

**REPRESENTING HOPE: NEW PARADIGMS FOR ACCESS TO JUSTICE  
JOINT COMMISSION-BOARD RETREAT  
OCTOBER 27-29, 2016, LITTLE ROCK, AR**

**-AGENDA-**

**THURSDAY, OCTOBER 27, 2016 – 5:30 to 7:00 p.m.**

***Opening Reception (RSVP Requested)  
Little Rock Club***

- 6:00 p.m. – Remarks & Presentation of Pro Bono Week Proclamations  
Rod Nagel, Chair, Arkansas Access to Justice Commission  
Justice Robin Wynne, Arkansas Supreme Court  
Rep. Mary Broadaway

**FRIDAY, OCTOBER 28, 2016 – 8:30 a.m. to 5:00 p.m. – WEAR YOUR ‘JUST JEANS’**

***Retreat Sessions  
Little Rock Marriott  
3 Statehouse Plaza***

- 8:30 a.m. – Registration and Continental Breakfast – *Riverview Room*
- 9:00 a.m. – Welcome and Introductions – *Riverview Room*  
Rod Nagel, Arkansas Access to Justice Commission  
Bill Waddell, Arkansas Access to Justice Foundation  
Jimmy Street, Committee on the Unauthorized Practice of Law
- 9:15 a.m. – Joint Meeting of Foundation, Commission, and Arkansas Supreme Court  
Committee on the Unauthorized Practice of Law – *Riverview Room*
  - *ABA Model Regulatory Objectives for the Provision of Legal Services*
  - *ABA Report on the Future of Legal Services*
  - *Statewide Policy on Legal Information and Advice*
- 11:15 p.m. – Break
- 11:30 a.m. – Business Meeting Lunch– *Ouachita Room*
- 1:00 p.m. – Poverty Simulation – *Riverview Room*  
  
Speaker: Andrea Walker; Facilitator: Sarah Purtil
- 2:00 p.m. – Break

- 2:15 p.m. – Putting the Pieces Together: Presentation and Panel Discussion on Access to Justice and Legal Aid in Arkansas – *Riverview Room*

Panelists: Jason Auer, Joycelyn Bell, Julie Howe, Andrea Walker

- 3:30 p.m. – Break
- 3:45 p.m. – Where Criminal and Civil Justice Intersect: New Considerations for Future Directions – *Riverview Room*

Panelists: Prof. Terrence Cain, Reggie Koch, & Prof. Tiffany Murphy

- 5:00 p.m. – Adjourn
- 6:00 p.m. – Dinner (Dutch Treat) – *Location TBA*

## **SATURDAY, OCTOBER 29, 2016**

### ***Little Rock Marriott 3 Statehouse Plaza***

- 8:30 a.m. – Welcome and Overview – *Riverview Room*
- 8:45 a.m. – Strategic Priority Discussion Groups – *Riverview Room*

*Resource Development  
Delivery Systems  
Technical Expertise*

- 9:45 a.m. – Break
- 10:00 a.m. – Report Back – *Riverview Room*
- 10:30 a.m. – Accomplishments and Challenges – *Riverview Room*
- 11:00 a.m. – Adjourn

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YOUR ABA

## ABA commission's recommendations seek to close the access-to-justice gap

POSTED OCT 01, 2016 01:40 AM CDT

BY VICTOR LI AND JAMES PODGERS



*Judy Perry Martinez. Photograph by Tony Avelar.*

As expected, the ABA Commission on the Future of Legal Services ([https://www.americanbar.org/groups/centers\\_commissions/commission-on-the-future-of-legal-services.html](https://www.americanbar.org/groups/centers_commissions/commission-on-the-future-of-legal-services.html)) delivered plenty of recommendations for how the bar can close the gap in access to justice in America, while steering clear of the most contentious issue: alternative business structures.

After two years of work, the commission released its final report ([https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport\\_FNL\\_WEB.pdf](https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf)) (PDF) at the 2016 ABA Annual Meeting in San Francisco. The underlying message of the report, said outgoing ABA President Paulette Brown of Morristown, New Jersey, is that “the future is not going to wait for us. We have got to go with it. We have to not let the future get away from us.”

Citing statistics that show that in some jurisdictions more than 80 percent of the civil legal needs of lower-to-middle-income individuals went unmet, the commission called on the legal profession to support the idea that all people should have some form of legal assistance for their civil legal needs. To that end, the commission found that the profession “should support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs.”

The commission stated that courts should be open to innovations in the delivery of legal services and called on them to adopt the ABA Model Regulatory Objectives for the Provision of Legal Services ([https://www.americanbar.org/content/dam/aba/images/office\\_president/final\\_regulatory\\_objectives\\_resolution\\_november\\_2015.pdf](https://www.americanbar.org/content/dam/aba/images/office_president/final_regulatory_objectives_resolution_november_2015.pdf)) (PDF). States should “explore how legal services are delivered by entities that employ new technologies and internet-based platforms, and then assess the benefits and risks to the public.” Courts, meanwhile, should provide automated services for pro se individuals, including online dispute resolution and remote-access self-service kiosks.

The report also recommended the ABA open a Center for Innovation that would amount to a research and development division for the legal industry. “Industries as diverse as consulting, medicine and personal finance have invested in research and development laboratories to create new service offerings and substantially improve client relationships,” the report stated. “Lawyers must do the same, and the Innovation Center can play an active role in these efforts.”

The Center for Innovation has been approved by the ABA Board of Governors. Its primary tasks will include assisting law firms interested in introducing new approaches to their practices, studying innovations in legal services delivery in other countries, and developing training programs for law students interested in innovative law

practice. The commission also will play a key role in carrying some of the commission's recommendations forward.

It is crucial that the ABA and other elements of the legal profession help lawyers to understand how the legal environment is changing, said commission chair Judy Perry Martinez (<http://advancedleadership.harvard.edu/people/judy-perry-martinez>). "We can help lawyers understand what the public need is," she said. "If we can help lawyers to be of service to the public, we can be of great service to our members."

The commission also recommended that "all members of the legal profession should keep abreast of relevant technologies" and cited the Florida Bar Board of Governors, which recently approved mandatory technology CLE requirements ([http://www.abajournal.com/news/article/state\\_bar\\_was\\_the\\_key\\_to\\_open\\_profession\\_to\\_tech\\_and\\_collaboration](http://www.abajournal.com/news/article/state_bar_was_the_key_to_open_profession_to_tech_and_collaboration)) for state lawyers. Additionally, the report stated that the legal profession should partner with other industries to design, develop and create new delivery models and technological tools.

"Some may view the commission's recommendations as too controversial, and others may view the recommendations as insufficiently bold," the report says. "What is clear, however, is that the solutions will require the efforts of all stakeholders in order to implement the recommendations contained in this report."

*This article originally appeared in the October 2016 issue of the ABA Journal with this headline: "Law's Future Won't Wait: ABA commission's recommendations seek to close the access-to-justice gap."*

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**AMERICAN BAR ASSOCIATION**  
**COMMISSION ON THE FUTURE OF LEGAL SERVICES**  
**STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE**  
**CRIMINAL JUSTICE SECTION**  
**LAW PRACTICE DIVISION**  
**STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS**  
**STANDING COMMITTEE ON CLIENT PROTECTION**  
**REPORT TO THE HOUSE OF DELEGATES**

**RESOLUTION**

1 RESOLVED, That the American Bar Association adopts the ABA Model Regulatory Objectives  
2 for the Provision of Legal Services, dated February, 2016.

**ABA Model Regulatory Objectives for the Provision of Legal Services**

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5  
6 A. Protection of the public  
7 B. Advancement of the administration of justice and the rule of law  
8 C. Meaningful access to justice and information about the law, legal issues, and the civil and  
9 criminal justice systems  
10 D. Transparency regarding the nature and scope of legal services to be provided, the  
11 credentials of those who provide them, and the availability of regulatory protections  
12 E. Delivery of affordable and accessible legal services  
13 F. Efficient, competent, and ethical delivery of legal services  
14 G. Protection of privileged and confidential information  
15 H. Independence of professional judgment  
16 I. Accessible civil remedies for negligence and breach of other duties owed, and  
17 disciplinary sanctions for misconduct  
18 J. Diversity and inclusion among legal services providers and freedom from discrimination  
19 for those receiving legal services and in the justice system  
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22 FURTHER RESOLVED, That the American Bar Association urges that each state's highest  
23 court, and those of each territory and tribe, be guided by the ABA Model Regulatory Objectives  
24 for the Provision of Legal Services when they assess the court's existing regulatory framework  
25 and any other regulations they may choose to develop concerning non-traditional legal service  
26 providers.

## REPORT

### **I. Background on the Development of ABA Model Regulatory Objectives for the Provision of Legal Services**

The American Bar Association's [Commission on the Future of Legal Services](#) was created in August 2014 to examine how legal services are delivered in the U.S. and other countries and to recommend innovations that improve the delivery of, and the public's access to, those services.<sup>1</sup> As one part of its work, the Commission engaged in extensive research about regulatory innovations in the U.S. and abroad. The Commission found that U.S. jurisdictions are considering the adoption of regulatory objectives to serve as a framework for the development of standards in response to a changing legal profession and legal services landscape. Moreover, numerous countries already have adopted their own regulatory objectives.

The Commission concluded that the development of regulatory objectives is a useful initial step to guide supreme courts and bar authorities when they assess their existing regulatory framework and any other regulations they may choose to develop concerning non-traditional legal service providers. Given that supreme courts in the U.S. are beginning to consider the adoption of regulatory objectives and given that providers of legal assistance other than lawyers are already actively serving the American public, it is especially timely and important for the ABA to offer guidance in this area.

This Report discusses why the Commission urges the House of Delegates to adopt the accompanying Resolution.

### **II. The Purpose of Model Regulatory Objectives for the Provision of Legal Services**

The Commission believes that the articulation of regulatory objectives serves many valuable purposes. One recent article cites five such benefits:

First, the inclusion of regulatory objectives definitively sets out the purpose of lawyer regulation and its parameters. Regulatory objectives thus serve as a guide to assist those regulating the legal profession and those being regulated. Second, regulatory objectives identify, for those affected by the particular regulation, the purpose of that regulation and why it is enforced. Third, regulatory objectives assist in ensuring that the function and purpose of the particular [regulation] is transparent. Thus, when the regulatory body administering the [regulation] is questioned—for example, about its interpretation of the [regulation]—the regulatory body can point to the regulatory objectives to demonstrate compliance with function and purpose. Fourth, regulatory objectives can help define the parameters of the [regulation] and of public debate about proposed [regulation]. Finally, regulatory objectives may help the legal profession when it is called upon

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<sup>1</sup> Additional information about the Commission, including descriptions of the Commission's six working groups, can be found on the Commission's [website](#) as well as in the Commission's November 3, 2014 issues [paper](#). That paper generated more than [60 comments](#).

to negotiate with governmental and nongovernmental entities about regulations affecting legal practice.<sup>2</sup>

In addition to these benefits, the Commission believes Model Regulatory Objectives for the Provision of Legal Services will be useful to guide the regulation of an increasingly wide array of already existing and possible future legal services providers.<sup>3</sup> The legal landscape is changing at an unprecedented rate. In 2012, investors put \$66 million dollars into legal service technology companies. By 2013, that figure was \$458 million.<sup>4</sup> One source indicates that there are well over a thousand legal tech startup companies currently in existence.<sup>5</sup> Given that these services are already being offered to the public, the Model Regulatory Objectives for the Provision of Legal Services will serve as a useful tool for state supreme courts as they consider how to respond to these changes.

A number of U.S. jurisdictions have articulated specific regulatory objectives for the lawyer disciplinary function.<sup>6</sup> At least one U.S. jurisdiction (Colorado) is considering the adoption of regulatory objectives that are intended to have broader application similar to the proposed ABA Model Regulatory Objectives for the Provision of Legal Services.<sup>7</sup> In addition, the development and adoption of regulatory objectives with broad application has become increasingly common around the world. Nearly two dozen jurisdictions outside the U.S. have adopted them in the past decade or have proposals pending. Australia, Denmark, England, India, Ireland, New Zealand, Scotland, Wales, and several Canadian provinces are examples.<sup>8</sup>

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<sup>2</sup> Laurel Terry, Steve Mark & Tahlia Gordon, *Adopting Regulatory Objectives for the Legal Profession*, 80 *FORDHAM LAW REVIEW* 2685, 2686 (2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2085003](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2085003). The original quote refers to “legislation” rather than “regulation,” but regulatory objectives serve the same purpose in both cases.

<sup>3</sup> As noted by the ABA Standing Committee on Paralegals in its comments to the Commission, paralegals already assist in the accomplishment of many of the Commission’s proposed Regulatory Objectives.

<sup>4</sup> Joshua Kubick, *2013 was a Big Year for Legal Startups; 2014 Could Be Bigger*, TechCo (Feb. 14, 2015), available at <http://tech.co/2013-big-year-legal-startups-2014-bigger-2014-02>.

<sup>5</sup> <https://angel.co/legal>

<sup>6</sup> For example, in Arizona “the stated objectives of disciplinary proceedings are: (1) maintenance of the integrity of the profession in the eyes of the public, (2) protection of the public from unethical or incompetent lawyers, and (3) deterrence of other lawyers from engaging in illegal or unprofessional conduct.” *In re Murray*, 159 Ariz. 280, 282, 767 P.2d 1, 3 (1988). In addition, the Court views “discipline as assisting, if possible, in the rehabilitation of an errant lawyer.” *In re Hoover*, 155 Ariz. 192, 197, 745 P.2d 939, 944 (1987). California Business & Professions Code Section 6001.1 states that “[T]he protection of the public shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.” The Illinois Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (ARDC) adopted the following: “The mission of the ARDC is to promote and protect the integrity of the legal profession, at the direction of the Supreme Court, through attorney registration, education, investigation, prosecution and remedial action.”

<sup>7</sup> A Supreme Court of Colorado Advisory Committee is currently developing, for adoption by the Court, “Regulatory Objectives of the Supreme Court of Colorado.”

<sup>8</sup> For a more extensive history of the “regulatory objectives movement,” see Laurel Terry, *Why Your Jurisdiction Should Jump on the Regulatory Objectives Bandwagon*, *THE PROFESSIONAL LAWYER* (2013), available at [http://www.personal.psu.edu/faculty/l/s/lst3/Terry\\_Regulatory\\_Objectives\\_Bandwagon\\_2013.pdf](http://www.personal.psu.edu/faculty/l/s/lst3/Terry_Regulatory_Objectives_Bandwagon_2013.pdf).

These Model Regulatory Objectives for the Provision of Legal Services are intended to stand on their own. Regulators should be able to identify the goals they seek to achieve through existing and new regulations. Having explicit regulatory objectives ensures credibility and transparency, thus enhancing public trust as well as the confidence of those who are regulated.<sup>9</sup>

From the outset, the Commission has been transparent about the broad array of issues it is studying and evaluating, including those legal services developments that are viewed by some as controversial, threatening, or undesirable (e.g., alternative business structures). The adoption of this Resolution, however, does not predetermine or even imply a position on those issues by the ABA. If and when any other issues come to the floor of the House of Delegates, the Association can and should have a full and informed debate about them.

The Commission intends for these Model Regulatory Objectives for the Provision of Legal Services to be used by supreme courts and their regulatory agencies. As noted in the Further Resolved Clause of this Resolution, the Objectives are offered as a guide to supreme courts. They can serve as such for new regulations and the interpretation of existing regulations,<sup>10</sup> even in the absence of formal adoption. As with any ABA model, a supreme court may choose which, if any, provisions to be guided by, and which, if any, to adopt.

Although regulatory objectives have been adopted by legislatures of other countries due to the manner in which their governments operate, they are equally useful in the context of the judicially-based system of legal services regulation in the U.S., which has been long supported by the ABA.

Regulatory objectives can serve a purpose that is similar to the Preamble to the Model Rules of Professional Conduct. In jurisdictions that have formally adopted the Preamble, the Rules provide mandatory authority, and the Preamble offers guidance regarding the foundation of the black letter law and the context within which the Rules operate. In much the same way, regulatory objectives are intended to offer guidance to U.S. jurisdictions with regard to the foundation of existing legal services regulations (e.g., unauthorized practice restrictions) and the purpose of and context within which any new regulations should be developed and enforced in the legal services context.

### **III. Relationship to the Legal Profession's Core Values**

Regulatory objectives are different from the legal profession's core values in at least two respects. First, the core values of the legal profession are (as the name suggests) directed at the

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<sup>9</sup> As Professor Laurel Terry states in comments she submitted in response to the Commission's circulation of a draft of these Regulatory Objectives, if "a regulator can say what it is trying to achieve, its response to a particular issue – whatever that response is – should be more thoughtful and should have more credibility. It seems to me that this is in everyone's interest."

<sup>10</sup> Existing court rules providing for alternatives to discipline programs exemplify how the Objective of ensuring the efficient, competent and ethical delivery of legal services should be read to encompass the need to confront legal services provider impairments in the most effective manner for the good of the legal system. *See, e.g.*, Rule 11(G) of the ABA Model Rules for Lawyer Disciplinary Enforcement.



“legal profession.”<sup>11</sup> By contrast, regulatory objectives are intended to guide the creation and interpretation of a wider array of legal services regulations, such as regulations covering new categories of legal services providers. For this reason, some duties that already exist in the Model Rules of Professional Conduct (e.g., the duty of confidentiality) are restated in the Model Regulatory Objectives for the Provision of Legal Services to emphasize their importance and relevance when developing regulations for legal services providers who are not lawyers. Second, while the core values of the legal profession remain at the center of attorney conduct rules, they offer only limited, though still essential, guidance in the context of regulating the legal profession. A more complete set of regulatory objectives can offer U.S. jurisdictions clearer regulatory guidance than the core values typically provide.<sup>12</sup>

The differing functions served by regulatory objectives and core values mean that some core values are articulated differently in the context of regulatory objectives. For example, the concept of client loyalty is an oft-stated and important core value, but in the context of regulatory objectives, client loyalty is expressed in more specific and concrete terms through independence of professional judgment, competence, and confidentiality.

#### **IV. Recommended ABA Model Regulatory Objectives for the Provision of Legal Services**

The Commission developed the Model Regulatory Objectives for the Provision of Legal Services by drawing on the expertise of its own members,<sup>13</sup> discussing multiple drafts of regulatory objectives at Commission meetings, reviewing regulatory objectives in nearly two dozen jurisdictions, and reading the work of several scholars and resource experts.<sup>14</sup> The Commission also sought input and incorporated suggestions from individuals and other entities, including the

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<sup>11</sup> See ABA House of Delegates Recommendation 10F (adopted July 11, 2000), available at [http://www.americanbar.org/groups/professional\\_responsibility/commission\\_multidisciplinary\\_practice/mdprecom10f.html](http://www.americanbar.org/groups/professional_responsibility/commission_multidisciplinary_practice/mdprecom10f.html). This recommendation lists the following as among the core values of the legal profession: the lawyer’s duty of undivided loyalty to the client; the lawyer’s duty competently to exercise independent legal judgment for the benefit of the client; the lawyer’s duty to hold client confidences inviolate; the lawyer’s duty to avoid conflicts of interest with the client; the lawyer’s duty to help maintain a single profession of law with responsibilities as a representative of clients, an officer of the legal system, and a public citizen having special responsibilities for the quality of justice; and the lawyer’s duty to promote access to justice.

<sup>12</sup> The Commission notes that there also are important professionalism values to which all legal services providers should aspire. Some aspects of professionalism fold into the Objectives related to ethical delivery of services, independence of professional judgment and access to justice. Others may not fit neatly into the distinct purpose of regulatory objectives for legal services providers, just as they do not fall within the mandate of the ethics rules for lawyers,

<sup>13</sup> The Commission includes representatives from the judiciary and regulatory bodies, academics, and practitioners.

<sup>14</sup> Materials reviewed include Steve Mark, Tahlia Gordon, Marlene LeBrun & Gary Tamsitt, *Preserving the Ethics and Integrity of the Legal Profession in an Evolving Market: A Comparative Regulatory Response*, available at [http://www.olsc.nsw.gov.au/agdbasev7wr/olsc/documents/pdf/preserving%20ethics%20integrity%20legal%20profession%20uk\\_paper.pdf](http://www.olsc.nsw.gov.au/agdbasev7wr/olsc/documents/pdf/preserving%20ethics%20integrity%20legal%20profession%20uk_paper.pdf); Andrew Perlman, *Towards the Law of Legal Services* (2015), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2561014](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2561014); Laurel Terry, Steve Mark & Tahlia Gordon, *Adopting Regulatory Objectives for the Legal Profession*, 80 *FORDHAM LAW REVIEW* 2685, 2686 (2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2085003](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2085003); THE LAW SOCIETY, *THE MINISTRY OF JUSTICE’S CALL FOR EVIDENCE ON THE REGULATION OF LEGAL SERVICES IN ENGLAND AND WALES: THE LAW SOCIETY’S RESPONSE* (Sept. 2, 2013), available at <https://www.lawsociety.org.uk/policy-campaigns/consultation-responses/regulation-of-legal-services/>.

ABA Standing Committee on Discipline and the ABA Standing Committee on Ethics and Professional Responsibility.

Respectfully submitted,

Judy Perry Martinez, Chair  
Andrew Perlman, Vice-Chair  
Commission on the Future of Legal Services

February 2016

## EXECUTIVE SUMMARY

### 1. Summary of the Resolution

The Commission on the Future of Legal Services is proposing for House of Delegates adoption ABA Model Regulatory Objectives for the Provision of Legal Services. The Commission also requests that the House adopt the part of the Resolution that recommends that each state's highest court, and those of each territory and tribe, be guided by clearly identified regulatory objectives such as those contained in the proposed ABA Model Regulatory Objectives for the Provision of Legal Services.

The adoption of ABA Model Regulatory Objectives for the Provision of Legal Services would create a valuable framework to guide the courts as they, in the face of the burgeoning access to justice crisis and fast paced change affecting the delivery of legal services assess their existing regulatory framework and any other regulations they may choose to develop concerning non-traditional legal service providers. Use of ABA Model Regulatory Objectives for the Provision of Legal Services would also help courts continue to ensure credibility and transparency in the regulatory process, and that enhances not only the public's trust in judicial regulation, but also the confidence of those who are regulated.

