

New Mexico Commission on Access to Justice
April 10th, 2020 Meeting Minutes
Remote Meeting Via Zoom

In Attendance: Stacey Leaman (NM Center on Law and Poverty), Janice Kauer (NMLA), Karen Meyers (Attorney), George Chandler (ATJ Commissioner), Grace Spulak (AOC), Terrelene Massey (Southwest Women's Law Center), Rachel Rodriguez (Equal Access to Justice), Liz McGrath (ATJ Co-Chair), Bette Fleishman (Pegasus), Mark Bennett (ATJ Commission consultant), Kip Bobroff (ATJ Commissioner), Quiana Salazar-King (New Mexico Immigrant Law Center), Jennifer Foote (ATJ Commissioner), Renee Valdez (Metro Court), Gary Housepian (Disability Rights NM), Celia Yapita (Catholic Charities), Hon. Nan Nash (ATJ Commission Co-Chair), Juan Abeyta (ATJ Community Engagement Consultant), Pamelya Herndon (KWH Law Center for Social Justice and Change), Torri Jacobus (City of Albuquerque), Deian McBryde (attorney), Antonia Roybal-Mack (attorney), Noah McKinney (ATJ Admin Assistant), Aja Brooks (Second Judicial District), Maria Griego (Enlace Comunitario) Sarah Steadman (UNM School of Law), Mary Smith (CLS Commissioner), John Arango (CLS Commission, ATJ Commissioner), Lewis Creekmore (NM Legal Aid), Judge Mercedes Murphy (7th Judicial District), Ellen Litzer (Senior Citizens Law Office), Mateo Page (AOC), Jeffrey Weschler (ATJ Commissioner), Melanie Fritzsche (NM Legal Aid), Simone Seiler (13th Judicial District), John Greacen (ATJ Consultant)

Provider updates

1. Housing Challenges

-Legal Resources for the Elderly Program provided an email update. They are seeing people being evicted for issues unrelated to being able to pay rent, so the stay is unable to help them. For example, they are seeing landlords providing 30 day notices to end leases, and people evicted because they do not comply with the 30 day notice are not covered under the Supreme Court orders.

-There is also concern about what will happen once the stays are lifted. People most likely will not be able to pay rent arrearages and there will potentially be mass evictions. The eviction mediation program (discussed later in the minutes) may be able to help address some of these concerns, but currently the program will only be in Bernalillo County.

-Karen Meyers suggested the NMLA, LREP and others let the Supreme Court know what they are seeing with regard to eviction cases.

-There are additional provisions in the federal CARES Act that also limit evictions based on inability to pay rent for housing that is participating in various federal housing programs. NMLA sent a letter about this issue to judges. There was discussion about whether the Commission wanted to develop a bench card outlining both provisions of the Supreme Court stay and CARES Act. These provisions are not contradictory.

-Pamelya Herndon noted that Housing Authorities are not open, so if people are evicted they have no place find alternative affordable housing. The Section 8 Housing program is not accepting applications

-Debbie Norman (United South Broadway) mentioned that the 2nd is no longer referring cases to their foreclosure settlement program (the 1st and 13th are still operating their programs) so United South Broadway is getting calls from people who would have been participating in this program. Also, foreclosures are predicted to rise as a result of COVID-19 economic downturn. Aja Brooks from the 2d

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let the Commission know that they are trying to figure out how to get the program running again remotely.

2. Potential Unemployment and Other Benefits Issues

-Right now, hard to gauge whether people are incorrectly being denied unemployment benefits. This is something providers will be watching for and doing outreach to their client populations about.

-The Center on Law and Poverty has done outreach to and had conversations with state agencies around economic relief that needs to be available to people including unemployment and gaps between federal relief and state relief currently available; they are also talking with the state about eligibility widening (e.g. federal waivers for food stamp benefits; expanded Medicaid) the state is working on these things but needs to give more information to the public about these options and where they are in the process of working with the federal government to expand benefits.

-Need to ensure that people who do not file tax returns, people experiencing homelessness, and other vulnerable people are able to get their stimulus payments

-Some national groups are working to make sure that stimulus payments are exempt from garnishment, etc.

-Antonia Roybal-Mack mentioned that one additional issue with the stimulus funds occurs when parents are divorced. A broad Supreme Court order that required the payment to be divided between the parents would be very useful. Judge Nash said that, in general and in the past, the Supreme Court has been reluctant to give advisory opinions, but we can raise the issue.

Discussion of Court-Related Issues/Challenges Related to Remote Appearance

-There is some concern that the 1st may be using Court Call for their hearings, which charges users. However, there was also information that the 1st has switched or will be switching to using the Court's polycom system to allow people to call in for hearings, which would not require users to pay.

-Another challenge is that parties in hearings do not have technology to participate by video (e.g. they may not have enough data, have limited cell phone service, or devices that will not allow video participation) and much of hearing time is being taken up trying to get technology to work. If people are not able to participate by video, they can participate by phone, but phone-only participation is limited participation, especially when the other parties are by video.

