

Arizona Commission on Access to Justice

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Report to the Arizona Judicial Council



March 26, 2015

**Arizona Commission on Access to Justice (ACAJ)
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2015**

“Arizonans look to our courts to protect their rights and to resolve disputes fairly and efficiently. To serve these ends, Arizona’s judicial branch must work to ensure that all individuals have effective access to justice. This goal is advanced not only by examining legal representation for moderate and low-income persons, but also by helping self-represented litigants and others navigate the judicial process and by using technology to make courts more accessible to all.”

-- Chief Justice Scott Bales, “*Advancing Justice Together.*” *Five Year Strategic Plan: Courts and Communities, 2014-2019*

“An Access to Justice Commission is a state-based body, typically created by a state (or territorial) high court... [to] develop and implement solutions toward ensuring that people of limited means have meaningful access to civil justice. Commissions promote *pro bono*, increased legal aid funding and resources for self-represented litigants, among other initiatives.” – ABA Resource Center for Access to Justice.

The Arizona Commission on Access to Justice was established August 20, 2014 by Administrative Order No. 2014-83. Chief Justice Bales appointed Judge Lawrence F. Winthrop as chair and 17 other members from a diverse background and from various perspectives as members of the Commission. Arizona was the 34th jurisdiction to create such a commission.

THE COMMISSION’S DIRECTION

Per the Administrative Order, and consistent with the Court’s Strategic Agenda, the Commission’s directive is to study and make recommendations on innovative ways of promoting access to justice for individuals who cannot afford legal counsel or who choose to represent themselves in civil cases. Specifically, the initial work of the Commission is to examine and make recommendations on the following:

- Assisting self-represented litigants and revising court rules and practices to facilitate access and the efficient processing of family court and eviction cases;
- Encouraging lawyers and law firms to provide pro bono services or financial support for civil legal aid for those who cannot afford counsel; and

- Develop an information campaign to inform lawyers and other citizens about the state tax credit for contributions to agencies that serve the working poor, including legal services agencies in Arizona.

THE COMMISSION'S WORK GROUPS

In furtherance of the Administrative Order and the Chief Justice's directive, three main work groups were established, and an aggressive meeting schedule of those groups implemented.

Self-represented Litigants in Family Court Work Group (SRL-FC) is co-chaired by Maricopa County Presiding Family Court Judge Janet Barton, and by Ms. Janet Fisher, Director of Collections and External Relations of the State Library of Arizona. This work group has 13 members, many with extensive family court experience, and with backgrounds as judicial officers, court staff, administrators, legal service providers, library services and community service. The work group met twice (November 12, 2014, and January 22, 2015) and developed several recommendations for consideration by the ACAJ.

Self-represented Litigants in Limited Jurisdiction Court Work Group (SRL-LJC) is chaired by Maricopa County Justice Court, West McDowell Precinct, Judge Rachel Torres Carrillo; the work group has 12 members and they have met twice (November 12, 2014, and January 22, 2015). Members include experienced court administrators, a city court magistrate, a federal public defender, a city prosecutor, an assistant U.S. Attorney, a judge *pro tempore* and judicial services educator, providers of legal services, and the executive director of the William E. Morris Institute for Justice. At its November 12, 2014, meeting the work group formed two sub-work groups to focus on specific areas. The Forms and Rules sub-work group met three times (December 4, 2014, January 13, 2015, and January 29, 2015) and is chaired by Ellen Katz. The other sub-work group, Resources, has met once on December 8, 2014, and is chaired by Paul Julien from the Administrative Office of the Courts.

Pro Bono Service and Funding Work Group (Pro Bono) is chaired by Snell & Wilmer attorney, Barbara Dawson. This work group is comprised of 13 individuals that have experience in managing or providing *pro bono* services, expertise in developing public awareness, or have experience in creating funding opportunities for legal service providers and in developing recognition programs for attorneys providing *pro bono* services. This work group has met twice (November 20, 2014, and January 22, 2015). Members include communications experts from media and public broadcasting, business leaders, the Arizona State Bar, and the Administrative Office of the Courts, as well as

attorneys working in private practice who are familiar with *pro bono* issues and funding challenges.

STATUS OF WORK

The number one goal of the Court's Strategic Agenda is "Promoting Access to Justice." This goal is advanced not only by expanding the availability of legal representation for moderate and low-income persons, but also by helping self-represented litigants and others navigate the judicial process, and by using technology to make courts more accessible to all.