### 2. Summary of the Issue that the Resolution Addresses

The ABA [Commission on the Future of Legal Services](#) was created in August 2014 to examine how legal services are delivered in the U.S. and other countries and to recommend innovations that improve the delivery of, and the public's access to, those services. As one part of its multifaceted work, the Commission engaged in extensive research about regulatory developments in the U.S. and abroad. The ABA has long supported state-based judicial regulation; its policies doing so do not, however, set forth a centralized framework of broad and explicit regulatory objectives to serve as a guide for such regulation. This Resolution, if adopted, would fill this policy void and serve as a useful tool to help courts easily identify the explicit goals they seek to achieve when they assess their existing regulatory framework and any other regulations they may choose to develop concerning non-traditional legal service providers. Given that supreme courts in the U.S. are beginning to consider the adoption of broad regulatory objectives, and given that providers of legal assistance other than lawyers are already actively serving the American public, the Commission believes that it is timely and important for the ABA to offer guidance in this area.

### 3. Please Explain How the Proposed Policy Position will address the issue

The adoption of ABA Model Regulatory Objectives for the Provision of Legal Services would create the valuable and needed framework to help courts as they, in the face of the burgeoning access to justice crisis and fast paced change affecting the delivery of legal services: (1) assess their existing regulatory framework and (2) identify and implement regulations related to legal services beyond the traditional regulation of the legal profession. While allowing for jurisdictional flexibility, the centralized framework set forth in the ABA Model Regulatory Objectives for the Provision of Legal Services would also facilitate jurisdictional consistency.

Use of ABA Model Regulatory Objectives for the Provision of Legal Services would also help courts continue to ensure credibility and transparency in the regulatory process, which enhances not only the public's trust in judicial regulation, but also the confidence of those who are regulated.

#### 4. Summary of Minority Views

From the outset, the Commission on the Future of Legal Services has been committed to and implemented a process that is transparent and open. The Commission has engaged in broad outreach and provided full opportunity for input into its work. Inherent in any undertaking of this scope and complexity is the recognition that there will be disagreements about the approach to issues as well as the substance of proposals.

On September 29, 2015 the Commission released for comment to all ABA entities, state and local bar associations, and affiliated entities a draft of this Resolution and the accompanying draft Report. At the time this Executive Summary was filed with the House of Delegates, the Commission was aware only that the following disagree with the Resolution:

The New Jersey State Bar Association has expressed its belief that the Resolution is contrary to the profession's core values and promotes a tiered system of justice.

Larry Fox filed comment in opposition in his individual capacity.

## CONFERENCE OF CHIEF JUSTICES

### RESOLUTION 9

#### **Recommending Consideration of ABA Model Regulatory Objectives for the Provision of Legal Services**

WHEREAS, the American Bar Association (ABA) Commission on the Future of Legal Services was created to examine how legal services are delivered and to recommend innovations that improve the delivery of, and the public's access to, those services; and

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators passed Resolution 5 in July 2015, which recognizes "significant advances in creating a continuum of meaningful and appropriate services to secure effective assistance for essential civil legal needs" and supports "the aspirational goal of 100 percent access to effective assistance for essential civil legal needs"; and

WHEREAS, the ABA Commission has concluded that the development of regulatory objectives is a useful step to guide state supreme courts and bar authorities as they assess the existing regulatory framework and identify and implement regulations related to legal services beyond the traditional regulation of the legal profession; and

WHEREAS, the articulation of regulatory objectives clarifies the purpose of regulating lawyers and, where a state chooses to do so, other legal service providers; ensures transparency to the public regarding the regulatory framework for lawyers and other legal service providers; and defines the parameters of regulations; and

WHEREAS, the ABA Commission developed the following model regulatory objectives as a guide to state supreme courts and bar authorities:

#### "ABA Model Regulatory Objectives for the Provision of Legal Services

- A. Protection of the public
- B. Advancement of the administration of justice and the rule of law
- C. Meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems
- D. Transparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections
- E. Delivery of affordable and accessible legal services
- F. Efficient, competent, and ethical delivery of legal services
- G. Protection of privileged and confidential information
- H. Independence of professional judgment

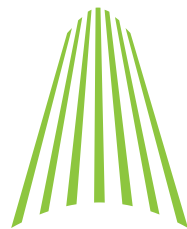
- I. Accessible civil remedies for negligence and breach of other duties owed, and disciplinary sanctions for misconduct
- J. Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system”

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices recommends consideration of the model regulatory objectives by its members as a means to help assess the state’s existing regulatory framework and to help identify and implement regulations related to legal services beyond the traditional regulation of the legal profession.

Adopted by the Conference of Chief Justices at the 2016 Midyear Meeting on February 3, 2016.



REPORT ON THE FUTURE OF  
**LEGAL SERVICES**  
IN THE UNITED STATES  
(*excerpts*)



COMMISSION ON  
THE FUTURE OF LEGAL SERVICES  
AMERICAN BAR ASSOCIATION

2016

# EXECUTIVE SUMMARY

*“Just because we cannot see clearly the end of the road, that is no reason for not setting out on the essential journey. On the contrary, great change dominates the world, and unless we move with change we will become its victims.”*

**Robert F. Kennedy, Farewell Statement, Warsaw, Poland  
(AS REPORTED IN THE NEW YORK TIMES, JULY 2, 1964)**

**I**n August 2014, the Commission on the Future of Legal Services set out to improve the delivery of, and access to, legal services in the United States. The findings and recommendations of the two-year undertaking are contained in this Report on the Future of Legal Services in the United States and are a product of the Commission’s full membership, including commissioners, special advisors, liaisons, reporters, and ABA staff. This is a consensus document that was not authored by a single individual. Rather, the Report represents the expertise and input of the entire Commission, as informed by written comments supplied by the public and the profession, testimony at public hearings and meetings, grassroots events across the country, a national summit on innovation in legal services, webinars, and dozens of presentations on the Commission’s work at which the public’s and profession’s input was sought. The Commission recognizes that portions of this Report may be viewed as controversial by some or not sufficiently bold by others, but the Commission believes that significant change is needed to serve the public’s legal needs in the 21<sup>st</sup> century.

This Report contains a broad array of recommendations for improving how legal services are delivered and accessed. The Report summarizes what the Commission learned, identifies some of the many projects already underway to address existing problems, and offers recommendations for future actions.

The Executive Summary briefly lists the Commission’s Findings and Recommendations, with greater explanation provided in the pages that follow. Despite the length of this Report, the Commission could not provide exhaustive detail on each finding and recommendation due to the volume of information the Commission reviewed and the breadth of the Commission’s conclusions. The Report includes footnotes and hyperlinks to provide readers with additional detail, and the Commission’s website<sup>1</sup> includes many other resources, such as an online Inventory of Innovations. Readers are encouraged to also view the online version of the Report at [ambar.org/ABAFuturesReport](http://ambar.org/ABAFuturesReport), which features interactive videos and other media in addition to the content contained in this written document.



# The Commission's Findings

- A. Despite sustained efforts to expand the public's access to legal services, significant unmet needs persist.
1. Most people living in poverty, and the majority of moderate-income individuals, do not receive the legal help they need.
    - a. Funding of the Legal Services Corporation and other legal aid providers remains insufficient and will continue to be inadequate in the future.
    - b. Pro bono alone cannot provide the poor with adequate legal services to address their unmet legal needs.
    - c. Efforts targeting legal assistance for moderate-income individuals have not satisfied the need.
  2. The public often does not obtain effective assistance with legal problems, either because of insufficient financial resources or a lack of knowledge about when legal problems exist that require resolution through legal representation.
  3. The vast number of unrepresented parties in court adversely impacts all litigants, including those who have representation.
  4. Many lawyers, especially recent law graduates, are unemployed or underemployed despite the significant unmet need for legal services.
  5. The traditional law practice business model constrains innovations that would provide greater access to, and enhance the delivery of, legal services.
  6. The legal profession's resistance to change hinders additional innovations.
  7. Limited data has impeded efforts to identify and assess the most effective innovations in legal services delivery.
- B. Advancements in technology and other innovations continue to change how legal services can be accessed and delivered.
1. Courts, bar associations, law schools, and lawyers are experimenting with innovative methods to assist the public in meeting their needs for legal services.
    - a. Courts
      - Remote Access Technology
      - Self-Help Centers
      - Online Dispute Resolution
      - Judicially-Authorized-and-Regulated Legal Services Providers
    - b. Bar Associations
      - Online Legal Resource Centers and Lawyer Referral Innovations
      - Access to Justice and Future of Legal Services Endeavors
    - c. Law Schools: Curriculum and Incubators
    - d. Lawyers, Law Firms, and General Counsel
      - Alternative Billing
      - Document Assembly and Automation
      - Legal Process Outsourcing
      - Legal Startups
      - Medical-Legal Partnerships
      - Artificial Intelligence
      - Mobile Applications
      - Nonprofits
      - Procurement Efficiencies to Lower Costs
      - Project Management and Process Improvement
      - Prepaid Legal Services Plans and Insurance Coverage
      - Unbundling of Legal Services
  2. New providers of legal services are proliferating and creating additional choices for consumers and lawyers.

- C. Public trust and confidence in obtaining justice and in accessing legal services is compromised by bias, discrimination, complexity, and lack of resources.
1. The legal profession does not yet reflect the diversity of the public, especially in positions of leadership and power.
  2. Bias—both conscious and unconscious—impedes fairness and justice in the legal system.
  3. The complexity of the justice system and the public’s lack of understanding about how it functions undermines the public’s trust and confidence.
  4. The criminal justice system is overwhelmed by mass incarceration and over-criminalization coupled with inadequate resources.
  5. Federal and state governments have not funded or supported the court system adequately, putting the rule of law at risk.

## The Commission’s Recommendations

**RECOMMENDATION 1.** The legal profession should support the goal of providing some form of effective assistance for essential civil legal needs to all persons otherwise unable to afford a lawyer.

**RECOMMENDATION 2.** Courts should consider regulatory innovations in the area of legal services delivery.

- 2.1. Courts should consider adopting the ABA Model Regulatory Objectives for the Provision of Legal Services.
- 2.2. Courts should examine, and if they deem appropriate and beneficial to providing greater access to competent legal services, adopt rules and procedures for judicially-authorized-and-regulated legal services providers.
- 2.3. States should explore how legal services are delivered by entities that employ new technologies and internet-based platforms and then assess the benefits and risks to the public associated with those services.
- 2.4. Continued exploration of alternative business structures (ABS) will be useful, and where ABS is allowed, evidence and data regarding the risks and benefits associated with these entities should be developed and assessed.

**RECOMMENDATION 3.** All members of the legal profession should keep abreast of relevant technologies.

**RECOMMENDATION 4.** Individuals should have regular

legal checkups, and the ABA should create guidelines for lawyers, bar associations, and others who develop and administer such checkups.

**RECOMMENDATION 5.** Courts should be accessible, user-centric, and welcoming to all litigants, while ensuring fairness, impartiality, and due process.

- 5.1. Physical and virtual access to courts should be expanded.
- 5.2. Courts should consider streamlining litigation processes through uniform, plain-language forms and, where appropriate, expedited litigation procedures.
- 5.3. Multilingual written materials should be adopted by courts, and the availability of qualified translators and interpreters should be expanded.
- 5.4. Court-annexed online dispute resolution systems should be piloted and, as appropriate, expanded.

**RECOMMENDATION 6.** The ABA should establish a Center for Innovation.

**RECOMMENDATION 7.** The legal profession should partner with other disciplines and the public for insights about innovating the delivery of legal services.

- 7.1. Increased collaboration with other disciplines can help to improve access to legal services.

7.2. Law schools and bar associations, including the ABA, should offer more continuing legal education and other opportunities for lawyers to study entrepreneurship, innovation, the business and economics of law practice, and other relevant disciplines.

**RECOMMENDATION 8.** The legal profession should adopt methods, policies, standards, and practices to best advance diversity and inclusion.

**RECOMMENDATION 9.** The criminal justice system should be reformed.

- 9.1. The Commission endorses reforms proposed by the ABA Justice Kennedy Commission and others.
- 9.2. Administrative fines and fees should be adjusted to avoid a disproportionate impact on the poor and to avoid incarceration due to nonpayment of fines and fees.
- 9.3. Courts should encourage the creation of programs to provide training and mentoring for those who are incarcerated with a goal of easing re-entry into society as productive and law-abiding citizens.

9.4. Minor offenses should be decriminalized to help alleviate racial discrepancies and over-incarceration.

9.5. Public defender offices must be funded at levels that ensure appropriate caseloads.

**RECOMMENDATION 10.** Resources should be vastly expanded to support long-standing efforts that have proven successful in addressing the public's unmet needs for legal services.

10.1. Legal aid and pro bono efforts must be expanded, fully-funded, and better-promoted.

10.2. Public education about how to access legal services should be widely offered by the ABA, bar associations, courts, lawyers, legal services providers, and law schools.

**RECOMMENDATION 11.** Outcomes derived from any established or new models for the delivery of legal services must be measured to evaluate effectiveness in fulfilling regulatory objectives.

**RECOMMENDATION 12.** The ABA and other bar associations should make the examination of the future of legal services part of their ongoing strategic long-range planning.

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**Note about terminology used in this Report:** The term *bar association* includes local, state, federal, territorial, and specialty bar associations. The term *court* includes municipal, state, tribal and federal courts; administrative hearing bodies; arbitration panels; and other non-judicial proceedings. The term *legal profession* includes bar associations, courts, lawyers, legal services agencies, and law schools.

# INTRODUCTION

*“It is up to us to demonstrate whether we will be able to adapt the basically sound mechanisms of our systems of law to new conditions.”*

**Chief Justice Warren Burger**  
*THE POUND CONFERENCE 1976<sup>2</sup>*

In 1906, at the Annual Meeting of the American Bar Association, the legal scholar Roscoe Pound presented his renowned speech, “The Causes of Popular Dissatisfaction with the Administration of Justice.” Seventy years later, Chief Justice Warren Burger, standing at the site of Pound’s speech in St. Paul, Minnesota, brought together a historic gathering of jurists and legal scholars to discuss ways to address popular dissatisfaction with the American legal system and to examine how to make the justice system more responsive to the public. The Pound Conference sparked many innovations, including helping to advance the modern alternative dispute resolution movement.

Roscoe Pound and Chief Justice Burger understood that the best way for the profession to continue to resolve society’s conflicts is to lead. Forty years after the Pound Conference, the legal profession is at a critical juncture in responding to new conditions that will determine the future of legal services. Once again, the legal profession must lead.

Access to affordable legal services is critical in a society that depends on the rule of law. Yet legal services are growing more expensive, time-consuming, and complex, making them increasingly out of reach for most Americans. Many who need legal advice cannot afford to hire a lawyer and

are forced to either represent themselves or avoid accessing the legal system altogether. Even those who can afford a lawyer often do not use one because they do not recognize that their problems have a legal dimension or because they prefer less expensive alternatives. For those whose legal problems require use of the courts but who cannot afford a lawyer, the persistent and deepening underfunding of the court systems further aggravates the access to justice crisis, as court programs designed to assist these individuals are being cut or not implemented in the first place.

At the same time, technology, globalization, and other forces continue to transform how, why, and by whom legal services are accessed and delivered. Familiar and traditional practice structures are giving way in a marketplace that continues to evolve. New providers are emerging, online and offline, to offer a range of services in dramatically different ways. The legal profession, as the steward of the justice system, has reached an inflection point. Without significant change, the profession cannot ensure that the justice system serves everyone and that the rule of law is preserved. Innovation, and even unconventional thinking, is required.

The justice system is overdue for fresh thinking about formidable challenges. The legal profession’s efforts to address those challenges have

been hindered by resistance to technological changes and other innovations. Now is the time to rethink how the courts and the profession serve the public. The profession must continue to seek adequate funding for core functions of the justice system. The courts must be modernized to ensure easier access. The profession must leverage technology and other innovations to meet the public's legal needs, especially for the underserved. The profession must embrace the idea that, in many circumstances, people other than lawyers can and do help to improve how legal services are delivered and accessed.

The American Bar Association is well positioned to lead this effort. The ABA can inspire innovation, suggest new models for regulating legal services, encourage new methods for delivering legal services and educating lawyers, and foster the development of financially viable approaches to delivering legal services that more effectively meet the public's needs.

To advance these essential goals, in August 2014, then-ABA President William C. Hubbard established the Commission on the Future of Legal Services. Comprised of prominent lawyers from a wide range of practice settings, judges, academics, and other professionals with varied perspectives on how legal services are delivered and accessed in the United States, the Commission's charge included the following tasks:

- Conduct a series of community-based grassroots meetings;
  - Convene a national summit designed to encourage bar leaders, judges, court personnel, practitioners, businesses, clients, technologists, and innovators to share their visions for more efficient and effective ways to deliver legal services;
  - Seek information at the Commission's public meetings and solicit comments from the legal profession and public;
  - Analyze and synthesize the insights and ideas gleaned from this process;
- Establish internal working groups to assess new models for accessing and delivering legal services; and
  - Examine and, as appropriate, propose new approaches to legal services delivery that are not constrained by traditional models and are rooted in the essential values of protecting the public, enhancing diversity and inclusion, and pursuing justice for all.

This Report summarizes the Commission's efforts in taking on this charge. Part I sets forth the Commission's Findings on the current realities about the delivery of, and the public's access to, legal services. Part II describes the Commission's Recommendations. These Findings and Recommendations are the Commission's; they are not policies of the ABA or its House of Delegates unless noted. Rather, this Report is designed to encourage thoughtful review of the status quo and spur changes that are in the public's interest.

*“In order to ensure that the public has meaningful access to justice, the next generation of lawyers must be prepared to develop innovative approaches to the delivery of legal services. Doing so will help lawyers thrive, while ensuring that we serve the public’s interests.”*

Dana M. Hrelc

SECRETARY, ABA YOUNG LAWYERS DIVISION  
HARTFORD, CT

## 5. The traditional law practice business model constrains innovations that would provide greater access to, and enhance the delivery of, legal services.

Experts on the legal services marketplace identify the traditional law practice business model as a major obstacle to increasing access to legal services.<sup>56</sup> The traditional model is built upon individualized, one-on-one lawyering, through solo and law firm practices that bill for services on an hourly basis. The billable hour model, which enables lawyers to earn more money if they spend more time on a matter, arguably provides less of an incentive to develop more efficient delivery methods than other ways to charge for services (for example, flat fees). This model also does not easily allow for innovations in scalability, branding, marketing, and technology that are found in most industries.<sup>57</sup>

Some have argued that broad-reaching restrictions on the unauthorized practice of law,<sup>58</sup> which limit who can offer legal services, also have adverse effects on the delivery of legal services. Although many legal problems require a full-service lawyer, others do not. The Commission found examples of providers other than lawyers who are delivering cost-effective and competent legal help.<sup>59</sup>

Some have argued that the prohibition on partnership and co-ownership/investment with nonlawyers is also inhibiting useful innovations. Jurisdictions outside the United States are experimenting with new forms of alternative business structures (ABS) in an effort to fuel innovation in the delivery of legal services.<sup>60</sup> In the United States, only two jurisdictions permit forms of ABS: the District of Columbia<sup>61</sup> and Washington State.<sup>62</sup> Although D.C. permits nonlawyer ownership, very few ABS firms have organized there because of the restrictions on ABS outside of D.C.<sup>63</sup> Nonlawyer ownership in Washington State is limited to Limited License Legal Technicians (LLLT), who may own a minority interest in law firms.<sup>64</sup> Outside of the United States, more jurisdictions permit ABS. Australia, England and Wales, Scotland, Italy, Spain, Denmark, Germany, the Netherlands, Poland, Spain, Belgium, Singapore, New Zealand and some Canadian provinces permit ABS in one form or another.<sup>65</sup>

## 6. The legal profession's resistance to change hinders additional innovations.

“The legal profession tends to look inward and backward when faced with crisis and uncertainty,” wrote one scholar in documenting the American legal profession’s historical resistance to change.<sup>66</sup> This fact extends back to the early 1900s, even when other industries and society as a whole were in the midst of a significant transformation. As Henry P. Chandler observed in the early 1930s:

I am by no means blind to the failings of the legal profession. ... I know that we are often too conservative. We don't realize that the world is changing. We don't sufficiently look ahead. Instead of trying to help in so shaping changes that they accomplish benefits with a minimum of disturbance, we often stand stubbornly for the maintenance of methods that have been outworn.<sup>67</sup>

Chandler’s observation mirrors Karl Llewellyn’s 1938 critique of the profession: “Specialized work, mass-production, cheapened production, advertising and *selling*—finding the customer who does not know he wants it, and *making* him want it: these are the characteristics of the age. Not, yet, of the Bar.”<sup>68</sup> Of course, this same critique was true at the turn of the 20th century, when Roscoe Pound famously described how the legal profession’s resistance to change directly contributed to the public’s dissatisfaction with the justice system in his speech, “The Causes of Popular Dissatisfaction with the Administration of Justice.”

The legal profession continues to resist change, not only to the public’s detriment but also its own. During the Commission’s public hearings and the ABA House of Delegates floor debate on Model Regulatory Objectives for the Provision of Legal Services,<sup>69</sup> as well as breakout sessions at the National Summit on Innovation in Legal Services and grassroots legal futures meetings across the country, the Commission repeatedly heard similar remarks about the profession’s delayed adoption of, if not outright resistance to, innovations in technology, systems process improvement, and other developments that could benefit

consumers of legal service but would affect traditional ways of delivering legal services. A 2016 study examining the state of the legal market observed: “At least since the onset of the recession in 2008, law firm clients have increasingly demanded more efficiency, predictability, and cost effectiveness in the delivery of the legal services they purchase. In the main, however, law firms have been slow to respond to these demands, often addressing specific problems when raised by their clients but failing to become proactive in implementing the changes needed to genuinely meet their clients’ overall concerns.”<sup>70</sup> Consequently, the study reported, “clients have chosen to ‘vote with their feet’ by reducing the volume of work referred to outside counsel and by finding other more efficient and cost effective ways of meeting their legal needs.”<sup>71</sup>

*“Solos must embrace unprecedented and exponentially evolving technology as an opportunity rather than as an impediment to the delivery of meaningful, affordable, and quality legal services.”*

Dwight L. Smith

PAST CHAIR, ABA SOLO, SMALL FIRM, AND GENERAL PRACTICE DIVISION  
TULSA, OK

This resistance to change is seen outside law firms as well. Some regulators of the legal profession have been hesitant to explore whether to allow new business models or limited licensing programs. Legal aid providers sometimes resist adoption of document automation and instead continue to adhere narrowly to the one-lawyer/one-client model. Courts at all levels, plagued by ongoing cuts to their funding, sometimes decline to review possible improvements, because the review and potential implementation of such improvements might risk further dilution of already scarce resources.

