



UALR-Bowen School of Law
1201 McMath Avenue
Friday, October 13, 2006
Conference Room 515
1:00 P.M.

MINUTES

Attending: Judge Jim Spears [Vice Chair], Mr. Bill Brown, Judge Waymond Brown, Ms. Jean Carter, Ms. Zina Frazier, Judge Craig Hannah, Justice Annabelle Clinton-Imber, Ms. Kelly Olson, Ms. Susie Pointer, Mr. Lee Richardson, Mr. Frank Sewall, Ms. Danyelle Walker, Mr. Ron Lanoue [Secretary] and Mr. Vince Morris [Staff]

Judge Spears opened the meeting at 1:10 PM in the absence of Dean Goldner, Chair of the Commission. Judge Spears then called for review of the July 21, 2006 Commission meeting minutes. The minutes were approved unanimously.

Committee Recommendations for Commission Consideration

Judge Spears requested reports from the committees. *[Comments made later in the meeting with reference to which institution or entity should receive each Commission recommendation are placed in parenthesis and italicized after each.]*

Legal Services Committee Report and Recommendations

Ms. Frazier presented three recommendations from the legal services committee.

1. The Arkansas Access to Justice Commission requests the Arkansas Supreme Court generate an order authorizing up to 50% of **cy pres** be allocated to the Public Legal Aid Fund.
2. The Arkansas Access to Justice Commission recommends the creation of a broad based committee to study the development of **a state legal community position on a Civil Gideon**. *[Commission will take up creating this committee with the Bar Association and Court].*

3. The Arkansas Access to Justice Commission petitions the Arkansas Supreme Court to establish a ***pro hac vice* fee of \$250 per lawyer**, the proceeds of which will be assigned to the state's Public Legal Aid Fund.

After a discussion initiated by Bill Brown concerning the wording regarding the "cy pres recommendation" and the "up to" 50% allocation phrasing, thus changing the statement to read:

The Arkansas Access to Justice Commission will develop legislation to authorize no less than 50% of cy pres be allocated to the Public Legal Aid Fund.

Judge Spears called for a vote to accept the legal services committee recommendations as modified in total. The recommendations were accepted unanimously.

Pro Bono Committee Report and Recommendations

As chairperson for the pro bono committee, Judge Spears reported on the recommendations of the pro bono committee.

1. An "**emeritus**" system which allows retired attorneys to take pro bono cases through LAA or CALS without payment of the annual licensing fee should be implemented in Arkansas to expand the pool of pro bono attorneys. *[This recommendation should go to the Supreme Court.]*
2. The following **incentives should be approved** to expand and reward participation in pro bono work.
 - The first would count a pro bono volunteer's hours [as approved by LAA, CALS, AVLE] toward **CLE credit** requirements at some agreed upon exchange rate. . *[This recommendation should go to the Supreme Court.]*
 - Another incentive would be to count a pro bono volunteer's hours [again, as approved by legal services operations] toward **free registration** to the annual bar meeting or various regional judicial district conferences. . *[This recommendation should go to the Supreme Court and Bar Association.]*

In discussing the pro bono recommendations Mr. Sewall stated that he felt the commission should communicate with the Arkansas Bar Association before accepting the second recommendation concerning free or discounted registration for the annual statewide bar conference.

Mr. Lanoue spoke to the precedent of interacting with the Arkansas Bar concerning Model Rule 6.1 and how the Commission had first voted the recommendation and then began discussions with the Arkansas Bar Association in full recognition that a dialogue needed to occur to move this recommendation forward with the principal parties involved. Judge Spears stated that some action

should be taken by the Commission so the Commission can begin discussions with the Bar concerning this recommendation.

Judge Spears called for a vote to accept the Pro Bono Committee recommendations in total. The recommendations were accepted unanimously.

Pro Se Committee Report and Recommendations

Ms. Pointer spoke for the Pro Se Committee in absence of the Committee chairperson Mr. Mullane. Ms. Pointer reported the actions that the committee has taken in developing an **uncontested pro se divorce kit**. Ms. Pointer reported on the logic tree flow charts the committee has been working with and the online beta version of the document assembly divorce packet that Mr. Morris has developed. Judge Spears said that he had been using a paper form of the divorce kit.

The Commission urged the pro se committee to continue efforts in developing these pro se resources under its self-imposed completion date of next spring.

Creating a Legislative Package

Judge Spears called the next agenda item up for consideration. Mr. Lanoue initiated a discussion concerning development of a legislative package. He stated there were some things other states have done through the Supreme Court rather than the legislature and that the Commission should decide what should be pursued in the legislature and what sought for elsewhere. Justice Imber supported the need to triage some items to the court, some to other organizations, and others to the legislature.

Judge Spears stated that it is very important decision to decide what to do independently because the Commission does not have a lobbyist except for the commitment from the Arkansas Bar Association to share their lobbyist to work with the Commission and its staff.

Mr. Richardson stated that if the Commission does not create a legislative package then the Commission could only hope to be included with the Bar Association's incentives which may or may not produce exactly what the Commission is seeking.

Mr. Sewall stated that because the Commission is a creation of the Supreme Court we needed to alert all members of the Supreme Court as to what the Commission is doing. Mr. Lanoue agreed that we must be wedded to the Supreme Court for this commission to be successful. Mr. Sewall also stated that the Commission should get its package together as soon as possible and present it to the Bar Association's Board of Governors by a tentative date of November 15.