At the full Commission meeting on February 4, 2015, the Commission's work groups reported on their efforts to date and asked the Commission to support or approve the following proposals/recommendations:

Self-represented Litigants in Family Court Work Group

- 1. COURT NAVIGATOR PILOT PROJECT:** On a state-wide basis, over 80 per cent of the time, one or both individuals involved in family court disputes are choosing (out of necessity or otherwise) to represent themselves. Understanding filing requirements and court procedures is a significant challenge and barrier for a self-represented litigant. The litigants are frustrated. Judicial and court staff resources are challenged. The collateral effect of protracted family court disputes and delayed ultimate resolution adversely affects not only the litigants, but also children, extended family, existing and potential employment relationships and the business community. With 56,000 + pre- and post-decree filings in FY 2014, Maricopa County Superior Court has the highest volume of family court filings in the state. That court is in the process of re-designing its existing Self-help Center, and is applying for an AmeriCorps grant to create a "court navigator" program for self-represented litigants in family court proceedings. The pilot project, modeled in part on a very successful similar program in California, will use court-trained and supervised college students in a series of dedicated workshops to provide information and hands-on assistance in completing necessary filings and other paperwork, and to help guide the self-represented litigant in efficiently completing the family court process. A working agreement is already in place with Arizona State University to provide undergraduates for the program. Funding for the program will be provided jointly by the superior court and through the AmeriCorps grant. If the grant is awarded, the Self-help Center space will be reconfigured and the navigator training and participant classes designed. The availability of the program will be publicized. The students and court staff will receive appropriate training for these workshops. It is anticipated that this program could launch in the downtown courthouse as early as this fall.

The Commission voted to endorse and support the Maricopa County project, and directed the Chair to provide a letter of support for the County to include in its application packet.

- 2. STANDARDIZED/SIMPLIFIED FORMS AND INSTRUCTIONS:** Pima and Maricopa Counties have already done substantial work in creating standardized family court forms. These forms exist in both hard copy and computerized “intelligent” options. Pima County has collaborated with the University of Arizona to develop a set of simplified and easy-to-understand instructions concerning the use of the forms.

The Commission voted to endorse the continuing efforts to make standardized forms and instructions templates available to each county’s superior court so the forms and instructions can be modified if necessary to account for local practices. In that regard, the Commission encourages AOC to assist with relocating forms and instructions links on web pages to enhance accessibility for self-represented litigants.

- 3. WEB-BASED SELF-HELP SERVICE CENTER:** Not every county can support a physical self-help facility in its superior court building. An idea worth exploring is creating an on-site self service center at one superior court location that can host and provide interactive video broadcast capacity for family court educational programs to other family court facilities, particularly those in the rural counties. Additional information about self-help services, including links to standardized forms and instructions, could be provided via an AOC-hosted website.

- 4. COMMUNITY LIBRARY LEGAL INFORMATION PILOT PROJECT:** Court-based self-help centers may not be a practical resource for self-represented litigants who live in remote or rural areas. Community-based libraries are an ideally-located alternative for obtaining information and practical assistance, and under the auspices of the State library system, a pilot project has been designed to create resource centers in the library setting for self-represented litigants. The program will provide (1) court-supervised training for librarians to assist with locating legal information; (2) computer access to electronic court forms, and (3) on-site legal clinics. The clinics will provide both general information and individual assistance. Technology may allow the information sessions to be available via webinar to other remote locations. Groups of *pro bono* lawyers have already agreed to help staff the on-site clinics, and the Commission anticipates the established LSC legal service providers (Community Legal Services, Southern Arizona Legal Aid, DNA Peoples Legal Services) will also be involved. Counties already scheduled to participate in 2015: Maricopa, Coconino, Gila, Graham, Greenlee and Yuma.

The Commission voted to endorse and support the library project. If successful in these six counties, the program could be easily exported to the other counties, and particular consideration given to making the program a collaborative one with the superior courts in those rural counties.

- 5. LEGAL ADVICE vs. LEGAL INFORMATION:** In 2007, an Arizona Supreme Court task force provided a comprehensive report, recommendations and a handbook on educating and training court staff on the difference between providing legal information (allowed under the Code of Conduct for Judicial Employees) and providing legal advice (not allowed under the Code). The work group recommends that the handbook created by the task force in 2007 be updated and expanded.

The Commission approved the work group's recommendation, and proposes that the 2007 Legal Advice v. Legal Information Handbook be updated and expanded by soliciting additional input from general and limited jurisdiction court administrators and clerks around the state as to what frequently asked questions ("FAQs") should be included. That information will lead to a series of redesigned FAQs that will identify common or recurrent legal advice v. legal information scenarios and summarize the types of activities court personnel can assist litigants with, and more importantly, what types of questions court staff are unable to answer. This information should also be summarized and placed on the Arizona Bar Foundation's AZLawHelp web page (<http://azlawhelp.org/>), as well as individual court web sites. The FAQs and any related information on court web sites should also prominently include information for self-represented litigants concerning the availability and process for obtaining fee waivers or deferrals. Statewide legal advice v. legal information training in courts and clerks' offices should be promoted and encouraged, and similar training made available for the community library legal information/clinic project. In that regard, the Commission recommends the Committee on Judicial Education and Training (COJET) consider specify mandatory legal advice v. legal information training, every year for general and limited jurisdiction courts.

