



## MINUTES

Access to Justice Board

September 28, 2012

10:00 a.m. – 2 p.m.

Seattle University School of Law Annex

### Present

**ATJ Board members** Chair Kirsten Barron, Chair-Elect Ishbel Dickens, Hon. Lisa Atkinson (by phone), Breean Beggs, Hon. Anita Crawford-Willis, Nick Gellert, Lynn Greiner, Geoff Revelle, Andy Sachs; **ATJ Board committee members** Jim Bamberger, Jorge Barón, Caitlin Davis Carlson, Don Horowitz, Eric Gonzalez, Clay Wilson and César Torres; **Liaison(s)** District and Municipal Court Judges Association Liaison Hon. Johanna Bender; WSBA Pro Bono and Legal Aid Committee Immediate Past Chair Andrea Axel; **Guests** WSBA Director of Advancement & Chief Development Officer Megan McNally; LAW Fund Director Naria Santa Lucia; **ATJ Board staff:** Allison Durazzi, Joan Fairbanks, Charles Dyer (contractor for the Pro Se Project).

### Approval of July 20, 2012 Access to Justice Board Meeting Minutes

The minutes were approved as submitted.

### ATJ Board Chair's report

Kirsten reported that the ATJ Board Executive Committee met prior to this meeting with the Officers of the WSBA Board of Governors and WSBA Executive Director Paula Littlewood. The BOG has made a commitment to fund the ATJ Board for FY 14, but has not made a commitment for funding at current levels. The ATJ Board will be involved in FY 14 budget discussions as they move forward.

The ATJ Board recently submitted two proposals for funding support through the American Bar Association's Access to Justice Commission Expansion Project. The Project is intended to help existing Access to Justice Commissions / Boards expand the scope of their activities and to encourage the development and testing of innovative new projects. The proposals are: (1) a joint Technology Committee/ Pro Se Project collaboration on developing best practices for electronic access (\$20,000); and (2) support for the community partnership component of the Washington State Equal Justice Leadership Academy (\$8,000). Decisions are expected by the end of November.

Kirsten encouraged people to attend the upcoming October 5, 2012 Justice Without Barriers Committee retreat. The retreat will feature a panel discussion of barriers to the justice system, which will serve to focus the Committee on setting its agenda for the coming year. The facilitator will be Timothy Jaasko-Fisher.

Kirsten reported on continued conversations around the difficulty in implementing GR 34 (filing fee waivers for indigent persons). King County Superior Court Judge Mary Yu has recommended that the Board for Judicial Administration (BJA) constitute a committee to address her suggestion for training judges about the challenges low-income people face when trying to access the courts.

### ATJ Board Vacancy

Nominating and Leadership Development Committee Co-Chair Breean Beggs reported that ATJ Board Member Judge Lisa Atkinson has joined him and Elizabeth “Betty” Fry as a co-chair of this committee. The three co-chairs will serve together as Betty phases out her leadership role with the committee.

ATJ Board member Aiko Schaefer will not be seeking reappointment at the conclusion of her first term in May 2013. This creates a vacancy on the ATJ Board for the required minimum one (1) non-attorney member.

Breean led a discussion to identify qualities and characteristics of ideal ATJ Board members. This information will be used by the Nominating and Leadership Development Committee in its work to recruit and recommend candidates to the ATJ Board. There was consensus that Board members should represent a wide range of characteristics. There was a suggestion to develop a matrix of current characteristics of the Board as a tool for determining what may be needed.

Meeting participants offered the following:

#### *Applicable to ATJ Board members as a whole:*

- There is an advantage to experience working with the Alliance in some capacity, including prior involvement on a committee or project.
- There must be a willingness to make a substantial time commitment, and there should be more emphasis on this during the interviews.
- Legal aid provider staff must check with their executive directors or board chairs to ensure membership on the ATJ Board will not create conflicts with organizational policies.
- It would be advantageous to have a consumer of legal aid services (“client service eligible”) on the Board, and representation from a younger person (late teens/early twenties) in touch with the needs of youth.
- The Board would benefit from someone with legislative experience, people with experience in board development, and legal aid advocates with demonstrated ability in strategic thinking.

#### *Applicable to Non-Attorney members*

- Ideally, these members should come from a human or social services agency, alternative dispute resolution center or law library.
- That said, these members should have, and be able to present, a broader perspective not limited to the scope of their organizations.
- The ATJ Board should be more deliberate about filling the second (optional) non-attorney slot with a non-attorney member.
- Non-attorney members should be connected in some way with the Alliance and closely connected with the low-income and client community as defined by the Alliance.
- Is there a role for a law student?