## B. Advancements in technology and other innovations continue to change how legal services can be accessed and delivered.

Technology has disrupted and transformed virtually every service area, including travel, banking, and stock trading. The legal services industry, by contrast, has not yet fully harnessed the power of technology to improve the delivery of, and access to, legal services.<sup>78</sup> The impact of technology elsewhere has led academics and experts on the legal profession to conclude that the profession is “at the cusp of a disruption: a transformative shift that will likely change the practice of law in the United States for the foreseeable future, if not forever.”<sup>79</sup> This is a transformation with “profound impacts on not just the legal profession, but also on clients as well as the broader society.”<sup>80</sup> In short, lawyers will deliver legal services in new ways, and these changes will create unique opportunities to “improve access to justice in communities not traditionally served by lawyers and the law”<sup>81</sup> and to offer better value to clients who regularly use lawyers.<sup>82</sup>

Technological change has not been evenly distributed. Technology, machine learning, artificial intelligence, and system process improvements are making some types of legal services more accessible and reducing (sometimes even eliminating) the cost of those services. For example, electronic tools for document review can decrease the cost of

legal services by reducing the time and money spent on the discovery process. Document automation is cutting the cost of legal services by using pre-existing data to assemble a new document. Machine learning has not only revolutionized electronic discovery, legal research, and document generation, but it also is used to support brief and memoranda generation and predict legal outcomes.<sup>83</sup> There is a lively debate about cognitive computing and how it might change the delivery of legal services.<sup>84</sup>

As documented by the Legal Services Corporation’s *Report of the Summit on the Use of Technology to Expand Access to Justice* and the United Kingdom Civil Justice Council *Online Dispute Resolution Report for Low Value Civil Claims*, technology also

*“Lawyers lag behind other professions in transforming the delivery of our services to better meet clients’ needs. It’s time for aggressive, intentional, and proactive innovation.”*

**Marty Smith**

FOUNDER/DIRECTOR,  
METAJURE  
SEATTLE, WASHINGTON



affords extraordinary opportunities to expand the way legal services are delivered and accessed in addressing access to justice issues.<sup>85</sup> The LSC has provided significant impetus for the expanded use of technology in providing legal help to the poor. Many state and local civil legal aid organizations, using special technology grants from LSC (and sometimes on their own initiative and with funds procured from state sources), have developed web-based or mobile applications that provide a vast array of resources, such as legal information and guidance, automated forms, assistance with locating a lawyer to provide limited-scope services, and other innovations. These tools are intended for the poor, but because of the reach of the internet and mobile technology, the tools are generally available to and often used by others as well. The civil legal aid community has been a significant leader in developing technology-based legal tools for the masses, in addition to for-profit technology startups.

The Commission considered the impact of technology across many aspects of the legal profession, including courts, bar associations, law schools, and beyond.

## 1. Courts, bar associations, law schools, and lawyers are experimenting with innovative methods to assist the public in meeting their needs for legal services.

As noted earlier, there remains considerable resistance to change in many parts of the legal industry. At the same time, however, an increasing number of courts, bar associations, law schools, lawyers, and others are experimenting in important ways.

### a. Courts

Courts are innovating in various ways. Examples include the following:

- **REMOTE ACCESS TECHNOLOGY:** Courts are developing and employing technology to make some services available remotely, such as document filing, docket/record searches,

document preparation, and similar services. For example, remote-access courthouse kiosks can be instrumental in providing access to those who face geographic limitations.<sup>86</sup> In Arizona, such a kiosk was placed north of the Grand Canyon so that constituents could access the court system instead of driving 7.5 hours to reach the closest courthouse. Similarly, mobile technology can facilitate access for litigants. Judge Ann Aiken, Chief Judge of the Oregon Federal District Court, uses mobile technology with teams of prosecutors, judges, public defenders, and probation officers to provide round-the-clock support to individuals returning to society after incarceration.<sup>87</sup>

- **SELF-HELP CENTERS** Self-help centers inside of courthouses also are common, with more than 500 centers across the U.S. These self-help centers provide users with various services, including live assistance, pro bono and other referrals, document support, web-based information, and telephone assistance.<sup>88</sup>
- **ONLINE DISPUTE RESOLUTION** Online dispute resolution (ODR) is regularly used in the private sector to help businesses and individuals resolve civil matters without the need for court proceedings or court appearances, and there is increasing interest in creating court-annexed ODR systems.<sup>89</sup> Some courts are already employing ODR outside the U.S.: Rechtwijzer 2.0, Online Problem-Solving Dispute Resolution for Divorce (Dutch Legal Aid Board, Netherlands) and Civil Resolution Tribunal, Online Solution Explorer for Small Claims and Condominium Disputes (British Columbia Ministry of Justice, Canada). England and Wales recently proposed an online court.<sup>90</sup> Some observers predict that “[i]n time, most dispute resolution processes will likely migrate online.”<sup>91</sup>
- **JUDICIALLY-AUTHORIZED-AND-REGULATED LEGAL SERVICES PROVIDERS** A growing number of U.S. jurisdictions have authorized Legal Services Providers (LSPs) other than lawyers to help address the unmet need for legal

services,<sup>92</sup> and additional jurisdictions are considering doing so.<sup>93</sup> As the Washington Supreme Court observed in implementing the Limited Practice Rule for Limited License Legal Technicians (LLLTs), “There are people who need only limited levels of assistance that can be provided by nonlawyers.”<sup>94</sup> The Commission studied and considered six examples of already-existing LSPs:

**Federally-Authorized LSPs.** There is a wide range of legislatively authorized LSPs serving in federal courts and agencies. For example, bankruptcy petition preparers assist debtors in filing necessary legal paperwork in the United States Bankruptcy Court.<sup>95</sup> Bankruptcy petition preparers are only permitted to populate forms; additional services may constitute the unauthorized practice of law.<sup>96</sup> Notably, “research on lay specialists who provide legal representation in bankruptcy and administrative agency hearings finds that they generally perform as well or better than attorneys.”<sup>97</sup>

Other examples of federal agencies using the services of those who would fall under the umbrella of LSPs include the Department of Justice (DOJ), the Department of Homeland Security (DHS), the Equal Employment Opportunity Commission (EEOC), the Internal Revenue Service (IRS), the Patent and Trademark Office (PTO), and the Social Security Administration (SSA). Both the Board of Immigration Appeals, within DOJ, and U.S. Citizenship and Immigration Services, within DHS, permit accredited representatives who are not licensed lawyers to represent individuals in immigration proceedings.<sup>98</sup> Individuals who are not licensed to practice law may represent claimants before the EEOC in mediations, although they are not entitled to fees if an adverse finding is made against the employer.<sup>99</sup> Several types of professionals in addition to lawyers are authorized to practice before the IRS

subject to special regulations, including certified public accountants, enrolled agents, enrolled retirement plan agents, low income taxpayer clinic student interns, and unenrolled return preparers.<sup>100</sup> Patent agents are authorized to practice before the PTO on a limited basis—for preparing and filing patent applications (and amendments to applications) as well as rendering opinions as to the patentability of inventions.<sup>101</sup> The SSA permits individuals who are not licensed to practice law to represent claimants. Representatives may obtain information from the claimant’s file, assist in obtaining medical records to support a claim, accompany a claimant to interviews/conferences/hearings, request reconsideration of SSA determinations, and assist in the questioning of witnesses at SSA hearings as well as receive copies of SSA determinations.<sup>102</sup>

**Courthouse Navigators (New York, Arizona).** New York’s judicially created limited-scope courthouse navigator pilot program, launched in 2014, prepares “college students, law students and other persons deemed appropriate ... to assist unrepresented litigants, who are appearing” in housing court in non-payment, civil, and debt proceedings.<sup>103</sup> Courthouse navigators are not permitted to give legal advice and do not give out legal information except with the approval of the Chief Administrative Judge of the Courts.<sup>104</sup> The duties of courthouse navigators include using computers located in the courthouse to retrieve information, researching information about the law, collecting documentation needed for individual cases, and responding to a judge’s or court attorney’s questions about the case.<sup>105</sup> Courthouse navigators are not permitted to provide legal advice, file any documents with the court with the exception of court-approved “do-it-yourself” documents, hold themselves out as representing the litigant, conduct

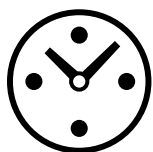
negotiations with opposing counsel, or address the court on behalf of the litigant, unless to provide factual information at the court’s discretion.”<sup>106</sup> The program is volunteer-based and operates under the supervision of a court navigator program coordinator. The New York Courthouse Navigator Program entails three programs, each with its own structure and supervising entity.<sup>107</sup> The courthouse navigators volunteer through either the New York State Unified Court System’s Access to Justice Program, the University Settlement Program, or the Housing Court Answers program, which all have supervisors who are lawyers.<sup>108</sup>

The main goals of the program are to help self-represented litigants “have a productive court experience through offering non-legal support” and to give people (often students) practical experience as well as an opportunity to help people in need, make new contacts, and interact with lawyers and judges.<sup>109</sup> In 2014, a total of 301 navigators were trained to provide services through 14 training meetings.<sup>110</sup> The Housing Court Navigators contributed about 3,400 pro bono hours to the program and helped approximately 2,000 unrepresented tenants and landlords, and the Civil Court Navigators assisted over 1,300 litigants.<sup>111</sup>

The success of the court navigator pilot program led to proposed legislation expanding the role of nonlawyers both in the services provided and the scope

of cases covered. The new legislation would establish two new programs: Housing Court Advocates and Consumer Court Advocates. These programs would be implemented and overseen by the judiciary, providing limited free services to unrepresented individuals living at or below 200 percent of the federal poverty level.<sup>112</sup> Attorneys would be required to supervise specially-trained nonlawyer “advocates” to offer similar services as courthouse navigators as well as “advice, counsel, or other assistance in the preparation of an order to show cause to vacate a default judgment, prevent an eviction, or restore an action or proceeding to the calendar,” to “negotiate with a party or his or her counsel or representative the terms of any stipulation order to be entered into,” and to “address the Court on behalf of any such person.”<sup>113</sup> Another initiative from New York is Legal Hand, a program designed “to reach people at storefront locations in their neighborhoods, staffed with nonlawyer volunteers who provide free legal information, assistance, and referrals to help low-income individuals with issues that affect their lives in areas such as housing, family, immigration, divorce and benefits, and prevent problems from turning into legal actions.”<sup>114</sup> Supported by a \$1 million grant from an anonymous donor, the “facilities, which are visible from the street and welcoming, are open during regular business hours, with weekend and evening hours as well.”<sup>115</sup> The first three locations are in

## New York Housing Court Navigators



**3,400**  
pro bono hours  
contributed



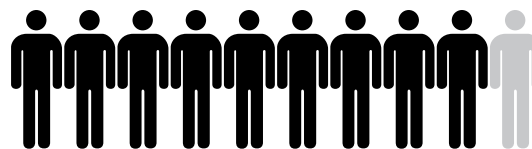
**2,000**  
unrepresented tenants  
and landlords helped

Crown Heights, Brownsville, and South Jamaica.

Arizona launched a similar court navigator pilot initiative in 2015 to address its family law representation crisis.<sup>116</sup> In over eighty percent of family court disputes in Arizona, individuals are faced with the challenge of representing themselves.<sup>117</sup> According to Arizona's 2015 Commission on Access to Justice Report, the program will "help guide the self-represented litigant in efficiently completing the family court process."<sup>118</sup> The court will train and supervise undergraduates from Arizona State University to serve in this role.<sup>119</sup> Specifically, the program will use court-trained and lawyer-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.<sup>120</sup> The courthouse navigators will not be permitted to provide legal advice at any point during the process.<sup>121</sup> The Arizona court system is in the process of redesigning its existing Self-help Center and is applying for an AmeriCorps grant to create the Court Navigator Program.<sup>122</sup>

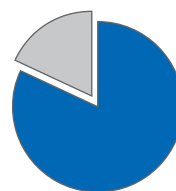
**Courthouse Facilitators (California, Washington State).** Courthouse facilitators provide unrepresented individuals with information about court procedures and legal forms in family law cases.<sup>123</sup> In California, the Judicial Council administers the program by "providing funds to these court-based offices, which are staffed by licensed attorneys."<sup>124</sup> The California Family Code mandates that a licensed lawyer with expertise in litigation or arbitration in the area of family law work with the family law facilitator to oversee the work of the facilitator and to deal with matters that require a licensed attorney throughout

## Courthouse Facilitators



**9 out of 10**

customers feel more knowledgeable and prepared immediately after a visit with a facilitator



**82%**

have more trust and confidence in the courts

the process.<sup>125</sup> Courthouse facilitators are governed by the California Family Code, which established an office for facilitators in over 58 counties in California.<sup>126</sup> California's Advisory Committee on Providing Access and Fairness has been given the task of implementing a plan to give greater courthouse access to litigants who cannot obtain representation.<sup>127</sup> Courthouse facilitators are one of the options for litigants without such representation.<sup>128</sup> While courthouse facilitators are not permitted to provide legal advice, they help to refer unrepresented clients to legal, social services, and alternative dispute resolution resources.<sup>129</sup> More than 345,000 individuals visit the family law facilitators' offices throughout California each year.<sup>130</sup>

Washington State has an analogous program established by the Washington Supreme Court, with oversight from the Family Courthouse Facilitator Advisory Committee. The Committee is charged with establishing minimum qualifications and administering continuing training requirements for courthouse facilitators.<sup>131</sup> During 2007, facilitators statewide conducted approximately

57,000 customer sessions and made 108,000 customer contacts.<sup>132</sup> The vast majority of customers using the facilitator program report being very satisfied with the services they receive. Nine out of ten customers agree that they feel more knowledgeable and prepared immediately after a visit with a facilitator, and eighty-two percent say they have more trust and confidence in the courts.<sup>133</sup> Facilitator-assisted litigants report more positive court experiences, are more satisfied with court proceedings, outcomes, and choice of representation, and have more trust and confidence in the courts than unassisted self-represented litigants.<sup>134</sup> Moreover, nearly all judicial officers and administrators associated with a facilitator program indicate that the program has a positive impact on self-represented litigants, improves access to justice and the quality of justice, and increases court efficiency.<sup>135</sup> The biggest challenges facing facilitator programs include program funding, managing self-represented litigants' needs for legal advice, and ongoing facilitator training.<sup>136</sup>

**Limited Practice Officers (Washington State).** The Washington Supreme Court authorizes certification of limited practice officers to select and complete real estate closing documents.<sup>137</sup> The Limited Practice Board was created to oversee the administration of limited practice officers and ensure that officers comply with the Limited Practice Rule, APR 12.<sup>138</sup> Limited practice officers are not permitted to provide legal advice or representation.<sup>139</sup>

**Limited License Legal Technicians (Washington State).** The Limited License Legal Technician (LLLT) is authorized and regulated by the Washington Supreme Court and is “the first independent paraprofessional in the United States that is licensed to provide some legal advice.”<sup>140</sup>

To become an LLLT, one must complete an educational program including community college coursework as well as law school level courses specific to the particular practice area education. Prior to licensure, the prospective LLLTs must complete “3,000 hours of work under the supervision of a licensed attorney; they must pass three exams prior to licensure (including a professional responsibility exam); and they must carry malpractice insurance.”<sup>141</sup> The first LLLTs are licensed in the area of family law.<sup>142</sup> LLLTs are subject to rules of professional conduct almost identical to those that apply to lawyers, and a disciplinary system that mirrors that for lawyers applies to them.

**Document Preparers (Arizona, California, and Nevada).** The California legislature implemented a legal documentation assistant (LDA) program in 2000, providing the public with “an experienced professional who is authorized to prepare legal documents” and to assist “‘self-help’ clients” to “handle their own legal matters without the cost of an attorney.”<sup>143</sup> Uncontested divorces, bankruptcies, and wills are examples of areas in which California’s LDAs are permitted to work.<sup>144</sup> These LDAs are not permitted to give legal advice or represent a client in the courtroom.<sup>145</sup> They often have knowledge, professional experience, and education similar to that of paralegals.<sup>146</sup> The program includes minimum educational and competency requirements.

The Arizona Supreme Court adopted a certification program for legal document preparers in 2003.<sup>147</sup> Arizona mandates that all certified LDAs satisfy minimum education and testing requirements as well as attend a minimum of ten hours of approved continuing education each year.<sup>148</sup> Moreover, the Arizona Code of Judicial Administration regulates LDAs in Arizona,<sup>149</sup> and Arizona provides a list that is available to the public of LDAs

who have violated the Arizona Code of Judicial Administration.<sup>150</sup> In these instances, the LDAs have had their certificates either revoked or suspended.<sup>151</sup>

Since March 2014, Nevada offers a similar legal document preparer program.<sup>152</sup> Like California, the Nevada program is legislatively authorized, but it does not include a minimum educational or competency component. Nevada requires that all legal document preparers be registered with the Secretary of State.<sup>153</sup> Nevada also has a process for consumers to file complaints and provides a list of suspended and revoked licenses.<sup>154</sup>

In addition, a number of U.S. jurisdictions are contemplating the adoption of LSP programs. For example, in February 2015, the Oregon Legal Technicians Task Force recommended to the Oregon State Bar Board of Governors that “it consider the general concept of a limited license for legal technicians as one component of the BOG’s overall strategy for increasing access to justice.”<sup>155</sup> In 2013, the California State Bar Board Committee on Regulation, Admission, and Discipline Oversight created a working group that recommended that California offer limited licenses to practice law without the supervision of an attorney. Specifically, the Board recommended that the license cover “discrete, technical, limited scope of law activities in non-complicated legal matters in 1) creditor/debtor law; 2) family law; 3) landlord/tenant law; 4) immigration law.”<sup>156</sup> The State Bar of California’s Civil Justice Strategies Task Force is conducting further study. In 2015, the Utah Supreme Court gave preliminary approval to authorize licensed paralegal practitioners to provide legal services in discrete areas, such as custody, divorce, name change, eviction, and debt collection.<sup>157</sup> In reaching this conclusion, the Task Force observed:

We recognize the value of a lawyer representing a client in litigation, or advising a client about options, or counseling a client on a course of action. We recognize the valuable services that lawyers provide to their clients every day, in and out of court. But the data show that, even after

years of effort with pro bono and low bono programs, a large number of people do not have a lawyer to help them. The data also show that the demand is focused on the areas where the law intersects everyday life, creating a “civil justice situation.” The people facing these situations need correct information and advice. They need ... an alternative source for that assistance.<sup>158</sup>

Minnesota recently made a similar recommendation,<sup>159</sup> and other states, including Colorado,<sup>160</sup> Connecticut,<sup>161</sup> Florida,<sup>162</sup> Michigan,<sup>163</sup> and New Mexico,<sup>164</sup> are exploring whether to define and expand who can render legal and law-related services.

A useful, albeit not perfect, comparison to those LSP categories cataloged above can be found in the delivery of medical services. Healthcare is now delivered not only by licensed doctors, but also by an increasing array of licensed and regulated providers, such as nurse practitioners, physicians’ assistants, and pharmacists. The “medical profession and nurse practitioners [are] a poignant example of less costly service providers who have become a more widely used, professionalized, and respected component of the health care market.”<sup>165</sup> These providers supplement the work performed by doctors, but do not replace doctors. Similarly, LSPs are not meant to replace lawyers or reduce their employment opportunities, just as nurse practitioners, physician’s assistants, pharmacists and phlebotomists are not meant to replace doctors. LSPs are intended to fill gaps where lawyers have demonstrably not satisfied existing needs. A number of scholars<sup>166</sup> and regulators<sup>167</sup> predict that LSPs will improve access to legal services by offering assistance to those in need at a lower cost than lawyers.

Additional court-based innovations are described in the Inventory of Innovations found on the Commission’s website.

## Recommendation 2.

### Courts should consider regulatory innovations in the area of legal services delivery.

#### 2.1. Courts should consider adopting the ABA Model Regulatory Objectives for the Provision of Legal Services.

Various regulatory innovations have been adopted in the U.S. and around the world with the stated objective of improving the delivery of legal services. The Commission believes that, as U.S. courts consider these innovations, they should look to the ABA Model Regulatory Objectives for the Provision of Legal Services for guidance. Regulatory objectives are common in other countries and offer principled guidance when regulators consider whether reforms are desirable and, if so, what form such changes might take. In February 2016, the ABA House of Delegates officially adopted the Commission's proposed Model Regulatory Objectives.<sup>311</sup> In doing so, the House of Delegates recognized "that nothing contained in this Resolution abrogates in any manner existing ABA policy prohibiting non lawyer ownership of law firms or the core values adopted by the House of Delegates."

#### ABA Model Regulatory Objectives for the Provision of Legal Services

- A. Protection of the public
- B. Advancement of the administration of justice and the rule of law

- C. Meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems
- D. Transparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections
- E. Delivery of affordable and accessible legal services
- F. Efficient, competent, and ethical delivery of legal services
- G. Protection of privileged and confidential information
- H. Independence of professional judgment
- I. Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs
- J. Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

The ABA Model Regulatory Objectives offer courts much-needed guidance as they consider how to regulate the practice of law in the 21<sup>st</sup> century.