-There are also concerns about access for people who do not have minutes on their phones to call in for hearings.

-Interpretation is particularly challenging in these hearings as well.

-The City of Albuquerque is currently creating wifi hotspots in some school parking lots where people can access wifi from their cars. Deian McBryde suggested that some law firms could also create wifi hotspots in parking lots. Grace will communicate this to the State Bar to see if they will suggest it to members.

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-The Commission will recommend that courts provide information about local wifi hotspots with Notices of Hearing and that all courts provide Google Meets instructions with Notices of Hearing.

-Grace will also find out if AOC-developed Google Meets instructions can be distributed to the ATJ community so providers can let clients know in advance how to connect to Google Meets and that they may need to create a gmail account. Grace will also look into whether these instructions can be displayed on the Judiciary website.

Update on State and Federal Funding Opportunities/Challenges

-Liz McGrath proposed that the Commission have COVID-19 “strickforce,” i.e. a coordinated team of individuals who can track analysis of federal funding and relief related to COVID-19 and report back to the Commission at large.

-The following individuals volunteered to follow analysis of funding related to particular topic areas. They will provide information to Grace Spulak who will send it out to the ATJ community.

-Karen Meyers: consumer; Sovereign Hager: benefits eligibility; Terrelene Massey: tribal concerns; Lewis Creekmore: housing; John Arango: health insurance

-The CARES Act also contained a \$50 million appropriation for the Legal Services Corporation. NMLA will know by the 14th how much funding NMLA will get and how they will need to use that funding.

Eviction Mediation Program Update

-Metro Court would like to develop a settlement facilitation program for eviction cases where tenants are eligible for a stay of eviction based on the Supreme Court orders of March 24 and March 26. Karen Meyers and Judge Nash have been working with Metro Court to create a framework for the program and with NMLA to create training materials for facilitators.

-The hope is that this facilitation program will address some of the concerns about what happens when stays are lifted at the end of the public health emergency. The goal of the facilitations is to help landlords and tenants develop a repayment plan that will allow tenants enough time to repay rent that accrues during the stay and allow tenants to remain in their homes.

-Phase one of this program will use experienced settlement facilitators so that facilitators only need to be trained in the substantive law, not in settlement facilitation. Phase two will recruit interested attorneys who do not have facilitation experience and will train these people in facilitation as well as landlord-tenant law.

-Right now, this program will only be available in Bernalillo County, but the hope is to have a framework that can be expanded to other courts around the state.

-NM Center on Law and Poverty suggested a benefits screening for tenants in these facilitations. NM Center on Law and Poverty will work on developing a screening tool or identifying screening tools that

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are already available. Ideally, this is something the state should develop/promote and make available. ALTSD has a resource center for people who are over 55 or have disabilities. People can call a number and be screened for benefits eligibility. Ellen Leitzer will try to get ALTSD's screening tool and Sovereign Hager will communicate with the state about making it available to everyone.

-The Commission will send a letter to the Supreme Court to update the Court about the settlement facilitation project and to flag any potential issues regarding the stays.

Communication and Resource Development IT Funding Update (Janice Kauer)

-If the Commission wants to submit any requests to be included in the judiciary's budget request for the 2021 Legislative Session, this needs to be done ASAP. There are many funding challenges in the state right now, so it is unlikely ATJ projects will be funded by the legislature, but it is important to begin including ATJ asks in the judiciary budget for court-based projects to begin the conversation with the Budget Committee and Legislature.

-Some obvious asks include court signage and court navigator programs.

-Debbie Norman and Janice Kauer will reach out to each of the IT co-chairs about any court-based requests their group may have. ITs will need to respond by April 17 and Grace Spulak will take any requests that seem appropriate to AOC leadership by April 24.

Bar Exam/Diploma Privilege Letters From Law Students

-ATJ Commissioners received four emails with attached letters from law students discussing the difficulty posed by the Supreme Court's potential delay of the Bar exam, advocating that the Commission support their proposal that they be able to practice upon receipt of their diploma.

-Judge Nash left the meeting for this discussion because she sits on the Board of Bar Examiners

-A number of things have been proposed by law students, ranging from straight emergency diploma privilege, expanding the student practice rule, and a rule from Utah that provides 360 hours of supervised practice by an attorney after graduation. The letters received by the Commission asked the Commission to support a diploma privilege.

-The Commission does not feel that this is an appropriate issue for the Commission to weigh in on at this time. If people feel strongly about the issue, they can act in their individual capacities and reach out to the Supreme Court and Board of Bar Examiners.

-Grace Spulak will create a draft response letter to the law students who contacted the Commission. She will send around to the commissioners for comment, but basically this letter will say this isn't something the Commission is able to take a position on at this time.

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2020 ATJ Commission Meeting Schedule (meetings will be conducted remotely until further notice):

-April 23rd

-May 15

-July 17

-September 11

-November 6