- 6. ORDERS OF PROTECTION:** The work group generally identified a need to improve more timely access to orders of protection for domestic violence victims, particularly in a rural setting. The issue has been referred to the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to explore how to make available to rural hospitals and courthouses the best-practice currently being used in several metropolitan areas where victims of domestic violence who are receiving treatment at a hospital can seek an Order of Protection remotely while at the hospital. For example, litigants at Maricopa County's Southeast Regional Courthouse can apply for an Order of Protection while speaking to a judicial officer in the downtown courthouse via remote access equipment.

- 7. FUTURE PROJECTS:** The work group recommended it investigate assisting those counties who are currently eligible to apply for and receive federal Title IV-D funding. With respect to counties who are not currently eligible to receive such funding, the recommendation is to assist these counties in developing outreach programs that would, in turn make them eligible.

The work group further noted Washington State has a limited license legal technician program that provides legal advice and assistance to clients in certain areas of law without requiring the supervision of a lawyer. These lay advocates charge for the services they provide, although they presumably charge less than an attorney. No recommendation is being made at this time; however, the Commission recognizes this potential is being explored in other jurisdictions, and there is value in at least exploring and discussing the merits and disadvantages of training and licensing lay advocate representation in a family court context.

Self-represented Litigant in Limited Jurisdiction Courts Work Group

The limited jurisdiction work group has focused its initial efforts on assisting self-represented litigants in housing disputes. Existing forms and best practices from around the state were reviewed, and the group made the following recommendations, all of which were approved by the Commission:

- 8. EVICTION NOTICES AND RELATED DOCUMENTS:** Revise and make all eviction forms easier to read and easier to understand; the forms should include a short summary of likely options. The group recommends removing incorrect information from existing forms, revising the language on the forms as appropriate and encouraging and requiring translation of those forms into Spanish.
- 9. FEE WAIVER/DEFERRAL FORMS:** Make fee deferral/waiver forms more accessible, both on-line and at the courthouse.
- 10. JUDICIAL AND COURT STAFF TRAINING:** Encourage and mandate specific training for judges and for court staff, particularly concerning the role of the judge in dealing with the self-represented litigant.
- 11. PRO PER COMPUTER ACCESS IN COURTHOUSE:** Encourage the placement of computers in court reception or lobby areas to give self-represented litigants the ability to use intelligent forms that the litigant can access, understand and complete on site. Explore potential technology grants from the State Justice Institute, the National Center for State Courts and the ABA to facilitate purchase/installation of such technology.

12. **HOUSING LAW CLINICS:** Explore the creation/expansion of law school-based clinical programs as well as Volunteer Lawyer Program clinics in the landlord-tenant area. These clinics could be held on-site at the courthouse, or in a community-based location, such as the public library.
13. **INFORMATIONAL VIDEOS:** Gather and/or create informational videos about the court process that can be accessed at the courthouse and on law-related websites, such as AzLawHelp.org.
14. **RECOGNITION OF JUDICIARY:** Explore the recognition of those judges who are role models in dealing with *pro per* litigants and how to not only recognize their skills but also how to share their expertise and recommendations with others.

Pro Bono Services and Funding Work Group

The Commission considered several works-in-progress and future projects that the Pro Bono Services and Funding Work Group are developing. These concepts include:

15. **ARIZONA STATE TAX CREDIT:** Expand promotion of the Arizona Tax Credit for Qualifying Charitable Organizations. Media coverage and public awareness of the credit, and the social return to the community on such investment needs to be increased. In October, the Commission, along with Chief Justice Bales, hosted a social event promoting the Arizona Charitable Tax Credit and provided information to dozens of law firms and their managing partners and representatives of public law agencies regarding this unique funding opportunity to help legal aid providers at no cost to taxpayers. As a result of these initial efforts, invitations to speak at other large law firms and to groups of judges were generated, and Justice Bales and Judge Winthrop have continued to promote this message, resulting in an estimated \$52,887 in increased funding to legal service providers. The work group believes a coordinated media campaign launched earlier in the tax year, and continued use of judicial speakers, will result in a greater understanding of the availability and impact of such donations, and a significant increase in the dollars collected for the benefit of our low-income residents.
16. **LAW FIRM *PRO BONO* NETWORK:** Create a state-wide network of law firm representatives to link resources and coordinate delivery of private *pro bono* services. The “bones” of such a network is already in place through the Equal Justice Foundation/Campaign.