Regulatory objectives are a useful initial step to guide supreme courts and bar authorities when they assess their existing regulatory framework and any other regulations they may choose to develop concerning legal services providers. The Commission believes that the articulation of regulatory objectives serves many valuable purposes. One article cites five such benefits:

First, the inclusion of regulatory objectives definitively sets out the purpose of lawyer regulation and its parameters. Regulatory objectives thus serve as a guide to assist those regulating the legal profession and those being regulated. Second, regulatory objectives identify, for those affected by the particular regulation, the purpose of that regulation and why it is enforced. Third, regulatory objectives assist in ensuring that the function and purpose of the particular [regulation] is transparent. Thus, when the regulatory body administering the [regulation] is questioned—for example, about its interpretation of the [regulation]—the regulatory body can point to the regulatory objectives to demonstrate compliance with function and purpose. Fourth, regulatory objectives can help define the parameters of the [regulation] and of public debate about proposed [regulation]. Finally, regulatory objectives may help the legal profession when it is called upon to negotiate with governmental and nongovernmental entities about regulations affecting legal practice.<sup>312</sup>

Regulatory objectives differ from the legal profession's core values in at least two respects. First, the core values of the legal profession are (as the name suggests) directed at the "legal profession."<sup>313</sup> By contrast, regulatory objectives are intended to cover the creation and interpretation of a wider array of legal services regulations, such as regulations covering new categories of legal services providers. For this reason, some duties that already exist in the Model Rules of Professional Conduct (e.g., the duty of confidentiality) are restated in the ABA Model Regulatory Objectives for the Provision of Legal Services to emphasize their importance and relevance when developing regulations for legal services providers who are not lawyers. Second, while the core values of the legal

profession remain at the center of lawyer conduct rules, the core values offer only limited, although still essential, guidance in the context of regulating the legal profession. The more holistic set of regulatory objectives can offer U.S. jurisdictions clearer guidance than the core values typically provide.<sup>314</sup>

The Commission encourages courts and bar authorities to use the ABA Model Regulatory Objectives when considering the most effective way for legal services to be delivered to the public. A number of jurisdictions are already engaging in this inquiry. For example, at least one U.S. jurisdiction (Colorado) has adopted a new preamble to its rules governing the practice of law that is intended to serve a function similar to the ABA Model Regulatory Objectives for the Provision of Legal Services.<sup>315</sup> The Utah Supreme Court Task Force to Examine Limited Legal Licensing used the ABA Model as a reference in considering limited-scope licensure.<sup>316</sup> Relatedly, the Conference of Chief Justices passed a resolution encouraging courts to consider the ABA Model Regulatory Objectives.<sup>317</sup> In addition, the development and adoption of regulatory objectives with broad application has become increasingly common around the world. In adopting these ABA Model Regulatory Objectives for the Provision of Legal Services, the ABA joins jurisdictions outside the U.S. that have adopted them in the past decade or have proposals pending, including Australia, Denmark, England, India, Ireland, New Zealand, Scotland, Wales, and several Canadian provinces.<sup>318</sup>

## 2.2. Courts should examine, and if they deem appropriate and beneficial to providing greater access to competent legal services, adopt rules and procedures for judicially-authorized-and-regulated legal services providers.

The Commission supports efforts by state supreme courts to examine, and if they deem appropriate and beneficial to providing greater access to competent legal services, adopt rules and procedures for judicially-authorized-and-regulated legal services providers (LSPs). Examples



of such LSPs include federally authorized legal services providers and other authorized providers at the state level, such as courthouse navigators and housing and consumer court advocates in New York; courthouse facilitators in California and Washington State; limited practice officers in Washington State; limited license legal technicians in Washington State; courthouse advocates in New Hampshire; and document preparers in Arizona, California, and Nevada. In some jurisdictions, where courts have authorized these types of LSPs, these individuals are required to work under the supervision of a lawyer; in other instances, courts, in the exercise of their discretion, have authorized these LSPs to work independently. In each instance, the LSPs were created and authorized to facilitate greater access to legal services and the justice system, with steps implemented to protect the public through training, exams, certification, or similar mechanisms.

The Commission does not endorse the authorization of LSPs in any particular situation or any particular category of these LSPs. Jurisdictions examining the creation of a new LSP program might consider ways to harmonize their approaches with other jurisdictions that already have adopted similar types of LSPs to assure greater uniformity among jurisdictions as to how they approach LSPs. Jurisdictions also should look to others to learn from their experiences, particularly in light of the lack of robust data readily available in some states on the effectiveness of judicially-authorized-and-regulated LSPs in closing the access to legal services or justice gap. The Commission urges that the ABA Model Regulatory Objectives guide any judicial examination of this subject.

### 2.3. States should explore how legal services are delivered by entities that employ new technologies and internet-based platforms and then assess the benefits and risks to the public associated with those services.

An increasingly wide array of entities that employ new technologies and internet-based platforms are providing legal services directly to the public

without the oversight of the courts or judicial regulatory authorities.<sup>319</sup> Some of these legal services provider (LSP) entities deliver services that are not otherwise available. Other LSP entities provide services that are available, but provide them at a lower cost. The Commission believes that, in many instances, these innovative LSP entities have positively contributed to the accessibility of legal services.

Some have suggested that new regulatory structures should be created to govern LSPs that offer services to the public. The Commission encourages caution in developing any such structures. One benefit of the existing and limited regulatory environment is that it has nurtured innovation and allowed many new and useful LSP entities to emerge. The unnecessary regulation of new kinds of LSP entities could chill additional innovation, because potential entrants into the market may be less inclined to develop a new service if the regulatory regime is unduly restrictive or requires unnecessarily expensive forms of compliance.

On the other hand, narrowly tailored regulation may be necessary in some instances to protect the public. Moreover, some existing and potential LSP entities currently face uncertainty about whether they are engaged in the unauthorized practice of law, the definition of which in most jurisdictions has not kept up with the new realities of a technology-based service world.<sup>320</sup> In these cases, the establishment of new regulatory structures may spur innovation by giving entities express authority to operate and a clear roadmap for compliance.<sup>321</sup> By expressly setting out how LSP entities of a particular type can comply with appropriate regulations, potential new entrants may be more inclined to develop new services that ultimately help the consuming public.<sup>322</sup>

The Commission recommends that, before adopting any new regulations to govern LSP entities, states study the LSPs that are operating in their legal marketplace, collect data on the extent to which these LSPs are benefiting or harming the public, and determine whether adequate safeguards against harm already exist under current law (for example, consumer protections laws).<sup>323</sup>

When conducting this study, input should be sought from a broad array of constituencies, including the public and the types of entities that would be governed by any possible new regulatory structures. In all cases, the touchstone for considering new regulations should be public protection as articulated in the ABA Model Regulatory Objectives for the Provision of Legal Services.

The Commission recognizes that the collection of data and crafting of regulations comes with challenges and opportunities. For example, the services offered by LSP entities are constantly changing, and any regulatory scheme must be flexible enough to address emerging technologies while not impeding the development of new ideas.<sup>324</sup> Regulators also may have difficulty offering precise definitions of the kinds of LSP entities they are regulating. Regulators also will have to decide whether they want to regulate all entities that provide a particular kind of service to the public or whether exceptions may be warranted, such as for non-profit and governmental entities that offer services. Although these issues are complicated, the Commission believes that careful study and data-driven analysis can ensure that innovation is encouraged at the same time that the public is adequately protected. The profession's capacity for research and data-driven assessment will only become more important as the pace and diversity of innovation in legal services delivery increases.

#### 2.4. Continued exploration of alternative business structures (ABS) will be useful, and where ABS is allowed, evidence and data regarding the risks and benefits associated with these entities should be developed and assessed.

As part of conducting a comprehensive assessment of the future of the legal profession, the Commission undertook a robust examination of alternative business structures (ABS). The Commission studied the limited development of ABS within the United States as well as the extensive growth of ABS outside the United States. The Commission paid particular attention to empir-

ical studies of ABS that have been undertaken since 2013, when the ABA Commission on Ethics 20/20 completed its review of ABS and decided not to propose any policy changes regarding ABS.

The Commission on the Future of Legal Services released an Issues Paper that identified the potential risks and benefits of ABS as well as the available evidence from the empirical studies.<sup>325</sup> In response, the Commission received some comments that advocated for the expansion of ABS in the United States or the further study of the subject. The majority of comments, however, reflected strong opposition to ABS, and some criticized the Commission for even examining the subject in light of existing ABA policy opposing ABS. These comments are archived at <https://perma.cc/5T7J-XKT8>. Many of the comments opposing ABS focused on the commenters' belief that ABS poses a threat to the legal profession's "core values," particularly to the lawyer's ability to exercise independent professional judgment and remain loyal to the client. Specifically, opponents of ABS fear that nonlawyer owners will force lawyers to focus on profit and the bottom line to the detriment of clients and lawyers' professional values. Critics also argued that there is no proof that ABS has made any measurable impact on improving access to legal services in those jurisdictions that permit ABS.

The Commission's views were informed by the emerging empirical studies of ABS. Those studies reveal no evidence that the introduction of ABS has resulted in a deterioration of lawyers' ethics or professional independence or caused harm to clients and consumers. In its 2014 Consumer Impact Report, the UK Legal Consumer Panel concluded that "the dire predictions about a collapse in ethics and reduction in access to justice as a result of ABS have not materialised."<sup>326</sup> Australia also has not experienced an increase in complaints against lawyers based upon their involvement in an ABS. At the same time, the Commission also found little reported evidence that ABS has had any material impact on improving access to legal services.

The Commission believes that continued exploration of ABS will be useful and that, where ABS

is used, additional evidence and data should be collected and the risks and benefits of ABS should be further assessed.<sup>327</sup> The Commission urges the ABA to engage in an organized and centralized effort to collect ABS-related information and data, which should include information and data compiled at the jurisdictional level. To assist this ef-

fort, jurisdictions that permit ABS should seek to compile relevant data on this subject as well. By creating a centralized repository for this information and data, the ABA can continue to perform a vital and longstanding function: ensuring that deliberations on a subject of import to the profession are fact-based, thorough, and professional.

**PROPOSED ADMINISTRATIVE ORDER 22:  
POLICY REGARDING THE PROVISION OF  
LEGAL INFORMATION TO THE PUBLIC**

## ADMINISTRATIVE ORDER NO. 22 (proposed)

### Policy Regarding Provision of Legal Information to the Public

Pursuant to Ark. Const. Amend. 80 §§ 1, 3, 4; Ark. Code Ann. §§ 16-10-101 *et seq.*; and this Court's inherent rule-making authority, the Court adopts and publishes Administrative Order Number 22.

#### I. Purpose

An increasing number of individuals—in Arkansas and across the country—are handling their own legal problems without the assistance of lawyers. These “Self-Help Patrons”<sup>1</sup> often seek help from court staff, librarians, and others who have specialized knowledge of the court system or legal resources (“Self-Help Personnel”), but who are prohibited from offering legal advice. Absent clear direction on the distinction between what constitutes “legal information” and what constitutes “legal advice,” Self-Help Personnel may be overly cautious in providing assistance to Self-Help Patrons or may risk being reported or reprimanded by their employers. As a result, Self-Help Patrons may be unnecessarily frustrated in their efforts to effectively navigate the legal system and may, in turn, lose confidence in our courts. Furthermore, there may be instances where Self-Help Patrons involved in litigation may be entitled to receive assistance from the court as a matter of due process.<sup>2</sup>

It is the policy of the Arkansas Supreme Court to ensure access to Arkansas courts by all persons, including those who may not have the benefit of legal representation. The purpose of this Administrative Order is to provide clear guidance to Self-Help Personnel so that they are equipped to provide appropriate legal information to Self-Help Patrons consistent with applicable standards of impartiality and without engaging in the unauthorized practice of law.

The goal is to provide authority for, within the bounds of this Administrative Order, assistance to achieve fair and efficient resolution of cases on their merits, and to minimize the delays and inefficient use of court resources that may result from use of the court system by litigants who are not represented by lawyers. There is a compelling state interest in resolving cases efficiently and fairly, regardless of the financial resources of the parties.

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<sup>1</sup> “Self-Represented Litigant” is a term often used to describe these individuals, but such terminology fails to take into account persons with legal issues that may not involve litigation. Use of the word “patron” also acknowledges that courts and libraries are, and should be, institutions that serve members of the public.

<sup>2</sup> In *Turner v. Rogers*, 131 S. Ct. 2507 (2011), the U.S. Supreme Court held that trial judges in civil contempt proceedings must ensure that certain safeguards are in place to avoid wrongful conviction, including (1) notice to the defendant that his “ability to pay” is a critical issue in the contempt proceeding; (2) the use of a form (or the equivalent) to elicit relevant financial information; (3) an opportunity at the hearing for the defendant to respond to statements and questions about his financial status (e.g., those triggered by his responses on the form); and (4) an express finding by the court that the defendant has the ability to pay. Although the findings in that case were limited to the civil contempt context, there are indications that it may have greater implications for the broader realm of civil self-represented litigation. *See, e.g., Richard Zorza, A New Day for Judges and the Self-Represented: The Implications of Turner v. Rogers*, THE JUDGES’ JOURNAL, Fall 2011, at 16.

## **II. Definitions**

- A. “Self-Help Patron” means any individual who seeks legal information to pursue or defend a court case or administrative action, or to understand potential legal rights, remedies, or obligations.
- B. “Self-Help Personnel” means court staff, librarians, and other individuals who are frequently asked to provide help for people involved in legal matters. Those court staff, librarians, and other individuals who are also licensed lawyers are governed by this Order in the same way that non-attorney personnel are governed unless they are acting on behalf of a nonprofit or court-annexed limited legal services program as provided in Arkansas Rule of Professional Conduct 6.5.
- C. “Self-Help Assistance” means support and guidance provided by Self-Help Personnel within the scope and limitations of this Order, including collaboration and coordination with legal and community resources.
- D. “Approved Forms” means the forms and instructions that appear on the Arkansas Legal Services Partnership website; on the Arkansas Judiciary website; in administrative orders, rules, or other policies of the Supreme Court; in administrative agency rules; in state statutes; and local forms to facilitate following local case-processing procedures.

## **III. Role of Self-Help Personnel**

- A. Basic Services. Self-Help Personnel may provide the following services:
  - Provide general information about court procedures and logistics, including requirements for service, filing, scheduling hearings and compliance with local procedure;
  - Provide, either orally or in writing, information about court rules, terminology, procedures, and practices;
  - Inform Self-Help Patrons of available pro bono legal services, low cost legal services, unbundled legal services, legal aid programs, alternative dispute resolution services including referrals to the Arkansas Alternative Dispute Resolution Commission’s database of certified mediators, referrals to legal services and legal aid programs, lawyer referral services (such as Arkansas Find-A-Lawyer), and legal resources offered by state and local libraries, legal aid programs, and state agencies;
  - Encourage Self-Help Patrons to obtain legal advice without recommending a specific lawyer or law firm;
  - Explain options within and outside the court system, including providing information about community resources and services;
  - Provide information about domestic violence resources;
  - Offer educational sessions and materials, as available, and provide information about classes, such as parenting education classes;

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- Assist Self-Help Patrons in selecting the correct forms, and instructions on how to complete forms, based on the Self-Help Patron's description of what he or she wants to pursue or request from the court, including, but not limited to, providing forms for the waiver of filing fees. Where no Approved Form exists to accomplish the Self-Help Patron's request, Self-Help Personnel should inform the litigant of that fact;
- Record information provided by the Self-Help Patrons onto Approved Forms if that person cannot complete the forms due to disability, language, or literacy barriers;
- Assist Self-Help Patrons to understand what information is needed to complete filling in the blanks on Approved Forms;
- Review finished forms to determine whether forms are complete, including checking for signatures, notarization, correct county name, and case number;
- Assist in calculating child support using the Arkansas Child Support Guidelines, based on financial information provided by the Self-Help Patron;
- Answer general questions about how the court process works;
- Answer questions about court timelines;
- Provide docket information;
- Provide information concerning how to get a hearing scheduled;
- Inform Self-Help Patrons of the availability of interpreter and sign language assistance and process requests for such services;
- At the direction of the court, review Self-Help Patrons' documents prior to hearings to determine whether procedural requirements for the filing of pleadings have been met;
- Assist Self-Help Patrons with preparation of proposed court orders based upon the parties' agreement or stipulation for signature of the judge or magistrate;
- Answer questions about whether an order has been issued, where to get a copy if one was not provided, and read the order to the individual if requested;
- Provide a Self-Help Patron with access to information from a case file that has not been restricted by statute, rule or directive;
- Provide assistance based on the assumption that the information provided by the Self-Help Patron is accurate and complete;
- Provide the same services and information to all parties to an action, as requested;
- Provide information about language and/or citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the situation;
- Provide other services consistent with the intent of this Order and the direction of the court, including programs in partnership with other agencies and organizations.

**B. Prohibited Services. Self-Help Personnel shall not:**

- Recommend whether a case should or should not be brought to court or administrative order appealed or not appealed;
- Give an opinion about the outcome of a case that is brought to court or an administrative action that is appealed;
- Represent a Self-Help Patron in court;
- Tell a Self-Represented Patron that Self-Help Personnel may provide legal advice;
- Provide legal analysis, strategy, or advice;

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- Disclose information in violation of a court order, statute, rule, order, or case law;
- Refuse to allow a Self-Help Patron to proceed with his or her case based solely on the fact that he or she is self-represented;
- Tell the Self-Help Patron anything Self-Help Personnel would not repeat in the presence of the opposing party, or any other party to the case;
- Advise a Self-Help Patron that he or she should go to a specific lawyer or law firm for fee-based representation.
- Tell the Self-Help Patron how he or she should word any substantive content in court pleadings or other legal documents.
- Talk to a judge on behalf of a Self-Help Patron.

**IV. Assistance by Self-Help Personnel is not the Practice of Law**

The performance of services by Self-Help Personnel in accordance with this order is not the practice of law, as Self-Help Personnel are to provide neutral information and are not to give legal advice. Information provided by a Self-Help Patron to Self-Help Personnel is neither confidential nor privileged. No attorney-client relationship exists between Self-Help Personnel and a Self-Help Patron.

**V. Assistance by Lawyers and Nonlawyer Assistants who are not Self-Help Personnel**

When Self-Help Personnel refer Self-Help Patrons to community resources and services, this may include referrals to legal aid organizations or lawyers or law firms who provide limited scope legal services on a fee-based, “low bono,” or pro bono basis. Such referrals are permitted and do not constitute a violation of this Administrative Order. Lawyers, and their nonlawyer assistants, as that term is used in the Arkansas Rules of Professional Conduct 5.3, are guided by the Arkansas Rules of Professional Conduct, including, but not limited to Rule 6.5 which addresses nonprofit and court-annexed limited legal services programs.

**VI. Availability of Services**

Subject to available resources, assistance is available to all Self-Help Patrons. Self-Help Personnel may direct Self-Help Patrons to other appropriate services where the inquiry is better addressed. Some limited examples are: the Office of the Prosecuting Attorney for questions about victims’ services; the Americans with Disabilities Act coordinator in the location, for information about accommodations necessary for a Self-Help Patron; the collections investigator for information about payment of court costs; the clerk and recorder, for information about property records; and the Division of Revenue, Motor Vehicle Division, for information about drivers’ licenses or state identification.

**VII. Copy Costs**

Courts and libraries may require Self-Help Patrons to pay the reasonable copying costs of providing forms and instructions to Self-Help Patrons, provided that the charge for persons who are indigent may be reduced or waived, as required by statute, rule or directive.



## **VIII. Notices to Self-Help Patrons**

Court-based Self-Help Personnel shall provide and, if necessary, review with the Self-Help Patron, the below “Notice to Self-Help Court Patron.” Such notice shall also be available through conspicuous posting and be made available in other languages, as needed. Self-Help Personnel who are providing Self-Help Services outside of a court setting may provide and post the “Notice to Self-Help Patron” below.

### **NOTICE TO SELF-HELP COURT PATRON**

**Self-help services are available to all persons who seek information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court, within the resources available to us.**

**We are employees of the court and are available to provide information about court procedures, practices, rules, terminology, and forms, as well as community resources and services that can help you. By providing this information, we are not taking sides in a case. This means we will provide the same services and information to all parties in a case, if requested. We cannot act as your lawyer or provide legal advice.**

**We can explain the court process, help you to understand what information is needed to fill in the blanks on a form, and review your forms for completeness. We cannot tell you what your legal rights or remedies are, represent you in court, or tell you how to testify in court.**

**Based on the information you share with us, we can help you locate forms and understand the information you need for your case. Any information you share with us is not confidential or privileged.**

**No attorney-client relationship exists between us and you. If you need a lawyer or legal advice, we can help you find community resources and services, but we cannot tell you which lawyer or law firm you should use.**

**We are not responsible for the outcome of your case.**

**We are not investigators and cannot provide investigative services.**

**We are court employees, and we do not act on behalf of any particular judge. The presiding judge in your case may require that you change a form or use a different form. The judge is not required to grant the relief you request in a form.**

**In all cases, it is best to obtain the assistance of your own lawyer, especially if your case presents significant or complicated issues. If requested, we will help you find community resources and services without recommending a specific lawyer or law firm.**

For more information about the court's self-help assistance, see Administrative Order No. 22, which is available at [website].

### NOTICE TO SELF-HELP PATRON

Within the resources available to us, informational services are available to all persons who seek information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court.

We are available to assist you in locating information about court procedures, practices, rules, terminology, and forms, as well as community resources and services that can help you. By providing this information, we are not taking sides in a case. This means we will provide the same services and information to all parties in a case, if requested. We cannot act as your lawyer or provide legal advice.

We cannot tell you what your legal rights or remedies are, represent you in court, or tell you how to testify in court.

Based on the information you share with us, we can help you locate forms and understand what information you need for your case. Any information you share with us is not confidential or privileged.

No attorney-client relationship exists between us and you. If you need a lawyer or legal advice, we can help you find community resources and services but we cannot tell you which lawyer or law firm you should use.

We are not responsible for the outcome of your case.

We are not investigators and cannot provide investigative services.

In all cases, it is best to obtain the assistance of your own lawyer, especially if your case presents significant or complicated issues. If requested, we will help you find community resources and services without recommending a specific lawyer or law firm.

For more information about self-help assistance, see Administrative Order No. 22, which is available at [website].



ARKANSAS  
ACCESS TO  
JUSTICE  
REPRESENTING HOPE

Little Rock Marriott, 3 Statehouse Plaza, Riverview Room

Arkansas Access to Justice Foundation & Commission  
Joint Business Meeting  
October 28, 2016  
11:30 a.m.

**Board of Directors:**

Toby Atkinson, *Secretary*  
Tamra Cochran  
Angela Duran  
Zina Frazier  
J.D. Gingerich, *Treasurer*  
Tyler Ginn  
Dr. Alice Hines

Don Hollingsworth, *Vice Chairperson*  
Ron Lanoue  
John Monroe  
Frank Sewall  
Vicki Smith  
Jim Sprott  
Katie Stephens  
Bill Waddell, *Chairperson*

**Commissioners**

Rep. Bob Ballinger  
Rep. Mary Broadaway  
Jean Carter, *ex officio*  
Judge Teresa French-Coleman  
Judge Vic Harper, *Vice Chairperson*  
Samantha Leflar  
Mark Mayfield  
Prof. Tiffany Murphy  
Rod Nagel, *Chairperson*  
Karama Neal, *Secretary*

Kelly Browe Olson, *ex officio*  
Lee Richardson, *ex officio*  
Kerri Sernel  
Judge Thomas Smith  
Prof. Tim Tarvin, *ex officio*  
Glenn Vasser  
Bill Waddell, *ex officio*  
Andrea Walker  
Sen. Jon Woods  
Justice Robin Wynne

**Guests:**

Melody Peacock Barnett (CALs)  
Steve Shults (VOCALS)  
Ron Wilson (LAA)  
Randy Wright (CALs)

**Staff:**

Erin Jacobson  
Amy Johnson  
Sarah Purtil  
Jordan Rogers

**AGENDA**

Commission Business

1. Minutes of July 15, 2016 Meeting (for approval), *pp. 3-6* – Mr. Nagel
2. Technical Assistance Committee Report, *pp. 7-9*– Dr. Neal
  - a. Pro Bono Survey 2017
3. Strategic Priorities Update, *pp. 10-27* – Ms. Johnson
4. 2017 Meeting Dates
  - a. February 17, 2017 (Little Rock)
  - b. June 1, 2017 (Springdale?)
  - c. September 1, 2017 (Jonesboro?)
  - d. December 8, 2017 (Searcy?)