### DREAM Act

Northwest Immigrant Rights Project Executive Director Jorge Barón provided the ATJ Board with an update regarding deferred action for childhood arrivals (DACA) – also referred to as Dreamers. DACA was a June 15, 2012 executive order issued by President Obama to eligible youth:

- Under 31 years old as of June 15, 2012;
- Came to US before 16<sup>th</sup> birthday;
- Continuous residence since June 15, 2007 (to present);

- Physically present on June 15, 2012 (and at time of request);
- Entered EWI before 6/15/12 or lawful status expired as of that date;
- Currently in school, graduated from HS, obtained GED, or honorably discharged; and
- No felonies, significant misdemeanors, or 3 or more misdemeanors, and not a threat to national security or public safety

Approval would entail:

- 2-year work permit with possibility of renewal;
- Deferral of deportation;
- But no permanent immigration status and no pathway to permanent status (absent legislation)

Jorge estimates there are 40,000 eligible youth in Washington State. He described the Phase I (June 15 – August 15) and Phase II (after August 15) work that NWIRP has done and plans to do to implement the program. Phase I included screening applicants and conducting trainings for attorneys throughout the state who volunteered to assist with the applications. There has been an impressive turn-out of volunteers. His power point presentation documented the significant demand for assistance with these applications and the process itself. The upcoming presidential election will determine to a large extent the future of this program. NWIRP has funding from the Legal Foundation of Washington for two temporary attorney positions to provide direct representation in the complex cases. Additional funding will be necessary to continue to provide the anticipated level of assistance.

There followed an extensive question-and-answer session and a discussion about steps the Alliance can take to increase funds for these kinds of services and mitigate the imbalances in funding. Jim Bamberger reported on OCLA's current efforts to provide guidance on whether and how those whose Dreamer applications have been approved may be eligible for services in approved substantive areas of law.

The Board expressed appreciation to Jorge, NWIRP and all the volunteers for their timely and impressive job of meeting the needs of the applicants and addressing the upcoming challenges for the program.

#### Access to Justice Conference and 2013 Goldmark Award Luncheon Day

Noting that the ATJ/Bar Leaders Conference actually made money this year (not accounting for the overhead of staff time), Kirsten reminded all present of the April 2012 WSBA decision to cease funding the annual Access to Justice and Bar Leaders Conference due to budget considerations stemming from the WSBA License Fee Referendum. Since that decision, Kirsten and the ATJ Conference Planning Committee co-chairs have met to discuss the purpose and audience for the conference. The ATJ Board will convene a broad community discussion on the future of the ATJ Conference beginning in January 2013

During this transition year, Legal Foundation of Washington (LFW) Executive Director Caitlin Davis Carlson has offered space the morning and afternoon prior to and following the 2013 Goldmark Award Luncheon for programming for the Alliance. The ATJ Board will be responsible for developing the programming and will ask the current members of the ATJ Conference Planning Committee to serve as a task force for this limited purpose. ATJ Board members Judge Anita Crawford-Willis and Ishbel Dickens will participate.

Kirsten announced that Judge Anne Ellington will receive the 2012 Goldmark Leadership Award. She was nominated by the Access to Justice Board.

#### Funding Report

Caitlin Davis Carlson reported on the following developments: LFW has received a three-year-extension of a grant from the Gates Foundation, which provides \$500,000 a year for three years. Funds will be used to reinstate staff attorney positions at NWIRP and Columbia Legal Services, and interpretation services and technology support for grantees. LFW also received a grant from the Washington State Attorney General's office, which is part of the national mortgage crisis settlement. The Northwest Justice Project will get half the funds; Columbia Legal Services will get 20% of the funds; the balance will be split between the Northwest Consumer Law Center, SU School of Law, Gonzaga School of Law and four volunteer lawyer programs in the communities hardest hit by the foreclosure crisis. LFW received a \$7.5 million *cy pres* award which will be used to avoid future cuts to grantees. LFW grants totaled \$5.2 million in 2012.

LAW Fund Director Naria Santa Lucia recognized the ATJ Board for its fourth consecutive year of 100% participation in the Campaign for Equal Justice. She added 2011 to the ATJ Board's plaque recognizing its commitment.

Equal Justice Coalition Director Eric Gonzalez Alfaro reported that all five programs funded in part by King County are funded at their current levels in the King County Executive's 2013 budget. The EJC is coordinating an effort to increase the 2013 funding from \$302,000 to \$400,000.

Northwest Justice Project Executive Director César Torres reported that the proposed Budget Reduction Act pending in Congress would result in a \$500,000 reduction this year in Legal Services Corporation funds for Washington State. Current 2012 funding for LSC is \$348 million.

