

NM Commission on Access to Justice

Meeting Minutes

June 14, 2019

12:00 pm

State Bar of New Mexico/Remote Participation via Zoom Videoconferencing

Present: Liz McGrath (ATJ Commission Co-Chair), Hon. Nan Nash (ATJ Commission Co-Chair), Dina Afek (New Mexico Legal Aid-NMLA), Monica Corica (NMLA), Pamelya Herndon (KWH Law Center), Jeff Wechsler (Montgomery and Anderson, ATJ Commissioner), John Arango (Civil Legal Services Commission, ATJ Commissioner), Ellen Leitzer (Senior Citizens Law Office), Hon. KC Rogers (Magistrate Judge, ATJ Commissioner), Mark Pustay (United South Broadway Corporation- USBC), Lindsay Cutler (Center on Law and Poverty), Karen Meyers (attorney), Sarah Steadman (UNM School of Law), Mary H. Smith (attorney, Civil Legal Services Commission), Wendy Basgall (Southwest Women’s Law Center), Mateo Page (AOC), Hon. Shannon Bacon (NM Supreme Court), Hon. Jane Levy (Judge-Second Judicial District Court), Janice Kauer (NMLA), Aja Brooks (Second Judicial District Court), Bette Fleishman (Pegasus Legal Services for Children), Jennifer Foote (ATJ Commissioner), George Chandler (ATJ Commissioner), Carol Garner (NMLA), Rosalie “Lisa” Chavez (NMLA), Renee Valdez (Metro Court), Chris Morganti (State Bar of New Mexico), Kip Bobroff (ATJ Commissioner), Rachel Rodriguez (Equal Access to Justice), Gary Housepian (Disability Rights New Mexico), Terrelene Massey (Southwest Women’s Law Center), Rose Garcia (Enlace Comunitario), Sireesha Manne (Center on Law and Poverty), Rudy Sanchez (DNA People’s Legal Services), John Greacen (ATJ Consultant), Mark Bennett (Decision Resources, ATJ Consultant), Torri Jacobus (City of Albuquerque), Tina Cruz (President Elect of NM State Bar), Grace Spulak (AOC)

ODR Presentation

Margarita Terrell, Beth Wojahn, Mateo Page from AOC and Judge Jane Levy from the Second presented about the new Online Dispute Resolution (ODR) pilot project.

ODR will be piloted in debt and money due cases in the Ninth, Sixth, and Second Judicial Districts and Bernalillo County Metropolitan Court during June. The ODR program uses a software platform called Modria that is developed by Tyler.

Judge Levy gave background on how ODR came to be in NM. ODR has been identified as a best practice for serving people who are middle income (cant afford an attorney and can’t qualify for legal aid services). The NM judiciary wanted to focus on debt and money due because lots of SRLs (increasing number on plaintiff side as well as defendant) and high default rate.

Mateo and Margarita gave an overview and demonstration of the Modria software, including the following information:

-if both a complaint and answer are filed in a debt and money due case and both parties provide an email address, the court will refer the case to Modria.

-When a complaint is filed, the court will send a notice and blank answer form to the defendant with information about how to respond to the complaint and information about Modria.

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-When a litigant accesses Modria, there are options for the litigant to select about whether or not they want to settle the case. Some reasons for not settling include that the debt was discharged in bankruptcy or that the person does not believe they owe the debt.

-There is an option for the parties to request a live mediator who will communicate with the parties online. To date there are about 70 volunteer mediators willing to do this, 25 have been trained so far in Modria.

-If parties do want to settle and reach agreement, then have settlement agreement, not judgment; settlement agreement filed with court and closes case

Questions from Meeting Participants:

-is there built in screening of plaintiffs to ensure that plaintiff is licensed in NM to collect a debt? In district court, the plaintiff has to certify that they are licensed in district court, but there isn't a mechanism to screen for this outside of the them certifying

-Does proof of debt have to be provided? In district yes and have to certify

-Is mobile friendly? Yes

-Are communications confidential or privileged? Yes

-Can we notify judge when settlement agreement is reached (e.g. in there might be situations where terms are egregious and judge might want to reject)? Yes and the ODR team will work on this.