Foundation Business

1. Minutes of August 12, 2016 Meeting (for approval), *pp. 28-31* – Mr. Waddell
2. Finance Committee Report (for approval), *pp. 32-46* – Mr. Gingerich

- a. YTD Financial Report
  - b. Approval of revised Investment Policy
  - c. Approval of Stock Donation Policy & Forms
  - d. Distribution of AG Settlement Proceeds
3. Children's Story Prize, *pp. 47-53* – Ms. Stephens & Mr. Waddell
  - a. Terms & Conditions
  - b. Copyright License Agreement
4. Resource Development Report, *pp. 54-58* – Mr. Hollingsworth
5. 2017 Meeting Dates
  - a. January 20, 2017
  - b. May 19, 2017
  - c. August 11, 2017
  - d. November 17, 2017
6. Adjourn



ARKANSAS  
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REPRESENTING HOPE

Jean Carter (ex officio)  
Judge Vic Harper, *Vice Chair*  
Mark Mayfield

Attending Members:

Prof. Tiffany Murphy (phone)  
Rodney Nagel, *Chair*  
Dr. Karama Neal

Lee Richardson (ex officio)  
Judge Thomas Smith (phone)  
Andrea Walker

Absent Members:

Rep. Mary Broadaway  
Judge Teresa French  
Samantha Leflar  
Prof. Kelly Olson (ex officio)

Kerri Sernel  
Prof. Tim Tarvin (ex officio)  
Glenn Vasser  
Rep. John Vines

Bill Waddell (ex officio)  
Sen. Jon Woods  
Justice Robin Wynne

Guests:

Lela Davidson, Legal Aid Staff Attorney  
Melissa Kipersztok, Legal Aid AmeriCorps  
Communications VISTA  
Kesia Morrison, Legal Aid Communications Director  
Brittany Ward, Legal Aid Law Clerk

Staff:

Amy Johnson  
Erin Jacobson

## MEETING MINUTES

July 15, 2016

Mr. Nagel called the meeting to order at 12:00 p.m.

### Approval of April 29, 2016 Meeting Minutes

The first order of business was consideration of the minutes from the April 29, 2016 Commission Meeting. Dr. Neal moved to approve the meeting minutes. Ms. Walker seconded the motion, and it was unanimously approved.

### Election of Secretary

Mr. Nagel recognized Dr. Neal who agreed to serve in the role of Secretary for the Commission. Judge Harper moved to approve Dr. Neal's nomination to the position. Mr. Mayfield seconded the motion and all members voted to unanimously approve Dr. Neal's appointment to Secretary.

### Chairperson's Report

Mr. Nagel remarked on his experience at the Equal Justice Conference held in Chicago in May. He stated that he learned a great deal and was pleased to see how far along Arkansas is in comparison to other programs nationwide. He acknowledged witnessing a clear nationwide respect for Ms. Johnson while attending the conference. He further observed that state commissions that appear to do well have great relationships with their respective bar associations, bench members, and related partner and legal aid organizations. He affirmed that he and Ms. Johnson will continue to work on key relationships with Arkansas' governor, as well as other state and community stakeholders; and in doing so they will want to engage other Commissioners. He mentioned wanting to visit other states, like Texas and Washington, which are successful in implementing access to justice initiatives. He added that the Texas Access to Justice Commission excels in engaging both their legislature and their Court, with a result that their funding is incredible. They also educate the wider public in why access to justice is important. He concluded his report, stating he would like to engage partners inside and outside of the state in supporting the broader picture of access to justice.

Ms. Johnson added that we may look to bring someone from Texas ATJ to speak during the Joint Board Retreat in October. She supported Mr. Nagel's comments, adding that while Texas has a rather conservative government, access to justice is viewed as a shared American value, and not as a "liberal do-gooder" ideal.

### Justice Index Presentation

Ms. Johnson began her presentation, stating that the Arkansas Access to Justice Commission is one of the oldest in the nation; we were the third organized commission back in 2003. She then summarized the Commission and Foundation's missions and their many complementary goals. Among its goals to support its main objective to provide equal access to justice in civil cases for all Arkansans, the Commission was charged with developing a plan for securing long-term funding sources for civil legal aid.

Next, Ms. Johnson gave a brief overview of the national Justice Index and its aim to measure how the rule of law functions throughout the world. The Justice Index defines and measures access to justice by "having a fair chance to be heard, regardless of who you are, where you live, or how much money you have. At minimum, a person should be able to learn about her rights and then give effective voice to them in a neutral and nondiscriminatory, formal or informal, process that determines the facts, applies the rule of law, and enforces the result."

She continued, highlighting that the U.S. ranked 66<sup>th</sup> out of all 103 countries in access to and affordability of civil legal services. Arkansas is the state with the lowest ratio of lawyers in the country with 20.1 per 10,000, and only 2,982 of the state's 6,855 active licensed attorneys are in private practice (and available to take pro bono cases). There are also issues of aging attorneys and lack of attorneys in rural areas; yet despite this overall deficit of attorneys, the 65 civil legal aid attorneys statewide closed over 11,000 cases in 2015.

She then reviewed the four indicators taken into account for determining each state's rank in the Justice Index, which included attorney access, language access, disability access, and practices to make justice accessible to self-represented litigants. She recommended members review in depth the Arkansas-specific data provided in the meeting materials, and suggested that while working to implement the Commission's strategic priorities, we inform our work with this Justice Index. She added a clarification that we have not incorporated a language access focus in our strategic priorities; however the Arkansas Supreme Court does have a language access program.

Mr. Nagel mentioned that in his world at Tyson, key forms and issues of justice that are addressed include workers' justice and animal justice. He posited, "Are we educating the people who we need to be educating outside of this room?" He specified that with education of the public being one of the key goals the Commission has been given by the Supreme Court, we do have some strategies to engage the business community and legislators, but we may need to look more broadly. He suggested that there is a big vacuum and that there are many people who would like to help but who may be unaware that there is an issue.

Ms. Morrison stated that she and Legal Aid would like to do more legislative outreach as part of their communication plan, emphasizing that they would like legislative offices to use legal aid as a resource for their constituents. She added that Legal Aid will be working on their own visibility to increase these kinds of relationships. Members discussed making sure that the message is coming from the right entity and to inform the public as experts.

### Report of Executive Director

As part of her report, Ms. Johnson addressed updates to the IFP/fee waiver rule, including a memorandum she submitted to the Arkansas Supreme Court Committee on Civil Practice in late June. She also addressed proposed changes to the Rules of Civil Procedure related to the signing of pleadings, the issue of ghostwriting, and relieving an attorney of their attorney of record status in certain limited scope cases. She referenced an email exchange contained on page 9 of the meeting packet addressing a national call for support

in asking the Multistate Professional Responsibility Examination drafters to add questions centering on the American Bar Association's model limited scope rules and limited scope representation in general. Members discussed submitting a letter of support on behalf of our Commission for this action.

Mr. Nagel called for a resolution on submitting a letter of support to MPRE. Mr. Mayfield moved to approve submitting a letter of support. Ms. Walker seconded the motion. All members voted to approve submitting a letter of support.

### Project and Partner Organization Discussions and Reports

#### *Center for Arkansas Legal Services*

Ms. Carter reported on the Center's recent strategic planning process and her program's work to increase the impact of their cases. They are looking to create a number of more specialized projects for high-volume demand despite their limited resources. They are also looking to do more clinics in combination with limited scope. Much of this work will be supported by the forthcoming Bank of America settlement funds. She further touched on a pilot project with the Arkansas Department of Workforce Services, a reentry project with job training, as well as work requirements for continued enrollment in certain benefits programs. CALS continues to work on removing barriers to employment through the sealing of criminal court records and are currently focusing these efforts in Jefferson and Saline Counties. Other developments include a new project for the HelpLine, starting a new veterans' clinic in Fort Smith at the end of August, as well as a twice-monthly Lawyer in the Library project at Bowen. This library program will involve limited scope work related to family law and reentry.

#### *Legal Aid of Arkansas*

Mr. Richardson gave a rundown of current case types and closures for his program. He mentioned that they are currently litigating against a large rental management company in Northwest Arkansas, focusing on the liquidated damages clause contained in the company's lease with its tenants. This case could impact 20,000 to 30,000 Arkansans. He also highlighted a Fayetteville fair housing case and his program's efforts to try to attach the criminal eviction matter so that it can be heard in federal court. He added that there is no fair housing program in Arkansas and many violations are being discovered. In addition to housing and consumer impact work, his program is working with Arkansas Partners Against Trafficking Humans (PATH) to assist victims of sex-trafficking across the state. Their combine work could impact at minimum, close to 11,000 people in Arkansas.

Mr. Richardson addressed Legal Aid's current staffing levels of only 18 attorneys, and therefore is trying to hire three staff attorneys and eight AmeriCorps attorneys. The AmeriCorps positions will focus on economic opportunity, assuring access to safe and affordable housing, providing services to veterans and military families, and focusing on healthy futures through medical-legal partnerships. He closed his report by stating he would like to have updated census data that might affect and enable people at or below 200% of the poverty level to gain assistance; current levels are still based off of poverty data from 2010.

#### *Arkansas Access to Justice Foundation*

Ms. Johnson gave the Foundation's report in Mr. Waddell's absence. She stated that she is hoping to hire a Program Coordinator by mid-August. This position will focus on outreach efforts related to expanding limited scope representation and modest means panels.

The Foundation's committees are presently quite active, with the Grants Committee currently working on the Bank of America settlement grant program. In anticipation of these funds, the Finance Committee distributed a RFP for an investment advisor, as this is the most money the IOLTA Program will ever have had to manage. The Finance Committee will be interviewing selected firms in August.

She mentioned increased phone calls from banks wanting to be on the Preferred Bank List, and even two banks that have doubled the interest rates they pay on IOLTA trust accounts. She closed her Foundation updates, noting that staff will soon be moving to a new IOLTA database that will include tools to help with bank compliance.

### *Anniversary Celebration Planning*

Ms. Morrison advised Commissioners of the small committee that has been assembled to coordinate the anniversary celebration and its accompanying conferences. She is currently working on a formal invitation letter to send to Secretary Clinton. She added that though a brand new edition to the Legal Aid team, Ms. Kipersztok has many good ideas which she will soon share with the committee. Ms. Morrison underscored her earlier point on the importance of increasing and spreading the visibility of legal aid through many avenues, including this event.

### Small Group Discussions on Approval of Strategic Priorities

The strategic priority groups gathered and reviewed their updated goals, then provided individual feedback. Ms. Johnson clarified that each group acquired some aspect of the previous Visibility group's goals. Comments and suggestions were shared from each group, including:

Resource Development Group: (1) Would like the Commission to develop a board training to encompass all four boards; may get someone from the Arkansas Nonprofit Alliance to do a general nonprofit board overview; (2) The ATJF Resource Development Committee will need to involve the Commission's resource development members in fundraising efforts across the state; (3) In seeking legislative and potential court-settlement funding for legal aid, continued relationship-building and leadership from the judiciary are key.

Support Systems and Delivery Group: (1) Emphasized needing to get buy-in from court staff, not just judges; (2) In order to better mobilize human capital, would like to survey members of the Commission and Foundation on their skill sets and the activities they desire to do in supporting the work of the Commission/Foundation; (3) Supported continued development of a curriculum or bench card for judges interacting with SRLs (e.g., "5 Easy Things You Can Do When You Have a SRL in Your Courtroom").

Technical Expertise Group: (1) Supported development of an internal speaker's kit related to communications plan; (2) Supported annual compiling of rural data, as well as other regular reporting when possible (3) Suggested including language for "defaults" regarding action/inaction; (4) Emphasized knowing audience for press releases; (6) Take data-driven stand if/when appropriate.

Ms. Johnson thanked everyone for their participation and input. She stated that she will incorporate these edits and redistribute the strategic priorities one more time for review.

### Adjourn

With no new business to discuss, Mr. Nagel adjourned the meeting at 2:20 p.m.

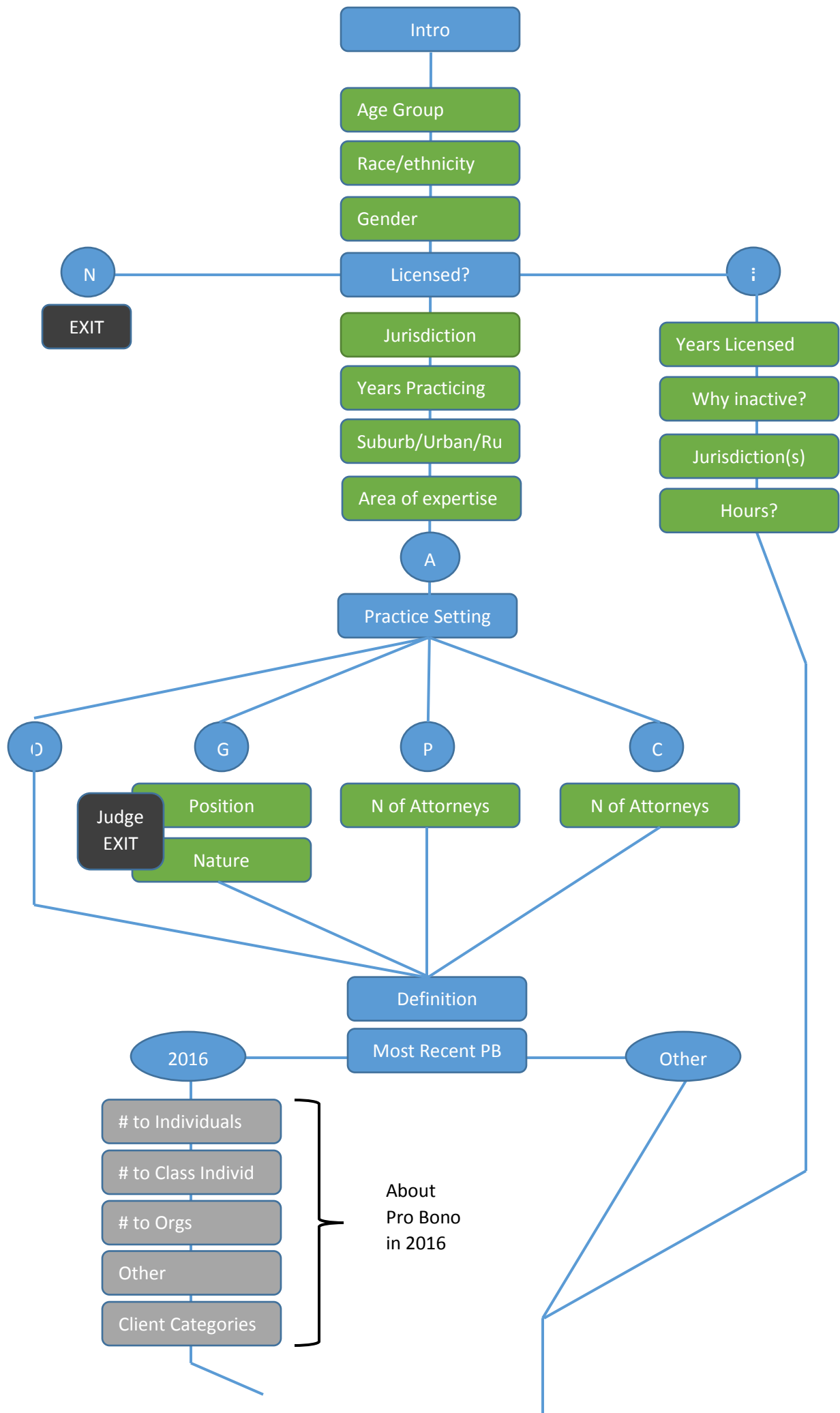
### Future Meetings

October 28-29, 2016 (Joint Meeting with Foundation Board) – location soon to be announced

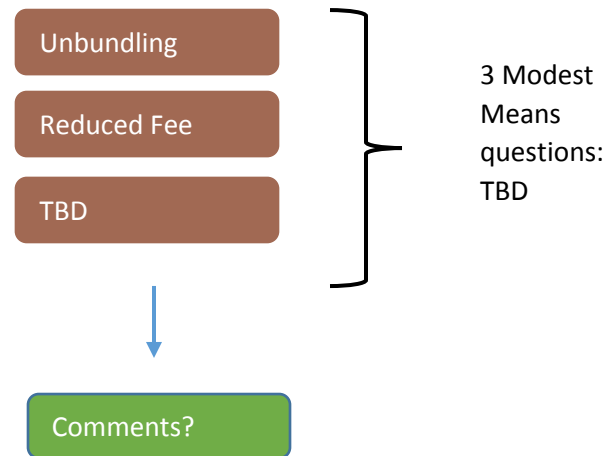
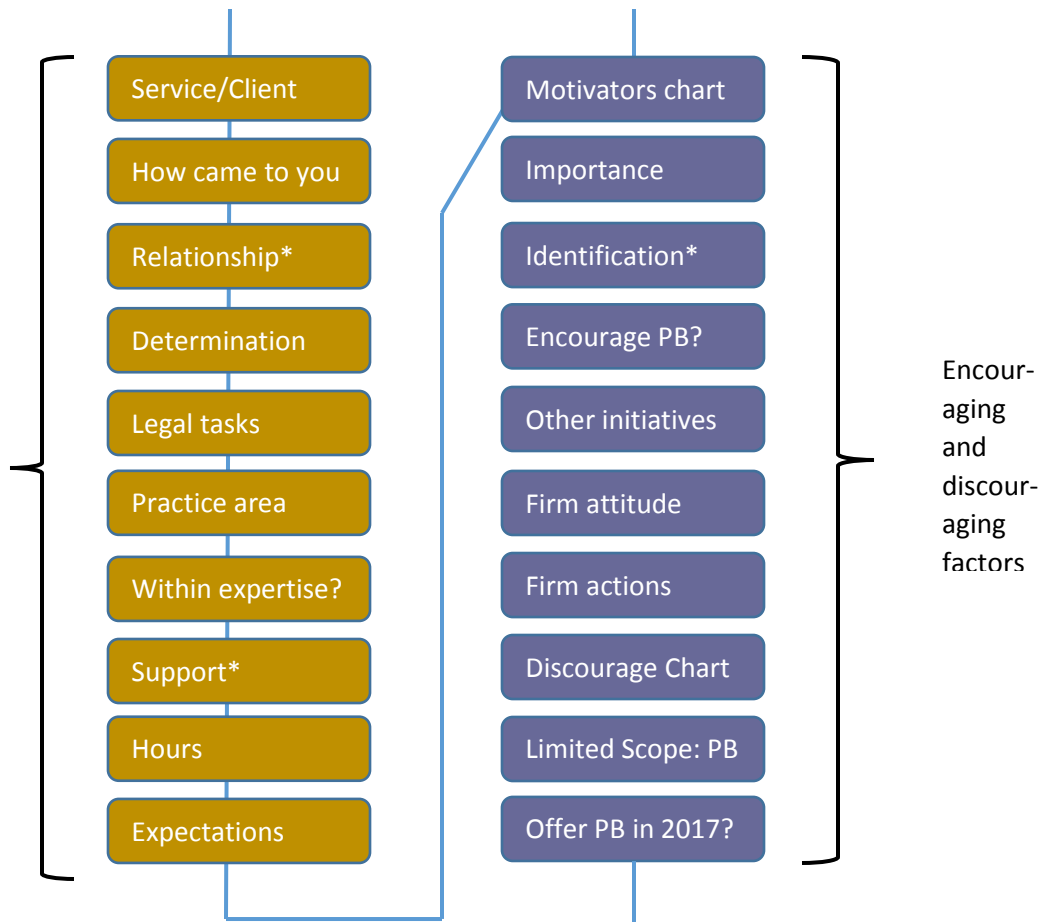


## ABA State Pro Bono Surveys - Shortened

1 You have been asked to participate in this survey so that we may gain a better understanding of legal services provided to low and moderate income people in your state. We are interested in the perspectives of attorneys who have provided such services as well as attorneys who have not. Please complete all of the questions appearing on each page. Always scroll down to make sure you have answered all of the questions provided. When you are ready to move on to the next page, click the arrow button located at the bottom of the screen. Your responses will automatically be saved so that you may return later to complete the survey. Your responses will be combined with those provided by others and your identity will not be revealed at any time. Thank you in advance for your participation!



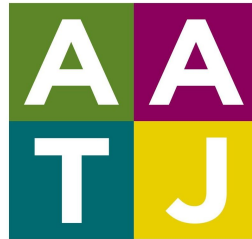
About typical pro bono case in 2016



# Arkansas Access to Justice Commission

Strategic Priorities 2016 - 2019

October 25, 2016 Status Report



ARKANSAS  
ACCESS TO  
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GOALS

- (1) Increase the financial resources available to support the delivery of civil legal aid and to expand access to the civil justice system for all Arkansans.
- (2) Strengthen support systems for the delivery of civil legal help through pro bono attorneys and resources for self-represented litigants.
- (3) Provide technical expertise and other support to the efforts of the legislature, courts, and other entities to adopt innovations that improve access to justice for all Arkansans.