Office of Civil Legal Aid Director Jim Bamberger reported that the state budget priorities were developed as a result of the April 2012 Alliance-wide discussion of budget priorities and they are responsive to a difficult state budget which anticipates a \$1.2 billion shortfall. The OCLA budget priorities include: (1) securing maintenance level adjustments to avoid further lay-offs (\$896,000); (2) funding 12 positions to stabilize rural offices and increase capacity in urban offices and help ameliorate cuts to CLEAR capacity (\$2.8 million in new money); (3) some of the new money will be used to support infrastructure and statewide support activities that have been/will be identified through the ATJ Board's Delivery System Committee. The Supreme Court has concurred with OCLA's request, which is the single largest request coming from the Court.

#### Board for Judicial Administration

ATJ Board liaison Ishbel Dickens reported that Justice Mary Fairhurst made a report on how to attract senior volunteers in the courts. The BJA agreed to provide technical support to courts wishing to recruit volunteers. The BJA discussed complaints about the lack of oversight for transcribers and interpreters, which complaints were received by the Department of Justice and reported to the BJA. At this point transcribers are unregulated; the BJA discussed the need for minimum standards. The Filing Fee Work Group is recommending there not be a change in filing fees for next biennium. The Center for Court Research will conduct a study on the impact of fees on low-income litigants.

#### Civil Legal Needs Workgroup

Joan Fairbanks briefly reviewed the report from the Civil Legal Needs Work Group, convened by the Washington State Bar Association one year ago to address the 2003 Civil Legal Needs Study finding that

85% of people with serious legal problems cannot get help from an attorney. The Work Group's co-chairs and staff will meet in early November to discuss delegation of the implementation of the report's recommendations. The ATJ Board likely will be asked to take on some of the work. The report will be provided to the participants at the ATJ Board Justice Without Barriers retreat on October 5.

#### Pro Se Project

Project co-chair Lynn Greiner reported that 125 family law forms have been converted to plain language by Transcend. The Committee will convert the remaining 18 remaining forms. Three workgroups meet weekly to work on the forms. They anticipate completing the work in the next six months. Lynn thanked the Northwest Justice Project for the work of NJP staff attorney Laurie Garber, who has been spearheading the forms conversion process. The completed forms will be published without formal review by the Pattern Forms Committee, thanks to the efforts of Judge Laura Gene Middaugh, and because they have been so thoroughly vetted. The Project is also testing the forms throughout the state in cooperation with courthouse facilitators and court clerks. Several members of the Pro Se Project are writing an article for the Seattle Journal of Social Justice, to be published sometime in 2013.

#### CR 34

Don Horowitz reported that the Board of Governors approved amendments to CR 34 (Electronically Stored Information). The WSBA Court Rules Committee and the ATJ Board's Technology worked together on the development of these amendments.

#### Limited License Legal Technician Rule (LLLT)

Nick Gellert reported as a member of WSBA-appointed committee to recommend a slate of individuals to the Board of Governors for it to consider in making nominations to the Supreme Court for the LLLT Board. The Board will have at least four non-lawyers. Applications are due on October 15. The LLLT Board will spend the first two years developing the program; in year three the Board will begin to license legal technicians.

#### MCLE Credit

Immediate Past Pro Bono and Legal Aid Committee (PBLAC) Chair Andrea Axel reported that the BOG approved PBLAC's proposal to increase MCLE credits for pro bono work from four to 27 hours over a three year period. The proposal was passed over the opposition of the Mandatory Continuing Legal Education (MCLE) Board.

#### Legal Community Events

ATJ Board members volunteered to attend upcoming events in the legal community.

#### Washington State Equal Justice Leadership Academy

Breean Beggs shared some of the history of this initiative, pointing out that much of it predates everyone on the ATJ Board. The ATJ Board's State Plan directs the ATJ Board to address leadership development with the Alliance. The Leadership Academy will train a cohort of positional leaders (including community partners) in the Alliance, who in turn will mentor new leaders in successive cohorts. The Academy is a partnership between OCLA, the ATJ Board and Seattle University School of Law. Invitations are pending for participation by the other two law schools, University of Washington and Gonzaga. The budget is \$300,000 over two years, which includes funding for the Shriver Center for

curriculum and trainers. The committee is still looking for funding for travel and lodging for four week-end retreats. The Office of Civil Legal has negotiated a contract with Shriver Center for the licensing of the intellectual property and a portion of the training fees associated with the curriculum and delivery. The licensing agreement provides that the Alliance will own the curriculum after purchasing the license each year for six consecutive years.

A request for applications will be disseminated shortly.

Northwest Justice Project Executive Director César Torres offered to follow up directly with Breean with ideas for community partners. César congratulated the ATJ Board on moving the project forward.

At the July 20, 2012, ATJ Board meeting, the board approved a draft memorandum of understanding (MOU) memorializing the partnership between OCLA, Seattle University School of Law, the ATJ Board and the Washington State Bar Association. Breean presented the next draft of the MOU for ATJ Board approval. The MOU was unanimously approved.