Mr. Brown inquired as to who would draft the proposed legislation. Justice Imber and Mr. Lanoue both agreed that Dean Goldner and J.D. Gingrich would have those resources.

Ms. Carter stated that it was beneficial that we had already created an account [Public Legal Aid Fund] for those funds to be placed during the last session's successful effort resulting in the allocation of re-filing fees.

Mr. Sewall asked the Commission how they are planning to approach the legislature. He stated that it has been his experience that it is much easier getting a bill sponsored if the bill has already been drafted. He stated that he would be glad to help draft those bills. If the Commission is going to be successful then it needs an experienced lobbyist with nearly final versions of bills in hand. He stated that the Commission needed to begin working on getting these bills in final form as soon as possible.

Judge Spears called for specific proposals incorporating what had just been passed as recommendations and including funding opportunities as well. A discussion began about possible avenues of funding to be sought through the upcoming legislative session and what proposed legislation should be included in the Commission's legislative packet.

1. Ms. Pointer stated that at any given time there may be 15 to 30 million in unclaimed funds that escheats back to the state. Mr. Richardson proposed researching legislation concerning the money that escheats back to the state.
 - Justice Imber stated that a petition is also before the court to not limit these to checking accounts.
2. Also before the court is a proposal that IOLTA accounts be treated no differently than any other accounts by banks holding these funds.
3. Ms. Carter stated that Commission should research *cy pres* awards in Arkansas to include definite language providing an allocation to legal services as the Commission voted to do earlier.
4. Judge Brown stated that even in district courts there are unclaimed funds (currently \$25,000 in his alone). These funds are generated in a variety of ways such as cash bonds that resulted in a dismissal of a case and the party did not collect it or where attorneys did not claim their *ad litum* fees. He stated it might be best to find a way to fold this into the unclaimed property law.
5. Mr. Richardson suggested getting an add-on to one of the many state fees which could be related to domestic violence money such as marriage licenses. He stated that he could see the Public Defenders and others supporting the Commission getting a fee for this. The fee is currently \$35 to get married. There is direct connection between legal aid and such a fee to represent victims of domestic violence.

Mr. Richardson stated that as soon as you file these bills you are going to have others jumping in such as the public defender. Mr. Sewall stated that, from a political viewpoint, the Commission may want to forego seeking 100% and work with other like-minded institutions (i.e. public defender) to gain their clout and to avoid their competition. However, he also stated that it might be best to go ahead and stake our ground and then let others in. The sponsor needs to know who the potential opponents to the legislation may be.

Ms. Carter stated that 70% of the House of Representatives will either be new people or have only served one term. The Commission should find sponsors with more experience. She also stated that the Commission needs to find these “revenue neutral” sources utilizing the idea of “found money” that is not now benefiting anyone.

Mr. Lanoue asked the Commission how they want to quickly surface these ideas (by mid-November as Mr. Sewall suggested) to the people that should be involved. He stated that he saw the package as building a case for legal services which would include information from the town hall meetings, fact sheets, the annual report for statewide legal services, etc. --- all in an extremely condensed form. However, he stated that first the Commission must draft the bills and get potential sponsors. Judge Spears read a summary of the proposed target legislation mentioned so far:

Possible Legislation Initiatives

1. *Escheated Funds in the Secretary of State's office*
2. *Escheated Funds from Attorney Trust Accounts*
3. *Unclaimed Court funds (look to State Auditor)*
4. *Cy Pres funds*
5. *Marriage License Fees*
6. *Fee on Domestic Battery Convictions: Convictions of domestic violence can result in a statewide uniformed add-on fine (this would not cost anyone except the abuser)*
7. *Orders of Protection Back End Fee – To be paid by the convicted upon conviction*
8. *Special reciprocity given to out-of-state public service attorneys.*

Mr. Sewall stated that a Commission legislative work group should at least draft legislation for the above funds and then the Commission can prioritize. Judge Spears stated that the Commission does not have a legislative committee and that one should be created so as to have a point person. But in the meantime Judge Spears called for volunteers. Justice Imber nominated Mr. Sewall and he accepted to serve in the function of drafting the legislation. Mr. Lanoue recommended that Mr. Richardson also work with the committee. Ms. Olsen recommended that Dean Goldner also work with the committee. It was agreed that the committee should meet no later than early November. Mr. Lanoue will staff the legislative working group.

Justice Imber stated that some proposed legislation will involve drafting petitions for the Arkansas Supreme Court to consider before lobbying the legislature can begin. Ms. Pointer and Ms. Olsen volunteered to draft the necessary petitions.

Other Commission Business

Judge Spears called for any other business.

Mr. Lanoue reported on the Access to Justice DVD that is currently in production and stated that filming should be complete by next week. Mr. Lanoue thanked Mr. Vince Morris and Mr. Dustin Duke for their help in creating a script for the DVD out of the client stories provided by advocates around the state.

Mr. Lanoue reported on the status of Commission Member Appointees. Justice Imber stated that the *per curium* has been completed for both Judge Spears and Dean Goldner. Mr. Lanoue requested that members go through their contact data in the membership information handed out at the beginning of the meeting and make any updates.

Ms. Carter stated that the national legal services board will hold its meeting in Little Rock in April 2007, and requested that the Commission speak at that Legal Services Corporation Board's public meeting.

Mr. Lanoue requested that Commission members come to the Statewide Legal Services Conference next week for a luncheon presentation on access to justice in Arkansas.

Meeting was adjourned at 2:38.