**Goal One: Increase the financial resources available to support the delivery of civil legal aid and to expand access to the civil justice system for all Arkansans.**

Outcomes: What do we want to achieve?	Strategies: How can we achieve it?	Persons Responsible: Who Will Do It?	Current Status
<p>The Commission, Foundation, and legal aid are equipped with the staff capacity and tools necessary to support resource development efforts.</p>	<ul style="list-style-type: none"> <li>• Maintain up-to-date contacts for target audience in eTapestry (donor database) and Constant Contact (email marketing program). ONGOING</li> </ul>	<p>Erin Jacobson (ATJF) Elizabeth King (LAA)? Lora Crawley (CALs)</p>	<ul style="list-style-type: none"> <li>• Updates in progress in preparation for 2016 fall solicitation mailing</li> </ul>
	<ul style="list-style-type: none"> <li>• Fix and redesign current AATJ website so that it is compelling, navigable, and easy to donate. SHORT TERM</li> </ul>	<p>Amy Johnson Website developer/UX designer</p>	<ul style="list-style-type: none"> <li>• Website UX designer Vince Palermo engaged</li> </ul>
	<ul style="list-style-type: none"> <li>• Survey Commissioners and Board members to identify skills, interests, contacts, and other assets so that staff can involve each Commissioner and Board member where needed. SHORT TERM</li> </ul>	<p>Amy Johnson</p>	<ul style="list-style-type: none"> <li>• Survey developed and administered in conjunction with joint board retreat</li> </ul>
	<ul style="list-style-type: none"> <li>• Hire full-time Resource Development Director to implement resource development strategies identified in this plan and in the</li> </ul>	<p>ATJ Foundation</p>	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>

	2013 plan developed by consultant Dennis Dorgan. LONG TERM		
Commissioners, Foundation Board members, and legal aid Board members have a good understanding of the importance of access to justice and legal aid and use that understanding to advance resource development efforts.	<ul style="list-style-type: none"> <li>Develop and provide annual orientation to new Commissioners and Board members. SHORT TERM</li> </ul>	Amy Johnson Governance Committee	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Develop and refine “elevator speech” for Commissioners, Board members, and partners to use when talking to others about access to justice legal aid. SHORT TERM</li> </ul>	Amy Johnson Governance Committee Visibility Committee	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Establish legal aid attorney “mentorships” of Commissioners and Board members. SHORT TERM/ONGOING</li> </ul>	Amy Johnson Jean Carter Lee Richardson Governance Committee	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Develop a Campaign for Legal Aid “dashboard” and related reports for routine distribution to staff and volunteers involved in fundraising efforts. SHORT TERM/ONGOING</li> </ul>	Amy Johnson Erin Jacobson	<ul style="list-style-type: none"> <li>Report has been designed for VOCALS campaign and is automatically generated and delivered to CALS staff weekly.</li> </ul>
	<ul style="list-style-type: none"> <li>Provide across-the-board joint training opportunities for Commissioners, Board members, and stakeholder board members and staff, including possible joint conference, every 2 years. ONGOING</li> </ul>	Governance Committee Amy Johnson ATJ Program Coordinator	<ul style="list-style-type: none"> <li>Joint board retreat held 10/27-10/29</li> </ul>
	<ul style="list-style-type: none"> <li>Maintain up-to-date catalogue of governance documents, training materials, and minutes on Board portal. ONGOING</li> </ul>	All Commission staff	<ul style="list-style-type: none"> <li>Current meeting materials posted, although additional updates are needed pending website redesign.</li> </ul>
	<ul style="list-style-type: none"> <li>Commissioners and Board members give presentations to local bar associations and civic groups at least once per quarter.</li> </ul>	Commission staff (to coordinate) Commissioners	<ul style="list-style-type: none"> <li>No progress to report on board/commissioner involvement. Staff have given or</li> </ul>

	ONGOING	Foundation Board members	have scheduled 11 presentations since 7/2016.
Individual giving (\$1 to \$499) to the statewide Campaign for Legal Aid will increase through retention of 85% or more of existing donors and acquisition of 200 new or lapsed ones.	<ul style="list-style-type: none"> <li>Distribute, at least quarterly, email newsletters that include a prominent “donate” button; include in e-newsletters other giving opportunities, such as ArkansasGives and Giving Tuesday. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>Email newsletter distributed 10/18/2016; 35 clicks on “donate” button, but no donations received.</li> <li>YTD campaign contributions are about \$17,000 higher than this date last year (if testamentary trust from 2015 not included)</li> <li>See YTD Fundraising Dashboard</li> </ul>
	<ul style="list-style-type: none"> <li>Recruit regional legal community “division leaders” to co-sign solicitation letters by August 15 of each year; send Fall solicitation letters each Fall (by November 15). ONGOING</li> </ul>	Amy Johnson Erin Jacobson Resource Development Committee Foundation Board members Division leaders	<ul style="list-style-type: none"> <li>In process</li> </ul>
	<ul style="list-style-type: none"> <li>Develop and publish annual report in collaboration with Foundation, CALS, and LAA that recognizes all Campaign for Legal Aid donors. ONGOING</li> </ul>	Commission staff Designated LAA & CALS staff	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Promote and expand 6.1 Society monthly giving program through advertising, maintaining up-to-date listing of members on website. ONGOING</li> </ul>	Commission staff	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Recognize and thank donors with thank-you letters, e-newsletter listings, and Annual Report mailer (3+ contacts per donor per year). ONGOING</li> </ul>	Amy Johnson Erin Jacobson	<ul style="list-style-type: none"> <li>Annual report letter sent 8/2016; \$550 in donations received</li> </ul>

	<ul style="list-style-type: none"> <li>Produce regular AATJ website content updates that engage supporters with the mission of the Commission and Foundation. ONGOING</li> </ul>	Commission staff	<ul style="list-style-type: none"> <li>3 article posts created on website since 7/2016</li> </ul>
	<ul style="list-style-type: none"> <li>Maintain robust social media presence that thanks and engages donors and volunteers. ONGOING</li> </ul>	Commission staff	<ul style="list-style-type: none"> <li>Facebook and Twitter analytics dashboard under development.</li> </ul>
Major individual gifts (\$500 or more) to the Campaign for Legal Aid will increase through retention of existing major donors and the acquisition of 10 new or lapsed ones.	<ul style="list-style-type: none"> <li>Cultivate major gifts by scheduling at least one in-person meeting per month to thank an existing donor or develop a prospect. ONGOING</li> </ul>	Commission staff (to schedule) Board members Commission members	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Recognize and thank donors with personal phone calls from Board/Commission or staff members, thank-you letters, e-newsletter listings, and Annual Report mailer (4+ contacts per donor per year). ONGOING</li> </ul>	Amy Johnson Erin Jacobson Board members Commission members	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
Corporate giving to the statewide Campaign for Legal Aid will increase through retention of 85% or more of existing corporate donors and acquisition of 10 new or lapsed ones.	<ul style="list-style-type: none"> <li>Develop and pay for targeted advertising in publications likely to be seen by prospective donors, including banks and foundations. SHORT-TERM/ONGOING</li> </ul>	Foundation Amy Johnson	<ul style="list-style-type: none"> <li>Ad pricing and specs obtained for <i>Arkansas Lawyer</i></li> </ul>
	<ul style="list-style-type: none"> <li>Develop and advertise sponsorship opportunities for limited scope pro bono events. SHORT-TERM/ONGOING</li> </ul>	Commission staff CALs/LAA Pro Bono Coordinators	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Recognize and thank corporate donors with personal phone calls from Board/Commission or staff members, thank-you letters, e-newsletter listings, and Annual Report mailer (4+ contacts per donor per year). ONGOING</li> </ul>	Amy Johnson Erin Jacobson Board members Commission members	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>



<p>The Foundation, in partnership with the Commission and legal aid, will establish one or more endowment funds to provide long-term, sustainable sources of funding for legal aid.</p>	<ul style="list-style-type: none"> <li>Develop recommendations for sources of funds for initial creation of endowment (e.g., % of annual giving, interest earned from Bank of America settlement, stand-alone endowment campaign) SHORT TERM</li> </ul>	Foundation Resource Development Committee	<ul style="list-style-type: none"> <li>Stock donation policy drafted and adopted by Foundation board 9/2016</li> </ul>
	<ul style="list-style-type: none"> <li>Develop parameters for endowment fund purpose. SHORT TERM</li> </ul>	Foundation Resource Development Committee	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Establish endowment fund at Arkansas Community Foundation. INTERMEDIATE TERM</li> </ul>	Amy Johnson Foundation Board officers	<ul style="list-style-type: none"> <li>Information about endowment accounts obtained from ARCF</li> </ul>
<p>Increase revenues for grants to legal aid and programs of the Commission through IOLTA “orphan funds” rule.</p>	<ul style="list-style-type: none"> <li><del>Seek adoption of orphan funds rule</del></li> <li><del>Develop forms and materials for implementation of IOLTA “orphan funds” rule</del></li> <li>Publicize new rule provisions through social media, articles in publications geared toward attorneys, and presentations to attorney associations. ONGOING</li> </ul>	Amy Johnson Foundation & Commission Resource Development Committees	<ul style="list-style-type: none"> <li><del>Forms and materials for reporting and remitting orphan funds available on AATJ website</del></li> <li>No activity to report.</li> </ul>
<p>Seek pro hac vice fees as potential source of revenue to support grants to legal aid and programs of the Commission.</p>	<ul style="list-style-type: none"> <li>Work with Office of Professional Programs on proposed Pro Hac Vice rule change (with revenues credited to Arkansas Access to Justice Foundation) SHORT/INTERMEDIATE TERM</li> </ul>	Amy Johnson Justice Wynne	<ul style="list-style-type: none"> <li>Pro Hac Vice rule adopted by Arkansas Supreme Court 10/20/2016 with Bar of Arkansas as designated recipient of funds. Suggest clarifying what intended purposes of funds are and then delete this item.</li> </ul>
<p>Explore unclaimed court registry money as source of revenue for</p>	<ul style="list-style-type: none"> <li>Research current mechanism for handling unclaimed court registry funds, how much</li> </ul>	Commission staff	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>

grants to support to legal aid and programs of the Commission.	there are, where they are, what legal mechanism would be required to provide a process of obtaining the funds, and the feasibility of doing so. INTERMEDIATE TERM	Judge Vic Harper	
Increase court settlement revenues to support grants to legal aid and programs of the Commission.	<ul style="list-style-type: none"> <li>Maintain regular contact (at least quarterly) with Arkansas Attorney General's office settlement funds and collaboration opportunities. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>Request for meeting with AG Chief of Staff made 10/25</li> </ul>
	Make judges and attorneys who handle class action cases aware of the Arkansas Access to Justice Foundation as a potential recipient of cy pres funds through personal contacts and informational materials. INTERMEDIATE	Commission Resource Development Committee	<ul style="list-style-type: none"> <li>Don Hollingsworth and Bill Waddell have had exploratory meetings.</li> </ul>
Establish support from Arkansas Congressional Delegation for maintaining or increasing Legal Services Corporation funding.	<ul style="list-style-type: none"> <li>At least annually, provide Arkansas Bar leadership and NLADA with specifics about legal aid delivery in their congressional districts as part of Law Day activities. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Establish network of contacts who have connections with state and federal legislators who will assist in reaching out to congressional delegation when bills that affect LSC funding or IOLTA programs are under consideration. INTERMEDIATE</li> </ul>	Amy Johnson; Commission Resource Development Committee	<ul style="list-style-type: none"> <li>No activity to report in developing network; have met personally with Congressman Womack (8/23/2016) and Congressman Westerman (10/25/2016)</li> </ul>
	<ul style="list-style-type: none"> <li>In coordination with congressional delegation, conduct a series of town hall meetings around the state. LONG TERM</li> </ul>	Jordan Rogers; Commission Resource Development Committee	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>

Seek state legislative funding for legal aid.	<ul style="list-style-type: none"> <li>• <del>Draft appropriation bill and seek its inclusion of appropriation in Bar Association legislative package. SHORT TERM</del> (drafted and sought; not included this year)</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>• Draft bill taken up by ArkBar House of Delegates</li> </ul>
	<ul style="list-style-type: none"> <li>• Participate in national capacity building calls sponsored by the ABA Resource Center for Access to Justice Initiatives. SHORT TERM</li> </ul>	Designated Commission Resource Development members	<ul style="list-style-type: none"> <li>• Staff and Mark Mayfield have participated in available calls; volunteers from Delivery Systems Committee needed to join calls on self-help and judicial innovations.</li> </ul>
	<ul style="list-style-type: none"> <li>• Meet with Governor regarding possible support for legislative funding for legal aid. SHORT TERM.</li> </ul>	Amy Johnson & Rod Nagel	<ul style="list-style-type: none"> <li>• In progress</li> </ul>
	<ul style="list-style-type: none"> <li>• Develop one-pager set of persuasive, factual information about civil legal aid and why it should receive legislative funding. SHORT TERM.</li> </ul>	Amy Johnson Commission Resource Development Committee	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>• Identify legislative sponsor and for draft appropriation legislation. SHORT TERM.</li> </ul>	Commission Resource Development Committee	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>• Support CALS and LAA in making contact with state legislators about how legal aid can be a constituent resource. INTERMEDIATE TERM</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>• Establish network of contacts who have connections with state legislators who will assist in reaching out to lawmakers when bills that affect funding or operations of CALS, LAA, or the Commission are under</li> </ul>	Amy Johnson Arkansas Bar Association Leadership	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>

	consideration. INTERMEDIATE TERM/ONGOING	Commission members Foundation Board members	
	<ul style="list-style-type: none"> <li>Recognize and publicize lawmakers who preserve, promote, and support access to justice and legal aid. LONG TERM</li> </ul>	Commission members	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Develop data visualization tool to map pertinent data related to legal need and legal service delivery so that legislators have access to district-specific information. INTERMEDIATE TERM.</li> </ul>	Amy Johnson Sarah Purtill Technical Expertise Committee Designated staff of CALS & LAA	<ul style="list-style-type: none"> <li>Attended two-day training on Tableau data visualization tools (8/24-8/25)</li> </ul>
	<ul style="list-style-type: none"> <li>Participate in local philanthropy roundtable hosted by ARCF. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
Programs of the Commission and legal aid will receive grant funding for core activities that are priorities for the philanthropic community.	<ul style="list-style-type: none"> <li>Foundation maintains active membership in SECF and utilizes this to establish contacts among regional grantmakers. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Identify community partners for grant opportunities requiring collaboration. ONGOING</li> </ul>	Commission staff	<ul style="list-style-type: none"> <li>Meeting with Judge Vann Smith, Pulaski County Court, re CourtHelp project</li> </ul>
	<ul style="list-style-type: none"> <li>Obtain letters of support and commitment for grants for LAA and CALS as needed. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>

	<ul style="list-style-type: none"> <li>• Monitor grant opportunities and disseminate information about grant opportunities to CALS and LAA. LONG-TERM</li> </ul>	Amy Johnson Jordan Rogers	<ul style="list-style-type: none"> <li>• ABA Foundation grant opportunity for CALS Clean Slate program identified and passed to CALS staff.</li> </ul>
	<ul style="list-style-type: none"> <li>• Provide grantwriting support to CALS and LAA. LONG-TERM</li> </ul>	Resource Development Director	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>• Maintain regular contact with members of the Arkansas Supreme Court through email communications, letters, and face-to-face meetings about Commission initiatives related to self-help. ONGOING</li> </ul>	Amy Johnson Justice Wynne	<ul style="list-style-type: none"> <li>• Reception with members of Arkansas Supreme Court held 10/27/2016</li> </ul>
Self-help resources created by legal aid have sustainable sources of funding and staff support.	<ul style="list-style-type: none"> <li>• Seek creation of court-funded position through Commission or Supreme Court Law Library. LONG-TERM</li> </ul>	Amy Johnson Justice Wynne	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>• Actively seek opportunities, through SJI grants or otherwise, to encourage adoption of self-help service delivery by the judiciary. LONG-TERM</li> </ul>	Amy Johnson Development Director	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>

**Goal Two: Strengthen support systems for the delivery of civil legal help through pro bono attorneys, limited scope representation, and resources for self-represented litigants.**

<b>Outcomes:</b> <b>What do we want to achieve?</b>	<b>Strategies:</b> <b>How can we achieve it?</b>	<b>Persons Responsible: Who Will Do It?</b>	<b>Metrics:</b> <b>What Can We Measure?</b>
Private attorneys understand the prevalence of self-representation and adapt their service delivery models to provide limited scope representation, which in turn results in greater access to justice.	<ul style="list-style-type: none"> <li>Seek adoption of proposed rule changes regarding limited scope representation               <ul style="list-style-type: none"> <li><del>Rules of Professional Conduct 1.2, 4.2, 4.3</del></li> <li>Rules of Civil Procedure 11, 64(b), and 87</li> </ul> </li> </ul> SHORT-TERM	Amy Johnson; <del>ArkBar Professional Ethics Committee;</del> Supreme Court Committee on Civil Practice	<ul style="list-style-type: none"> <li>Changes to Rules of Civil Procedure are pending; correction request for Rule 1.2 is pending.</li> </ul>
	<ul style="list-style-type: none"> <li><del>Create Notices of Limited Scope Representation referenced by proposed rules for attorneys to use.</del></li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li><del>Forms created and posted on website</del></li> </ul>
	<ul style="list-style-type: none"> <li>Complete limited scope representation attorney toolkit and conduct accompanying training. SHORT-TERM/ONGOING</li> </ul>	Jordan Rogers	<ul style="list-style-type: none"> <li>In progress</li> </ul>
	<ul style="list-style-type: none"> <li>Disseminate information to the bar about likely market opportunities presented by latent legal market and limited scope representation as an avenue for addressing justice gap while producing paying business for underemployed lawyers. SHORT-TERM/ONGOING</li> </ul>	Jordan Rogers Amy Johnson	<ul style="list-style-type: none"> <li>2 presentations given to attorney groups on limited scope representation</li> </ul>
	<ul style="list-style-type: none"> <li>Establish “panel” of attorneys who handle cases on a limited scope basis and disseminate directory of those attorneys (perhaps through ArkBar Find-a-Lawyer?). INTERMEDIATE</li> </ul>	Jordan Rogers	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>

	Establish a mechanism (through automated documents and referrals to directory) for connecting people in need of limited scope services with attorneys who provide such services. INTERMEDIATE	Program Coordinator; Designated legal aid staff who are responsible for website and automated documents	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	Identify and implement mechanism for tracking the number of Notices of LSR filed with courts. INTERMEDIATE/LONG-TERM	Amy Johnson; Program Coordinator; Office of Justice Statistics	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
Judges are supportive of Arkansas-specific self-help resources and limited scope representation in their courts.	<ul style="list-style-type: none"> <li>Seek adoption of proposed changes to Rule 2.2 of the Arkansas Judicial Code of Conduct and a statewide policy regarding information and assistance to self-represented litigants by court staff, librarians, and other non-attorneys with court information expertise. INTERMEDIATE</li> </ul>	Amy Johnson; Program Coordinator; Commission SRL Task Force	<ul style="list-style-type: none"> <li>Draft rule provided to Court 10/2016</li> </ul>
	Develop, in partnership with Judicial Council and District Judges Association, a judicial training curriculum and benchbook on strategies for handling self-represented litigants in the courtroom consistent with ethical obligations, judicial economy, and due process rights of litigants. INTERMEDIATE	Amy Johnson; Program Coordinator; Commission SRL Task Force	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	In conjunction with the Judicial Branch Education Division of the AOC and Education Committee of the Judicial Council, recruit judges in judicial districts where court-based limited scope assistance is provided to self-help patrons to speak to their peers about how such assistance can improve the administration of justice. INTERMEDIATE	Amy Johnson; Jordan Rogers; Commission SRL Task Force	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>

	<p>Develop mechanism for ongoing collection and compilation of Pulaski County CourtHelp pilot, including yet-to-be-done survey of judge and staff attitudes, to determine feasibility and desirability of expanding the model to other parts of the state, including rural areas. SHORT-TERM</p>	<p>Program Coordinator; Delivery Systems Committee; Sarah Purtil</p>	<ul style="list-style-type: none"> <li>• In progress</li> </ul>
	<ul style="list-style-type: none"> <li>• Report to and seek input from the Judicial Council and District Judges Association on Commission activities related to self-represented litigants and limited scope representation. INTERMEDIATE</li> </ul>	<p>Amy Johnson; Program Coordinator; Commission member judges (Judges Harper, Smith, and French)</p>	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>
<p>Circuit clerks and other court staff are supportive of self-help resources and are equipped to provide appropriate legal information to self-represented litigants.</p>	<ul style="list-style-type: none"> <li>• In consultation with judges and court staff associations, develop statewide guidance for adoption by the Arkansas Supreme Court regarding resources and information that court staff may permissibly provide to self-represented litigants without compromising the court's neutrality or engaging in the unauthorized practice of law. INTERMEDIATE</li> </ul>	<p>Amy Johnson; Program Coordinator; SRL Task Force</p>	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>• Develop and distribute a training curriculum and list of resources (including lists of modest means and/or limited scope attorneys; fact sheets; automated documents; etc.) for court staff to use and provide to self-represented litigants. INTERMEDIATE</li> </ul>	<p>Amy Johnson; Jordan Rogers; SRL Task Force</p>	<ul style="list-style-type: none"> <li>• No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>• Provide periodic training to court staff (through the Arkansas Association of Counties, Trial Court Assistants Association,</li> </ul>	<p>Jordan Rogers; SRL Task Force</p>	<ul style="list-style-type: none"> <li>• Discussed possibility of providing training to TCAs in May 2017 with Polly</li> </ul>



	and others) on statewide guidance. ONGOING		Leimberg
The concept of assisted self-help will be supported and promoted by the leadership of the bar as a means of attaining meaningful access to justice	<ul style="list-style-type: none"> <li>Provide regular reports to the House of Delegates and Board of Governors on activities of the Commission and Foundation. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>Written report given to Board of Governors 8/2016</li> </ul>
	<ul style="list-style-type: none"> <li>Offer CLE and other training opportunities to state and local bar associations, Arkansas Trial Lawyers Association, and other attorney organizations. ONGOING</li> </ul>	Amy Johnson; Jordan Rogers	<ul style="list-style-type: none"> <li>Staff have given or have scheduled 11 presentations since 7/2016.</li> <li>Staff assisted in planning of Tavis Smiley Show's "Courting Justice" taped forum held in Little Rock</li> </ul>
	<ul style="list-style-type: none"> <li>Assist Arkansas Bar Association Futures Commission in developing recommendations that address legal market challenges that impact access to justice. INTERMEDIATE</li> </ul>	Amy Johnson; Jordan Rogers; Delivery Systems Committee	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
The concept of assisted self-help will be supported and promoted by the leadership of the judicial branch as a means of attaining meaningful access to justice	<ul style="list-style-type: none"> <li>Commission Chair meets at least annually with members of the Arkansas Supreme Court. SHORT-TERM/ONGOING</li> </ul>	Justice Wynne; Rod Nagel; Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Commission provides regular (at least quarterly) updates on Commission activities to the Court. ONGOING</li> </ul>	Amy Johnson; Justice Wynne	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Invite Supreme Court liaison and other justices to attend Equal Justice Conference Chairs Meeting (annually). ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>