17. **PRO BONO VOLUNTEER WEB PORTAL:** Support development of a “one stop” *pro bono* web portal, created by the Arizona Legal Service Steering Committee and the Arizona Bar Foundation, which will identify volunteer programs across the state and specific opportunities for lawyers to volunteer their services.
18. **BUSINESS PRO BONO NETWORK:** Create a state-wide network of corporate and business representatives who understand the need for and benefit to the business community of providing legal services to our working poor population. This will include specific outreach to and engaging of corporate and in-house counsel.
19. **ENCOURAGE PUBLIC LAWYER INVOLVEMENT:** Expand public lawyer involvement, including agency adoption of model *pro bono* policy for government lawyers and to create and publicize opportunities for *pro bono* service that fit within the ethical and legal restrictions placed on public lawyers providing volunteer service.
20. **TAKE ADVANTAGE OF RETIRED LAWYERS AND JUDGES:** Create a network of retired judges and lawyers to provide training and *pro bono* services.
21. **COMPREHENSIVE MEDIA PLAN:** Develop a plan for media coverage opportunities and dissemination of legal information via print, television and internet.
22. **RECOGNIZE VOLUNTEER ROLE MODELS AND CELEBRATE SUCCESS:** Develop a plan and find creative ways to celebrate and honor volunteers and enhance recognition of *pro bono* service.
23. **DEVELOP NEW OR SUPPLEMENTAL FUNDING MODEL:** Consider long term funding options for the access to and delivery of *pro bono* services.
24. **COLLABORATION:** Collaborate with other organizations as appropriate.

FUTURE MEETINGS

The next Commission meetings are scheduled for May 20, August 12 and November 18, 2015.

Respectfully submitted,

Lawrence F. Winthrop
Chair, Arizona Commission on Access to Justice

Arizona Commission on Access to Justice

Chair:

Honorable Lawrence F. Winthrop, Arizona Court of Appeals – Division 1

Members:

Kip Anderson, Superior Court in Mohave County

Honorable Janet Barton, Superior Court in Maricopa County

Mike Baumstark, Administrative Office of the Courts

Honorable Thomas Berning, Tucson City Court

Millie Cisneros, Esq., Federal Public Defender’s Office

Honorable Maria Elena Cruz, Superior Court in Yuma County

Barbara Dawson, Esq., Snell & Wilmer, LLP

Michael K. Jeanes, Clerk of Court, Maricopa County

Ellen Katz, Esq., William E. Morris Institute for Justice

Honorable James Marner, Superior Court in Pima County

John Phelps, Esq., State Bar of Arizona

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Co-Chair:

Janet Fisher, State Library, Archives and Public Records

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Honorable Peter Cahill, Superior Court in Gila County

Honorable Maria Elena Cruz, Superior Court in Yuma County

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Honorable Dean M. Fink, Superior Court in Maricopa County

Pat Gerrich, Esq., Community Legal Services, Inc.

Michael K. Jeanes, Clerk of Court, Maricopa County

Honorable James Marner, Superior Court in Pima County

Honorable Mark Moran, Superior Court in Coconino County

Steve Seleznow, Arizona Community Foundation

Work Group of the Arizona Commission on Access to Justice
Self-represented Litigants in Limited Jurisdiction Courts

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Honorable Thomas Berning, Tucson City Court

Stacy R. Butler, Esq., U.S. District Court

Millie Cisneros, Esq., Federal Public Defender's Office

Jeffrey Fine, Maricopa County Justice Courts

Chris Groninger, Arizona Foundation for Legal Services & Education

Andrea A. Gutierrez, Esq., The Angulo Law Firm

Paul Julien, Administrative Office of the Courts

Ellen Katz, Esq., William E. Morris Institute for Justice

Steven D. Keist, Esq., Christian Legal Aid of Arizona

Todd F. Lang, Esq., U.S. Attorneys' Office

Honorable Quentin Tolby, Maricopa County Justice Courts

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Pro Bono Service and Funding

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Dinita James, Esq., Gonzalez Saggio & Harlan, LLP

Kelly McCullough, Eight, Arizona PBS

Heather Murphy, Administrative Office of the Courts

John Phelps, Esq., State Bar of Arizona

J. Scott Rhodes, Esq., Jennings, Strouss & Salmon, PC

Steven R. Rodgers, Intel Corporation

Carrie Sherman, State Bar of Arizona

Lara Slifko, Arizona Foundation for Legal Services & Education

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