SUPREME COURT TASK FORCE TO EXAMINE LIMITED LEGAL LICENSING MEETING

Minutes
Thursday, June 18, 2015
Judicial Council Room
Matheson Courthouse
Salt Lake City, Utah

JUSTICE DENO HIMONAS, Presiding

ATTENDEES:
Justice Deno Himonas, Chair
Dean Robert W. Adler
Nathan D. Alder
Hon. James Brady
Mary Jane Ciccarello
Dixie A. Jackson
Rep. Brian S. King
John Lund
Lori W. Nelson
Comm. Joanna B. Sagers
Senator Stephen H. Urquhart

STAFF PRESENT:
Tim Shea
Jody Gonzales
Rick Schwermer

GUESTS:
Katie Nichols, Supreme Court
Lenora Babb Plimpton

EXCUSED:
Elena Bensor-Slyter
Carol Sue Crismon
Jacey Skinner
Angelina Tsu

1. WELCOME AND INTRODUCTIONS: (Justice Deno Himonas)

Justice Deno Himonas welcomed everyone to the meeting. He thanked the members of the task force for their willingness to participate. Members of the task force introduced themselves.

2. TASK FORCE CHARGE AND TIMETABLE: (Justice Deno Himonas)

Justice Himonas referenced the following regarding the need to address access to justice issues: 1) a New York Times article referring to the justice gap in the United States listing Utah as 65th by the World Justice Rule of Law Project Index, and 2) an article in the ABA Journal referring to multi-state and federal studies which show that 80-90% of low and middle income citizens, due to a variety of reasons, are unable to obtain or afford legal representation.

The charge of the task force is to evaluate ways non-lawyers can provide services in areas in which only lawyers traditionally have been able to practice. The task force is to develop and evaluate working models to provide access to justice to clients with varying needs.

Justice Himonas highlighted the following details relative to the task force: 1) completion of the task force study and report findings to the Supreme Court in November 2015, 2) set a schedule for the task force to meet every three weeks, and 3) create work groups for more defined areas of focus.

The following meeting schedule was agreed upon by members of the task force:
July 09: 8 a.m. – 10 a.m.
Aug 06: 8 a.m. – 10 a.m.
Aug 20: 8 a.m. – 10 a.m.
Sep 10: 8 a.m. – 10 a.m.
Oct 01: 8 a.m. – 10 a.m.
Oct 22: 8 a.m. – 10 a.m.
Nov 12: 8 a.m. – 10 a.m.

3. IDENTIFICATION OF EMERGING STRATEGIES AND INITIAL SELECTION OF THOSE FOR STUDY: (Justice Deno Himonas)

Justice Himonas highlighted state programs other than Washington State's Limited Legal Licensing Technician Program to include: 1) Arizona and California's use of legal document preparers or legal document assistants – non-lawyers authorized to assist court patrons filing of certain legal documents, 2) Maryland's Homeless Persons Representation Project which authorizes social workers to provide legal advice to the homeless on certain legal issues, and 3) New York, specifically New York City, has established a Navigator's Program which allows individuals, on a volunteer basis, to assist clients, and go to court with them. They cannot provide legal advice, but they can answer fact-specific questions.

States showing interest in the LLLT program include: 1) California, 2) Colorado, 3) Connecticut, 4) Massachusetts, 5) North Carolina, 6) Ohio, 7) New Mexico, 8) Oregon, and 9) Vermont. He also referenced a Canada model created upon passage of the Access to Justice Act in 2007 which allows paralegals, who are licensed under the act; to represent individuals before courts and tribunals with small claims, worker's comp claims, landlord tenant disputes, auto insurance claims, traffic violations, and certain minor criminal offenses.

Judge Himonas responded to questions about how such practitioners are licensed and what the education requirements of the programs.

Other strategies highlighted included: 1) the Utah State Bar is considering the idea of expanding the third year practice rule to the second year, 2) an online dispute resolution proposal will be considered at the June 22 Judicial Council meeting, 3) *MacKenzie Friends – Court Without a Lawyer Program* in Great Britain, 4) *Looking at Justice Core* part of the federal AmeriCorps system, 5) California system, 6) Illinois system, 7) other similar community programs, 8) up-and-coming program being developed in Washington, DC with regard to immigration; wills, estates, and trusts; and landlord tenant disputes, 9) look at what is being used in the bankruptcy court with the use of bankruptcy form preparers, and 10) the State Bar's study from the perspective of a client by the Future's Commission—who the audience is and what are their needs.

Discussion took place.

The following categories were highlighted as ways to provide legal advice: 1) through a lawyer, 2) through limited law practitioners, 3) through licensing, and 4) through basic caveat emptor.

Areas to consider as the task force proceeds: 1) coordination with other federal and state governmental agencies, 2) administrative proceedings, and 3) what forms should be available to court patrons.

4. EXAMINATION OF THE ORIGIN, PURPOSE, AND CONTENT OF THE WASHINGTON STATE LLLT: (Tim Shea)

Mr. Shea provided background information on Washington State's Limited Legal Licensing Technician Program. He noted that, in the future, the task force may want to invite a Washington State representative to talk on behalf of their program.

Another resource available to the task force is Tom Clarke from the National Center for State Courts (NCSC). From his research, he has looked at roles beyond lawyers.

The LLLT program began from the following: 1) concern over the unauthorized practice of law, and 2) concern over unmet legal needs.

The LLLT program was put in place by the Washington State Supreme Court. It is governed by a 13-member volunteer board. The board is responsible for the following: 1) processing applications and fees, 2) consideration of practice areas, 3) rules, grievances, and discipline.

Qualifications to be certified as a limited legal licensing technician include the following: 1) pass a background check, 2) possess an associate's degree plus 45 hours of the core curriculum (which is essentially the paralegal curriculum), 3) upon completion of the core curriculum, an additional 5 credit hours in domestic relations and an additional 10 credit hours in advanced domestic law and procedures must be completed, 4) complete 3,000 hours of substantive law-related work supervised by a lawyer—no more than three years after passing the exam and no more than three years before licensure, and 5) proof of financial responsibility.

Discussion took place.

Aspects of a program to consider as the task force continues discussion: 1) costs of the program, 2) available study material, 3) factoring in experience for program candidates, 4) competency-based testing, 5) annual CLE requirements, 6) expectations of the program candidates, 7) use of volunteers, 8) identify available resources, 9) consider the process of family law matters, 10) the use of early resolution and case management, 11) determine the best way to disseminate the information to the public on available resources, and 12) simplify the forms.

5. OBJECTIVES, ISSUES, WORKING GROUPS, RESOURCES: (All)

Members of the task force were assigned to the following workgroups:

<u>Workgroup 1</u> – Focus on the Limited Legal Licensing Technician Program
Dean Robert Alder – chair
Mr. Nate Alder
Hon. James Brady
Rep. Brian King
Ms. Lori Nelson
Comm. Joanna Sagers
Ms. Angelina Tsui

<u>Workgroup 2</u> – Focus on Other Emerging Strategies
Ms. Mary Jane Ciccarello, chair
Ms. Elena Bensor-Slyter
Ms. Sue Crismon
Ms. Dixie Jackson
Mr. John Lund
Ms. Jacey Skinner
Senator Stephen Urquhart

6. ASSIGNMENTS: (Justice Deno Himonas)

Justice Himonas requested Dean Robert Alder – workgroup 1 chair, and Ms. Mary Jane Ciccarello – workgroup 2 chair to submit two to three discussion items of the subcommittees to Mr. Shea.

Justice Himonas thanked everyone for attending and for their willingness to participate on the task force.

7. ADJOURN

The meeting was adjourned.