Attorneys will be more aware of pro bono opportunities and will have favorable attitudes toward pro bono service	<ul style="list-style-type: none"> <li>• Coordinate with legal aid pro bono panels on recruitment and recognition efforts for pro bono attorneys. ONGOING</li> </ul>	Jordan Rogers; Amy Johnson	<ul style="list-style-type: none"> <li>• Recruitment and recognition conducted during Pro Bono Week (10/23-10/29); 17 proclamations or citations received from mayors, governor, etc.; press coverage in Arkansas Online</li> </ul>
	Coordinate with CALS and LAA in conducting and promoting pro bono “saturation event” opportunities. ONGOING	Commission staff; Designated CALS and LAA staff	<ul style="list-style-type: none"> <li>• 2 expungement clinics held (9/9/2016 and 10/28/2016); plans for 2 other clinic events in progress.</li> </ul>
	<ul style="list-style-type: none"> <li>• Roll out Arkansas version of TN Online Justice program which is being made available for free through ABA. SHORT-TERM</li> </ul>	Jordan Rogers	<ul style="list-style-type: none"> <li>• Roll-out commenced 10/2016; 8 attorneys signed up so far</li> </ul>
	<ul style="list-style-type: none"> <li>• Support CALS and LAA in streamlining pro bono attorney sign-ups and case assignments. INTERMEDIATE</li> </ul>	Commission staff; Designated CALS and LAA staff	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>• Promote and support statewide implementation of Modest Means program. INTERMEDIATE</li> </ul>	Program Coordinator; Designated CALS and LAA staff	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>

**Goal Three: Provide technical expertise and other support to the efforts of the legislature, courts, and other entities to adopt innovations that improve access to justice for all Arkansans.**

<b>Outcomes: What do we want to achieve?</b>	<b>Strategies: How can we achieve it?</b>	<b>Persons Responsible: Who Will Do It?</b>	<b>Metrics: What Can We Measure?</b>
<p>Legislature, courts, nonprofits, and other entities are aware of the Commission and seek input from Commission on issues that impact access to the court system in civil matters (i.e., Commission is a thought leader)</p>	<ul style="list-style-type: none"> <li>Remain abreast of activities of these agencies that might affect access to civil justice and volunteer to serve in supporting role (e.g., Parent Counsel re-location, e-filing, court rule changes, administrative agency rules). ONGOING</li> </ul>	<p>Amy Johnson; Commissioners</p>	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Seek and maintain involvement, through Commission representatives, in Supreme Court Unauthorized Practice of Law Committee, governing bodies of the Arkansas Bar Association, and other entities that do work that relates to access to civil justice. ONGOING</li> </ul>	<p>Amy Johnson; Jordan Rogers; Technical Expertise Committee</p>	<ul style="list-style-type: none"> <li>Met with representatives of Arkansas Center for Health Improvement about obtaining data on health conditions caused or aggravated by poor housing conditions</li> </ul>
	<ul style="list-style-type: none"> <li>Seek and maintain involvement in community coalitions whose work can be informed by information regarding civil legal problems and the impact of these problems on other challenges that Arkansans face (e.g., Natural Wonders Council, Citizens First Congress). ONGOING</li> </ul>	<p>Amy Johnson; Program Coordinator; Technical Expertise Committee</p>	<ul style="list-style-type: none"> <li>Have attended monthly meetings of Natural Wonders; funding has been secured for statewide MLP network</li> </ul>
	<ul style="list-style-type: none"> <li>Obtain Arkansas Press Association directory; maintain up-to-date media contacts list for shared use with CALS and LAA for press releases and media pitches. SHORT-TERM/ONGOING</li> </ul>	<p>Commission staff</p>	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>In cooperation with CALS and LAA, develop a written <b>statewide communication plan and internal “toolkit”</b> that clearly identifies points of contact and matters within their expertise/authority</li> </ul>	<p>Sarah Purtill</p>	<ul style="list-style-type: none"> <li>In progress</li> </ul>

	to speak on for media and other inquiries.		
	<ul style="list-style-type: none"> <li>Draft and distribute press releases related to notable activities related to legal aid and access to justice; make media pitches when appropriate. ONGOING</li> </ul>	Amy Johnson Jordan Rogers	<ul style="list-style-type: none"> <li>Fox News TV spot on Center for Arkansas Legal Services (8/14); article in Arkansas Online about Pro Bono Week (10/22)</li> </ul>
	<ul style="list-style-type: none"> <li>Develop and seek publication of op ed pieces on the importance of legal aid, pro bono service, and access to justice. INTERMEDIATE</li> </ul>	Amy Johnson Visibility Committee	<ul style="list-style-type: none"> <li>No activity to report.</li> </ul>
	<ul style="list-style-type: none"> <li>Provide content to leaders of bench and bar to use in presentations and written pieces that touch on matters related to access to justice. ONGOING</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
	<ul style="list-style-type: none"> <li>Develop a “speakers bureau” of community leaders to give presentations to civic groups on the work of the Commission. LONG TERM</li> </ul>	Technical Expertise Committee	<ul style="list-style-type: none"> <li>No activity to report</li> </ul>
Legislature, Congress, courts, and other entities have access to up-to-date, relevant statistics and other information needed to make evidence-based decisions on matters that relate to legal aid and access to justice	<ul style="list-style-type: none"> <li>Automate IOLTA and pro bono self-reporting that is currently done via paper form through iMIS Automation Project. SHORT TERM</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>User testing in progress</li> </ul>
	<ul style="list-style-type: none"> <li>Annually compile and report on <ul style="list-style-type: none"> <li># of legal aid cases closed by county, problem code, and depth of service</li> <li>Legal aid recoveries/avoidances and outcomes</li> <li># of civil court filings in domestic relations, probate, housing, and consumer cases by county</li> <li>Poverty population by county</li> <li># of attorneys in private practice by county (attorneys with IOLTA accounts)</li> <li>Rural law practice data and anecdotes</li> <li># and types of self-reported pro bono activities</li> </ul> </li> </ul>	Commission staff	<ul style="list-style-type: none"> <li>Just received 2015 court case filing stats from AOC</li> </ul>

	<ul style="list-style-type: none"> <li>• Legal aid self-help website, fact sheet, and automated resource usage</li> <li>• Likely volume of self-represented litigants</li> <li>• Make recommendations to appropriate agencies based on data collected</li> </ul> <p>ONGOING</p>		
	<ul style="list-style-type: none"> <li>• Encourage and provide technical assistance to AOC in developing standards for tracking actual numbers of self-represented litigants, including default judgments. INTERMEDIATE</li> </ul>	Amy Johnson	<ul style="list-style-type: none"> <li>• AOC plans to begin basic tracking 1/1/2017</li> </ul>
Arkansas's Justice Index ranking improves.	<ul style="list-style-type: none"> <li>• Make Judiciary aware of Justice Index ranking and methodology, as well as opportunities to improve through court-adopted best practices for access to justice for self-represented litigants. LONG-TERM</li> </ul>	Amy Johnson; Justice Wynne	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>
	Provide technical assistance to Arkansas Judiciary to implement best practices. LONG-TERM	Commission staff; Technical Expertise Committee	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>
Adoption of innovations by other stakeholders that improve access to justice, e.g., incubator program; rural fellowships; etc.	<ul style="list-style-type: none"> <li>• Provide relevant data to stakeholders and offer assistance in developing, implementing, and publicizing such innovations. LONG-TERM</li> </ul>	Commission staff; Technical Expertise Committee	<ul style="list-style-type: none"> <li>• No activity to report</li> </ul>

Other Activities (Technical Assistance): Committee met to review and make recommendations relative to ABA-administered survey on pro bono service to be administered in January 2017. Committee will oversee distribution of survey in Arkansas.



ARKANSAS  
ACCESS TO  
JUSTICE  
REPRESENTING HOPE

Arkansas Bar Center, 2224 Cottondale Lane, Little Rock, AR 72202

Arkansas Access to Justice Foundation  
Board of Directors Meeting  
August 19, 2016  
11:30 a.m.

**Board of Directors:**

**Participating:**

Toby Atkinson  
Tamra Cochran (phone)  
Angela Duran  
Zina Frazier  
J.D. Gingerich  
Tyler Ginn (phone)  
Don Hollingsworth  
Ron Lanoue  
John Monroe  
Frank Sewall (phone)  
Vicki Smith (phone)  
Katie Stephens (present)

**Absent:**

Dr. Alice Hines  
Jim Sprott  
Bill Waddell

**Guests:**

Chris Patterson  
Jordan Rogers

**Staff:**

Amy Johnson  
Erin Jacobson

**MEETING MINUTES**

Mr. Waddell could not attend, so Mr. Hollingsworth agreed to chair the meeting. Mr. Hollingsworth called the meeting to order at 11:30 a.m. Board members agreed to modification of the order of business on the agenda to accommodate the schedules of board members who could not be present for the entire meeting.

**Report on Children's Story Prize**

Ms. Stephens gave a brief report on plans for the creation of a Children's Story Prize. The project will be a way to spread awareness of what legal aid and Arkansas Access to Justice do. She has reached out to a friend who used to work with Teach For America and who offered to help develop a lesson plan. She has also contacted the *Democrat Gazette* to inquire about what would be involved in publishing a prize-winning story.

Mr. Monroe asked about how the project would be publicized and how schools would be engaged. Ms. Stephens stated that it would likely begin with existing contacts at local schools. She added that Mr. Waddell might have some sponsors lined up. Mr. Hollingsworth suggested contacting the Arkansas Bar Association to obtain a list of schools that currently participate in the mock trial program. He also suggested adding a second place prize. As for a launch date, Ms. Johnson suggested that the process be timed so that winning submissions would be announced in May, close to Law Day.

Board members were in unanimous agreement that the project should be pursued. The Committee will meet to come up with a name for the prize and develop a recommended time frame for announcing the program.

**Approval of Minutes of June 24, 2016 Meeting**

Mr. Sewall moved to approve the minutes of the June 24, 2016 meeting, and Mr. Monroe seconded the motion. The motion was unanimously approved.

**Governance Committee Report**

Ms. Duran gave the report of the Governance Committee. The Committee met earlier this morning with the Foundation's auditor, Chris Patterson, who reviewed with them the 2015 audited financial statements and the draft Form 990. The auditor gave an unqualified opinion, indicating that the financial statements were

materially correct in all respects. Committee members reviewed both the statement and Form 990 in detail, and recommended that the full board approve both. Board members voted unanimously to do so.

### Executive Director's Report

Ms. Johnson opened her report with an update on interest rates and income from the IOLTA Program. Rates holding steady at an average of about 0.10%. Four new banks have joined the Preferred Banks Program since June; staff have developed an annual Community Reinvestment Act statement for these banks and are developing a description of the program's criteria.

Ms. Johnson and Ms. Stephens attended the National Association of IOLTA Programs meeting in August in San Francisco. Ms. Stephens reported that she had a great time and was interested to learn about what other states are doing and learning about how other states are defining "community redevelopment." The Bank of America settlement was primary focus of the meeting, as well as anticipated increases interest rates.

Next, Ms. Johnson spoke briefly about the Commission's strategic priority and its major goal related to resource development. The Foundation's Resource Development Committee will need to work closely with the Commission committee assigned to work on this priority.

Ms. Johnson then introduced Mr. Jordan Rogers as the new Program Coordinator hired to work for the Arkansas Access to Justice Commission. She also reported that the Commission will be assigned an AmeriCorps VISTA who will assist the Commission in capacity building work around planning and evaluation for statewide civil legal needs.

In light of the growth in staff, there is a near-term need to consider relocating the Commission and Foundation offices. The current space that the Foundation leases from the Center for Arkansas Legal Services has only four offices available for five staff members. The AmeriCorps member will be able to temporarily work out of the Center's intern room, but not indefinitely. Ms. Johnson will work with the Executive Committee in the event that action is required between meetings. Changes to the budget may ultimately be needed.

Ms. Johnson contacted the Alliance for Justice about the possibility of a presentation to the board on lobbying and the use of the 501(h) election but has not received a response. It will ultimately be prudent for the Foundation to make this election given staff's work in seeking legislative funding for legal services and on reform of the state's landlord-tenant laws.

### Resource Development Committee Report

Mr. Hollingsworth gave the Resource Development Committee report. Ms. Johnson and Mr. Spratt will be working together to develop materials on the Preferred Banks Program. The one-page "menu" of options for supporting the Foundation is still under development. There will be different variations depending on the audience (corporations, individual attorneys, law firms, etc.). There is a need generally to broaden annual fundraising efforts, support from the private bar. The VOCALS campaign is continuing, with greater joint branding of the campaigns for the upcoming solicitation cycle. Online giving and the 6.1 Society will be included as options.

Mr. Hollingsworth reported that the Committee met to discuss recommendations for the use of interest earned on the Bank of America settlement, including the option of using it to establish an endowment. The Committee felt that the earnings needed to be kept available and unrestricted in the event that the funds invested were to experience a loss, in which case the funds would be used to meet the Foundation's grant commitments. The two legal services organizations will still ultimately be the primary beneficiaries of any income, but the Committee felt it was premature to make any recommendation other than the recommendation that the income be classified on the Foundation's financial statements as unrestricted. Mr. Gingerich moved to classify Bank of America Settlement revenue as unrestricted on the Foundation's financial statements. Mr. Atkinson seconded the motion, and the motion was approved with Ms. Frazier abstaining.

### Finance Committee Report

Mr. Gingerich gave the Finance Committee report. He stated that the Foundation has in place a sound process for receiving and spending money that involves staff, court financial officers, and the board. He went over the year-to-date financials, indicating that both revenues and expenditures were where they needed to be. The Committee recommended approval of the report, which the board unanimously voted to do.

Next, Mr. Gingerich reported on the results of the Investment Advisor RFP selection. Mr. Hollingsworth asked for all related discussion to be kept confidential. Mr. Monroe and Ms. Stephens, both of whom previously disclosed conflicts of interest that precluded their participation in any vote, did not participate in the discussion. Six responses to the RFP were received, and four of the firms were interviewed. It was the Committee's recommendation that Stephens, Inc., be engaged to manage the Bank of America settlement funds. Stephens previously managed the \$2 million settlement distribution received from the Attorney General's office in 2012, and did so with excellent results.

Mr. Hollingsworth added that not all of the funds would be immediately invested in stocks, as some will be retained in CDs, money market accounts, and similar products. The Investment Policy will need to be amended to permit the use of covered calls as an investment strategy.

The board approved authorizing the Committee to revise the Investment Policy and engaging Stephens to manage the Bank of America settlement funds, with Ms. Stephens not present for the vote and Mr. Monroe abstaining.

There was further discussion about specifying board involvement in certain investment decisions for investing as to put all responsibility on the Executive Director's shoulders. Further discussed levels of approval required for different types of investments, including a covered call (i.e., not requiring committee approval for such an investment decision).

### Grant Committee Report

Mr. Sewall gave the report of the Grant Committee. He began by noting that the Committee's recommendations had not taken into account the \$416,607.49 received in 2015; some tweaks to recommended amounts may be needed. The Committee's recommendations for the \$4 million (not included the 2015 distribution) are as follows:

Recommendation 1: Continue a base level of funding that would be at least as much as the Center for Arkansas Legal Services and Legal Aid of Arkansas are receiving now under the Attorney General Housing Settlement, but split according to poverty population instead of 55% CALS/45% LAA. Under the new allocation, annual grants would total approximately \$227,920, or 40.7%, for LAA; and \$332,080, or 59.3%, for CALS. The recommended duration of the grant would be for five years (\$560,000 per year at \$2.8 million total).

Recommendation 2: Fund proposed special projects on top of the base level funding. The Committee suggests a three-year cycle for distribution of the remaining \$1,269,286.

Recommendation 3: Move to a prospective payment distribution vs. reimbursement, with semi-annual reporting to include at least the following items from the Foundation's grant policy:

*Such reports may include an accounting of all grant-related expenditures; audited financial statements; case statistical reports; case outcomes; recoveries and avoidances; client satisfaction data; and client stories. For Project Grants, the grantee shall submit any materials or reports developed using grant funds.*

Recommendation 4: Set as a Year 1 milestone a requirement that both programs implement a consistent system of case outcome collection and reporting for cases funded with BOA settlement funds, with a commitment that the Foundation would provide any funding to support implementation of this requirement.

Recommendation 5: Request that Jean Carter and Lee Richardson work together (using the Missouri and Kentucky Bank of America grant agreements as starting points) to develop a recommended definition of "Community Redevelopment Legal Services," as well as a list of problem codes and nexus issues to be included under the base grant.

Recommendation 6: In arriving at a methodology for calculating application of the grant funds to services delivered, a unit of value (much like a billable hour) should be determined. Mr. Waddell offered to assist in determining what the unit of value should be for purposes of the grant. CALS and LAA asked whether the rate would be the same for legal service delivery and other services, such as outreach and community education. The committee made no recommendation at this time regarding whether the same rate would apply. Input will be sought and a recommendation made at a later time.



Some of the Bank of America settlement funds will be available by October. The board had previously decided to distribute the 2015 Bank of America funds according to the same terms as the Attorney General settlement funds, but it might make sense to apply the same terms and conditions to the 2015 funds as were to be applied to the \$4 million distribution.

Mr. Hollingsworth suggested starting the base funding from Recommendation 1 in the final quarter of 2016 and delaying distribution of special project funds until there has been reporting back from the grantees on how the base funding has been used. He also noted that the special project funding is, for purposes of the Foundation's Grant Policy, not required to be distributed according to poverty population of the grantee service area, but may be awarded based on the merits of the proposed projects.

Members of the board voted in favor of the Grant Committee's recommendations, with Ms. Frazier abstaining from the vote. Mr. Sewall then made a motion to include the 2015 Bank of America distribution under the same terms and conditions applicable to the 2016 distribution of \$ 4 million. Mr. Lanoue seconded, and Ms. Frazier abstained. All others members voted in favor of the motion.

The next board meeting will take place as part of the October 28-29 Joint Retreat with members of the Arkansas Access to Justice Commission. All members are invited to attend a reception the evening of the 27<sup>th</sup> with members of the Arkansas Supreme Court.

The meeting adjourned at 1:46 p.m.

**ARKANSAS ACCESS TO JUSTICE FOUNDATION, INC.**  
**BALANCE SHEET FUND EXPENDITURES**  
**9 PERIODS ENDED 9/30/2016**

<u>ASSETS</u>	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Combined</u>
<b>CASH &amp; CASH EQUIVALENTS:</b>			
Simmons Operating Account	\$ 7,277.17	\$ -	\$ 7,277.17
Regions Money Market Account	\$ 42,487.13	\$ -	\$ 42,487.13
Centennial 1.15(c) Account	\$ 17.36	\$ 27,978.58	\$ 27,995.94
Community First Money Market	\$ -	\$ 413.40	\$ 413.40
Simmons ICS Account	\$ 1,828.42	\$ 4,069,286.00	\$ 4,071,114.42
Simmons Campaign Account	\$ 95,545.82	\$ 4,662.50	\$ 100,208.32
<b>TOTAL:</b>	<b>\$ 147,155.90</b>	<b>\$ 4,102,340.48</b>	<b>\$ 4,249,496.38</b>
<b>INVESTMENTS &amp; CDs:</b>			
Community First	\$ -	\$ 490,753.48	\$ 490,753.48
Southern Bancorp	\$ 25,131.64	\$ -	\$ 25,131.64
Stephens, Inc.	\$ -	\$ 69,871.18	\$ 69,871.18
<b>TOTAL:</b>	<b>\$ 25,131.64</b>	<b>\$ 560,624.66</b>	<b>\$ 585,756.30</b>
<b>OFFICE EQUIPMENT</b>	<b>\$ 7,988.00</b>		
<b>COMBINED TOTAL:</b>	<b>\$ 180,275.54</b>	<b>\$ 4,662,965.14</b>	<b>\$ 4,843,240.68</b>
<b><u>RECONCILIATION</u></b>			
Previous Balance	\$ 186,470.49	\$ 4,658,778.16	\$ 4,845,248.65
Equipment Capitalization	\$ 2,067.00	\$ -	\$ 2,067.00
EXCESS (DEFICIT) FOR PERIOD	\$ (8,261.95)	\$ 4,186.98	\$ (4,074.97)
<b>TOTAL PRESENT BALANCE</b>	<b>\$ 180,275.54</b>	<b>\$ 4,662,965.14</b>	<b>\$ 4,843,240.68</b>

**Arkansas Access to Justice Foundation, Inc.**

**BALANCE SHEET & FUND EXPENDITURES**

**9 PERIODS ENDED 9/30/2016**

	<b>CURRENT MONTH</b>	<b>LAST YEAR MONTH</b>	<b>YEAR TO DATE</b>	<b>LAST YEAR TO DATE</b>	<b>BUDGET YTD</b>	<b>TOTAL BUDGET</b>	<b>% OF BUDGET</b>
<b>REVENUE:</b>							
Income/IOLTA Participants	10,032.28	8,046.37	88,752.81	78,110.90	86,249.97	115,000.00	77.18
Bank Interest Simmons Operating	2.57	6.02	25.51	64.43	60.03	80.00	31.89
Bank Interest Regions MM	1.02	2.33	10.15	15.05	15.03	20.00	50.75
Bank Interest Community 1st	0.27	172.59	394.28	1,343.93	749.97	1,000.00	39.43
CD Interest	18.94	18.93	1,033.43	1,023.95	29.97	40.00	2583.58
IOLTA PRIOR YEAR Income	0.00	0.00	0.00	1,904.98	0.00	0.00	0.00
Bank Interest Simmons Campaign	12.91	12.57	95.05	139.44	112.50	150.00	63.37
Bank Interest Centennial Unclaime	2.14	0.00	16.97	0.00	0.00	0.00	0.00
Bank Interest ICS Account	669.04	0.00	1,828.42	0.00	0.00	0.00	0.00
Dividend Income	417.00	1,042.94	13,693.49	7,496.69	5,249.97	7,000.00	195.62
Event Sponsorships	0.00	0.00	0.00	0.00	2,250.00	3,000.00	0.00
Donations	2,065.00	500.00	32,068.66	24,875.68	63,749.97	85,000.00	37.73
Designated Donations	662.50	0.00	1,882.50	1,175.00	2,250.00	3,000.00	62.75
Project Grants	0.00	0.00	0.00	7,178.08	11,250.00	15,000.00	0.00
Bank of America Settlement Rever	0.00	0.00	4,069,286.00	416,607.59	0.00	0.00	0.00
Unclaimed Funds	3,209.71	0.00	7,680.42	0.00	11,250.00	15,000.00	51.20
Unidentifiable Funds	0.00	0.00	10,530.66	0.00	11,250.00	15,000.00	70.20
<b>TOTAL REVENUE</b>	<b>17,093.38</b>	<b>9,801.75</b>	<b>4,227,298.35</b>	<b>539,935.72</b>	<b>194,467.41</b>	<b>259,290.00</b>	<b>1630.34</b>