-If courts are concerned about certain plaintiffs there is an option for the court to not send these cases to Modria? Yes

-What response has there been from debt collectors? Info was sent to debt collectors but little response.

-How can people get access in rural communities if people don't have internet access? AOC has gone to libraries and given them info in 6th and 9th

-Is there way to screen for individuals who are judgment proof or get people to resources that can help them? Letter to defendants from the court, doing Law-la-palooza aimed at debt and money due; website linked in Modria that direct people to about rights in debt collection

-Karen Meyers stressed that it is important for providers to get information about how this is working for folks on the ground during the pilot phase

-Direct further questions or concerns to Judge Jane Levy or Mateo Page

-The ATJ Commission will have a follow-up presentation once the pilot has been in place for some time about next steps and results

Minutes

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April minutes were approved, Grace Spulak will email January minutes to Commissioners for approval

LLLT

- George Chandler gave an update about the LLLT working group.
- There has been press about the LLLT work group in past weeks.
- George spoke with Oregon about a program they have where people can do apprenticeship instead of sitting for bar to be licensed, they also have an LLLT type program (2 year degree, training, no bar exam)
- developing bar exam is a barrier to NM's program that has been identified by the work group
- DOJ antitrust division are looking at unauthorized practice of law issues; would want to make public comment if there was comment period on NM's LLLT program

ATJ Grant Fund Commission

- The ATJ Grant Fund Commission had an increased amount of money available for grants this year.
- During the ATJ Grant Fund Commission meeting there was decision that ATJ Grant Commission would offer \$25K to ATJ Commission to address the need to establish closer working relationships and collaboration between legal service providers
- The ATJ Commission has issued an RFP for a provider collaboration facilitator—Grace Spulak will send this information out to the group
- Application due by July 12, 2019**; late applications will not be accepted. Contact Grace Spulak at aocgcs@nmcourts.gov for more information
- decisions will be made by smaller subcommittee of ATJ Grant Fund Committee. This subcommittee is Grace Spulak, Judge Nan Nash, Tom Olson, and Stormie Ralston. Others are welcome to participate as well if they are interested.

EJC Report Out

-Renee Valdez, Grace Spulak, Liz McGrath, Kip Bobroff, Rachel Rodriguez, Dina Afek, Tattiana Kinahan, Chris Ford and John Greacen from New Mexico attended the ABA's Equal Justice Conference in Louisville, KY in early May 2019.

-Attendees who were present at the meeting described highlights and takeaways from the conference including:

- California's "Justice Bus" to get services in rural area
- Resources on ensuring that pro bono and resource development initiatives are working together
- Other state programs using non-attorney navigators. Kip Bobroff noted that the community justice worker program at NMLA is really ground breaking and important

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- Information about online/app-based portals and document assembly programs
- Race equity is really important to ensuring access to justice and in New Mexico we need to make sure that we are looking at tribal status issues as well when discussing race.
- Federal money that is available to address the opioid crisis and VOCA money may be used for legal services in some situations. Providers should look at these sources of federal funding.

JFA Planning

Timeline

The following is the timeline for New Mexico's JFA Plan:

-6/21—draft of plan will go to steering committee

-Mid July—develop discussion draft that includes

-7/24—discussion draft will go to ATJ list; list will have 2 weeks to comment

-8/16—Commissioners will vote on the draft at the ATJ Meeting

-We will need volunteer readers as the discussion draft is developed. Lisa Chavez, George Chandler, Bette Fleishman volunteered. Other volunteers should contact Grace Spulak (aocgcs@nmcourts.gov)

Prioritization Exercise

-participants prioritized components to identify areas of focus over the next year and a half. The component overview document that participants used is attached to the minutes.

JFA Plan Work Groups

-People should review the proposed work group structure and give feedback on whether the work group configuration is appropriate. The work group proposal is attached to the minutes.