlier by Debi Perluss). The BOG is waiting for the WSBA Civil Rights Committee's report about the Arizona immigration law SB 1070. The BOG has not made a decision yet on the uniform bar exam proposal.

Respectfully submitted, Allison Durazzi and Sharlene Steele