	<b>CURRENT MONTH</b>	<b>LAST YEAR MONTH</b>	<b>YEAR TO DATE</b>	<b>LAST YEAR TO DATE</b>	<b>BUDGET YTD</b>	<b>TOTAL BUDGET</b>	<b>% OF BUDGET</b>
<b>EXPENSES:</b>							
Temporary Help Database Asst.	1,309.00	1,290.00	11,000.00	10,725.00	11,999.97	16,000.00	68.75
Temporary Help Comp Data Entry	0.00	157.50	0.00	506.25	1,500.03	2,000.00	0.00
Parking	0.00	0.00	0.00	36.00	0.00	0.00	0.00
Insurance Bond	135.00	0.00	110.00	0.00	101.25	135.00	81.48
Insurance D & O	0.00	0.00	2,421.00	2,435.00	1,837.53	2,450.00	98.82
Insurance General Liability	0.00	0.00	750.00	750.00	562.50	750.00	100.00
ACH & Bank Service Charges	659.67	47.33	1,094.33	462.71	468.72	625.00	175.09
Office Equipment	2,066.67	0.00	2,132.06	299.99	1,874.97	2,500.00	85.28
Dues and Subscriptions	0.00	0.00	900.00	600.00	900.00	1,200.00	75.00
Office Supplies	93.01	0.00	333.15	1,406.53	2,250.00	3,000.00	11.11
Postage & Copying	36.57	0.00	1,215.38	744.02	2,625.03	3,500.00	34.73
Telephone and Internet	664.30	644.06	6,269.30	6,038.05	6,082.47	8,110.00	77.30
Rent	783.00	810.00	7,047.00	6,858.00	7,047.00	9,396.00	75.00
Travel Board	836.68	0.00	4,689.78	0.00	2,250.00	3,000.00	156.33
Travel Staff	110.79	0.00	2,678.45	3,988.20	3,577.50	4,770.00	56.15
Board Retreat	465.00	0.00	4,650.00	0.00	0.00	0.00	0.00
Board Meeting Expenses	381.32	0.00	1,693.59	594.29	9,000.00	12,000.00	14.11
Audit & CPA	2,173.75	402.50	6,400.00	3,892.25	5,625.00	7,500.00	85.33
Miscellaneous Expenses	0.00	0.00	109.50	0.00	150.03	200.00	54.75
Grant Disbursements Metro	0.00	0.00	50,000.00	0.00	0.00	0.00	0.00

**Arkansas Access to Justice Foundation, Inc.**

**BALANCE SHEET & FUND EXPENDITURES**

**9 PERIODS ENDED 9/30/2016**

AG Settlement Disbursements	0.00	0.00	375,000.00	375,000.00	0.00	0.00	0.00
Software Licensing	6,000.00	0.00	10,245.00	3,873.92	7,336.53	9,782.00	104.73
IT Support CALS	0.00	0.00	0.00	0.00	375.03	500.00	0.00
Website Hosting	30.99	0.00	392.93	513.90	375.03	500.00	78.59
Credit Card Processing Fees	33.41	0.00	282.46	185.91	281.25	375.00	75.32
Direct Mail Campaign	250.69	0.00	6,178.48	0.00	7,499.97	10,000.00	61.78
Donor Recognition	0.00	0.00	0.00	0.00	2,250.00	3,000.00	0.00
Email Marketing	0.00	0.00	912.00	912.00	693.72	925.00	98.59
Resource Development Contract	0.00	3,500.00	3,500.00	33,000.00	2,625.03	3,500.00	100.00
ABA Project Pro Se Clinics	0.00	0.00	0.00	89.30	4,500.00	6,000.00	0.00
Annual Report	0.00	0.00	4,770.26	3,147.68	3,750.03	5,000.00	95.41
Outreach/Education	36.00	0.00	748.56	3,729.99	6,750.00	9,000.00	8.32
Designated Donation Distribution	102.50	0.00	1,170.00	2,550.00	2,625.03	3,500.00	33.43
Campaign for Legal Aid Distributio	0.00	0.00	0.00	0.00	45,000.00	60,000.00	0.00
Grant Expenses	0.00	0.00	0.00	0.00	375.03	500.00	0.00
Pro Bono Outreach Clinics	0.00	0.00	0.00	0.00	1,125.00	1,500.00	0.00
Campaign for Legal Aid Distributio	0.00	46,710.50	0.00	46,710.50	0.00	0.00	0.00
Prof. Services IOLTA Conversion	5,000.00	0.00	5,000.00	0.00	17,523.72	23,365.00	21.40
Prof. Services Website Redesign	0.00	0.00	0.00	0.00	3,750.03	5,000.00	0.00
Unclaimed Funds PAID	0.00	0.00	17.00	0.00	0.00	0.00	0.00
<b>TOTAL EXPENSES</b>	<b>21,168.35</b>	<b>53,561.89</b>	<b>511,710.23</b>	<b>509,049.49</b>	<b>164,687.40</b>	<b>219,583.00</b>	<b>233.04</b>
<b>NET EXCESS (DEFICIT) FOR PERI</b>	<b>(4,074.97)</b>	<b>(43,760.14)</b>	<b>3,715,588.12</b>	<b>30,886.23</b>	<b>29,780.01</b>	<b>39,707.00</b>	<b>9357.51</b>

## ARKANSAS ACCESS TO JUSTICE FOUNDATION

### 2016 Operating Revenues and Expenses as of 9/30/2016

(excluding unrealized gains/losses, cy pres, mortgage settlement interest, and grants)

	<u>CURRENT</u> <u>MONTH</u>	<u>LAST YEAR</u> <u>MONTH</u>	<u>YEAR TO DATE</u>	<u>LAST YEAR TO</u> <u>DATE</u>	<u>BUDGET YTD</u>	<u>TOTAL</u> <u>BUDGET</u>	<u>% OF BUDGET</u>
<b>REVENUE:</b>							
IOLTA Income	\$ 10,032.28	\$ 8,046.37	\$ 88,752.81	\$ 78,110.92	\$ 82,249.97	\$ 115,000.00	77.18
IOLTA Income-Prior Years	\$ -	\$ -	\$ -	\$ 1,904.98	\$ -	\$ -	0.00
IOLTA Income-Unclaimed Funds	\$ 3,209.71	\$ -	\$ 7,680.42	\$ -	\$ 11,250.00	\$ 15,000.00	51.20
IOLTA Income-Unidentifiable Funds	\$ -	\$ -	\$ 10,530.66	\$ -	\$ 11,250.00	\$ 15,000.00	70.20
Bank Interest - Foundation Accts	\$ 18.64	\$ 20.92	\$ 147.68	\$ 218.92	\$ 187.56	\$ 250.00	59.07
Bank Interest -BOA Settlement	\$ 669.04	\$ -	\$ 1,828.42	\$ -	\$ -	\$ -	0.00
Foundation CD Interest (excl. CF)	\$ 18.94	\$ 18.93	\$ 56.57	\$ 55.93	\$ 29.97	\$ 40.00	141.43
Donations	\$ 2,065.00	\$ 500.00	\$ 32,468.66	\$ 24,875.68	\$ 63,749.97	\$ 85,000.00	38.20
Designated Donations	\$ 662.50	\$ -	\$ 1,482.50	\$ 1,175.00	\$ 2,250.00	\$ 3,000.00	49.42
Event Sponsorships	\$ -	\$ -	\$ -	\$ -	\$ 2,250.00	\$ 3,000.00	0.00
Project Grants	\$ -	\$ -	\$ -	\$ 7,178.08	\$ 11,250.00	\$ 15,000.00	0.00
<b>TOTAL REVENUE:</b>	<b>\$ 16,676.11</b>	<b>\$ 8,586.22</b>	<b>\$ 142,947.72</b>	<b>\$ 113,519.51</b>	<b>\$ 184,467.47</b>	<b>\$ 251,290.00</b>	<b>56.89</b>
<b>OPERATING EXPENSES:</b>							
	<u>CURRENT</u> <u>MONTH</u>	<u>LAST YEAR</u> <u>MONTH</u>	<u>YEAR TO DATE</u>	<u>LAST YEAR TO</u> <u>DATE</u>	<u>BUDGET YTD</u>	<u>TOTAL</u> <u>BUDGET</u>	<u>% OF BUDGET</u>
Temporary Help-Database Asst	\$ 1,309.00	\$ 1,290.00	\$ 11,000.00	\$ 10,725.00	\$ 11,999.97	\$ 16,000.00	68.75
Temporary Help - IOLTA Compliance	\$ -	\$ 157.50	\$ -	\$ 506.25	\$ 1,500.03	\$ 2,000.00	0.00
Parking	\$ -	\$ -	\$ -	\$ 36.00	\$ -	\$ -	0.00
Insurance Bond	\$ 135.00	\$ -	\$ 110.00	\$ -	\$ 101.25	\$ 135.00	81.48
Insurance D&O	\$ -	\$ -	\$ 2,421.00	\$ 2,435.00	\$ 1,837.53	\$ 2,450.00	98.82
Insurance General Liability	\$ -	\$ -	\$ 750.00	\$ 750.00	\$ 562.50	\$ 750.00	100.00
ACH & Bank Service Charges	\$ 659.67	\$ 47.33	\$ 1,094.33	\$ 462.71	\$ 468.72	\$ 625.00	175.09
Office Equipment	\$ 2,066.67	\$ -	\$ 2,132.06	\$ 299.99	\$ 1,874.97	\$ 2,500.00	85.28
Dues & Subscriptions	\$ -	\$ -	\$ 900.00	\$ 600.00	\$ 900.00	\$ 1,200.00	75.00
Office Supplies	\$ 93.01	\$ -	\$ 333.15	\$ 1,406.53	\$ 2,250.00	\$ 3,000.00	11.11
Postage & Copying	\$ 36.57	\$ -	\$ 1,215.38	\$ 744.02	\$ 2,625.03	\$ 3,500.00	34.73

Telephone & Internet	\$ 664.30	\$ 644.06	\$ 6,269.30	\$ 6,038.05	\$ 6,082.47	\$ 8,110.00	77.30
Rent	\$ 783.00	\$ 810.00	\$ 7,047.00	\$ 6,858.00	\$ 7,047.00	\$ 9,396.00	75.00
Travel-Board	\$ 836.68	\$ -	\$ 4,689.78	\$ -	\$ 2,250.00	\$ 3,000.00	156.33
Travel-Staff	\$ 110.79	\$ -	\$ 2,678.45	\$ 3,988.20	\$ 3,577.50	\$ 4,770.00	56.15
Board Meeting Expenses	\$ 381.32	\$ -	\$ 1,693.59	\$ 594.29	\$ 9,000.00	\$ 12,000.00	14.11
Audit & CPA	\$ 2,173.75	\$ 402.50	\$ 6,400.00	\$ 3,892.25	\$ 5,625.00	\$ 7,500.00	85.33
Miscellaneous Expenses	\$ -	\$ -	\$ 109.50	\$ -	\$ 150.03	\$ 200.00	54.75
Software Licensing	\$ 6,000.00	\$ -	\$ 10,245.00	\$ 3,873.92	\$ 7,336.53	\$ 9,782.00	104.73
IT Support-CALS	\$ -	\$ -	\$ -	\$ -	\$ 375.03	\$ 500.00	0.00
Website Hosting	\$ 30.99	\$ -	\$ 392.93	\$ 513.90	\$ 375.03	\$ 500.00	78.59
Credit Card Processing Fees	\$ 33.41	\$ -	\$ 282.46	\$ 185.91	\$ 281.25	\$ 375.00	75.32
Direct Mail Campaign	\$ 250.69	\$ -	\$ 6,178.48	\$ -	\$ 7,499.97	\$ 10,000.00	61.78
Donor Recognition	\$ -	\$ -	\$ -	\$ -	\$ 2,250.00	\$ 3,000.00	0.00
Email Marketing	\$ -	\$ -	\$ 912.00	\$ 912.00	\$ 693.72	\$ 925.00	98.59
Resource Development Contract	\$ -	\$ 3,500.00	\$ 3,500.00	\$ 33,000.00	\$ 2,625.03	\$ 3,500.00	100.00
ABA Project - Pro Se Clinics	\$ -	\$ -	\$ -	\$ 89.30	\$ 4,500.00	\$ 6,000.00	0.00
Annual Report	\$ -	\$ -	\$ 4,770.26	\$ 3,147.68	\$ 3,750.03	\$ 5,000.00	95.41
Outreach/Education	\$ 36.00	\$ -	\$ 748.56	\$ 3,729.99	\$ 6,750.00	\$ 9,000.00	8.32
Pro Bono Outreach Clinics	\$ -	\$ -	\$ -	\$ -	\$ 1,125.00	\$ 1,500.00	0.00
Grant Expenses	\$ -	\$ -	\$ -	\$ -	\$ 375.03	\$ 500.00	0.00
Prof'l Services - IOLTA Conversion	\$ 5,000.00	\$ -	\$ 5,000.00	\$ -	\$ 17,523.03	\$ 23,365.00	21.40
Prof'l Services - Website Redesign	\$ -	\$ -	\$ -	\$ -	\$ 3,750.03	\$ 5,000.00	0.00
Claims - Unclaimed Funds Repaid	\$ -	\$ -	\$ 17.00	\$ -	\$ -	\$ -	0.00
Campaign for Legal Aid Distribution	\$ -	\$ 46,710.50	\$ -	\$ 46,710.50	\$ 45,000.00	\$ 60,000.00	0.00
Designated Donation Distribution	\$ 102.50	\$ -	\$ 1,170.00	\$ 2,550.00	\$ 2,625.03	\$ 3,500.00	33.43
<b>TOTAL EXPENSES:</b>	<b>\$ 20,703.35</b>	<b>\$ 53,561.89</b>	<b>\$ 82,060.23</b>	<b>\$ 134,049.49</b>	<b>\$ 164,686.71</b>	<b>\$ 219,583.00</b>	<b>37.37</b>
<b>NET EXCESS (DEFICIT) FOR PERIOD</b>	<b>\$ (4,027.24)</b>	<b>\$ (44,975.67)</b>	<b>\$ 60,887.49</b>	<b>\$ (20,529.98)</b>	<b>\$ 19,780.76</b>	<b>\$ 31,707.00</b>	<b>192.03</b>

## ATTORNEY IOLTA REVENUE

	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	TOTAL
1997	79,534	46,058	41,145	72,560	45,295	44,601	69,436	54,902	48,852	73,193	52,403	50,154	678,133
1998	85,026	56,940	46,172	67,936	51,296	57,159	84,147	65,973	66,289	48,416	88,821	62,088	780,263
1999	70,944	65,157	60,125	75,370	56,709	75,590	82,109	76,935	66,302	82,239	69,915	60,769	842,164
2000	106,505	62,609	72,113	92,143	67,886	73,415	75,822	77,366	84,762	98,338	74,903	86,050	971,911
2001	105,113	82,951	96,394	121,102	91,381	82,725	87,556	71,206	62,882	75,532	55,076	44,333	976,252
2002	60,042	41,315	40,699	47,126	39,435	38,233	46,832	39,073	36,372	49,224	38,591	35,776	512,719
2003	38,227	34,119	28,177	35,274	29,302	32,283	36,231	18,851	20,837	31,516	24,914	25,369	355,100
2004	24,045	22,295	24,287	24,299	21,698	24,389	23,531	23,966	15,091	27,381	23,001	24,102	278,085
2005	41,404	28,465	27,629	42,390	48,342	37,948	42,628	30,824	31,503	49,986	49,772	55,901	486,792
2006	72,038	61,200	61,295	62,608	60,784	62,007	60,095	61,056	55,326	50,839	51,265	52,665	711,178
2007	54,977	55,932	58,287	54,449	49,151	55,783	48,312	52,179	52,398	48,252	46,840	45,622	622,182
2008	49,602	44,864	36,396	52,208	22,984	44,594	49,266	49,451	45,661	30,878	27,188	28,998	482,090
2009	18,195	28,759	16,988	17,041	16,060	18,352	16,693	13,993	18,663	15,603	13,388	21,201	214,936
2010	17,743	20,869	15,610	19,511	9,011	27,759	21,650	20,210	20,385	21,748	18,113	17,458	230,066
2011	15,370	15,272	14,806	15,274	11,901	8,085	20,692	18,877	12,568	11,588	7,129	16,025	167,584
2012	14,004	24,203	14,400	7,013	15,915	14,256	6,509	12,696	4,209	11,538	11,995	21,351	158,089
2013	11,784	11,377	9,656	9,802	7,860	8,522	7,142	6,851	7,775	6,334	7,611	7,102	101,816
2014	7,261	7,944	7,179	8,323	9,470	8,113	7,910	8,162	8,122	7,424	8,215	8,075	96,198
2015	11,264	9,149	8,486	9,092	8,549	9,086	7,973	8,371	8,046	7,803	8,867	8,590	105,276
2016	10,349	10,961	8,800	9,495	9,729	9,528	10,343	9,515	10,032				88,752



Arkansas Access to Justice Foundation

ARKANSAS  
ACCESS TO  
JUSTICE  
REPRESENTING HOPE

**Finance Committee Meeting**  
**October 21, 2016**  
**12:00 p.m.**

**Call via joinme/arkansasjustice**  
**1-860-970-0010**  
**Access Code: 193-842-017#**

**Committee Members:**

J.D. Gingerich (present)  
Don Hollingsworth (present)

John Monroe (present)  
Vicki Smith (present)

**Meeting Minutes**

The meeting was called to order at 12:02 p.m.

The first item of business was the approval of revisions to the Investment Policy. The revisions (attached) will specifically authorize the use of covered calls and to eliminate foreign investments from the “unauthorized investments category.” Mr. Monroe moved to approve the revisions and Mr. Hollingsworth seconded the motion. Discussion about the need for committee involvement in certain investment decisions followed. Committee members agreed that the language in Section IV of the policy regarding Management of Funds was sufficient to address the need for there to be board involvement in investment decisions, but also felt that there needed to be a procedure in place for ensuring that involvement occurred. Members of the Committee agreed that, for any investment matter for which the Investment Advisor seeks input from the Executive Director, the Executive Director will notify the Chairperson of the Board and the Chairperson of the Finance Committee via email. The revised policy and notification procedure were unanimously approved.

The second item of business was a decision on an initial amount to invest with Stephens. The Committee authorized Ms. Johnson to move forward with investment of up to \$1,000,000 of the Bank of America settlement funds with Stephens. It is anticipated that future allotments will be needed as Stephens invests the funds. Ms. Johnson will notify the Committee in advance of making future transfers for investment.

Meeting adjourned at 12:32 p.m.



## **ARKANSAS ACCESS TO JUSTICE FOUNDATION INVESTMENT POLICY**

**I. Investment Objectives.** Unless modified by the specific policies set forth herein, the Board of Directors of the Arkansas Access to Justice Foundation, Inc. (the Foundation) will supervise, monitor, and evaluate the management of its funds as a prudent investor, exercising the judgment and care under the prevailing circumstances that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not for speculation but for investment, considering the permanent disposition of the funds and the probable safety of capital as well as probable income.

The Foundation seeks to protect the funds and produce a reasonable total return, provide adequate liquidity, and preserve capital without assuming undue risks. The majority of funds to be invested must be fully protected against loss by being fully insured by the Federal Deposit Insurance Corporation (currently \$250,000) or otherwise backed by the full faith and credit of an agency of the United States Government. Subject to the safety restrictions set forth in this policy, the Foundation seeks competitive rates providing the greatest possible yield. Portions of the portfolio may be exposed to loss of principal in order to achieve capital appreciation. The Foundation seeks to offset operating expenses and, as a result, increase the amount of funds available for its charitable activities, including seed and development money.

**A. Low-Risk Portfolio.** Current-year operating funds, Campaign for Legal Aid donations, grants, and funds subject to claims under the Unclaimed/Unidentified Funds provisions of Rule 1.15 should be invested in vehicles associated with a low risk of loss of principal, such as interest-bearing bank accounts, money market accounts, or certificates of deposits that are fully insured by the FDIC or otherwise backed by the full faith and credit of an agency of the United States Government.

**B. Moderate-Risk Portfolio.** For non-operating funds, reserve funds, endowment funds, or other restricted funds, including grantor- and donor-restricted funds that will be held for more than a year, the Foundation recognizes and acknowledges that portions of the portfolio may be exposed to loss of principal in order to seek capital appreciation and to achieve the long-term investment objectives by making investments posing moderate risk. Growth of asset values and generation of income will require a moderate level of risk, a long-term investment horizon and diversification among asset classes. The portfolio will be invested to provide a total return (capital appreciation, interest and dividend income) consistent with reasonable and prudent levels of risk.

**II. Investment Vehicles.** The Foundation will place funds from its portfolios in several investment vehicles in amounts (expressed as a percentage of the fund) as are approved annually by the Foundation's Board. The purpose of these investment vehicles is to provide for asset allocation consistent with the Foundation's needs while remaining

cognizant of current investment market cycles. The approved investment vehicles for the fund will consist of the following:

**A. Certificates of Deposit.** Up to 50% of the Low-Risk Portfolio and up to 100% of the Moderate-Risk Portfolio may be maintained in certificates of deposit in Arkansas financial institutions that participate in the IOLTA program. The maturity of these CDs will generally depend on the liquidity needs of the portfolio, but may range from three months to five years. As the vehicle for the Foundation's short-term investments, CDs are generally desirable to supplement ordinary cash flow used to pay grant awards as the awards become due and to pay administrative costs of the Foundation's daily operations. These CDs should be distributed geographically throughout the state when possible, with the highest interest rate possible as the determining factor. Interest from the CDs may be paid to the Foundation monthly if necessary so as not to exceed the FDIC insurable limit. The signature of either the Board's Treasurer or the Foundation's Executive Director is required to cash CDs. CDs should be fully insured by the FDIC.

**B. Certificate of Deposit Account Registry Service (CDARS).** Up to 50% of the Low-Risk Portfolio and up to 100% of the Moderate-Risk Portfolio may be maintained in a CDARS account at an Arkansas financial institution that participates in the IOLTA program. Financial institutions that are in the CDARS Network divide customer deposits that exceed FDIC insurance limits among financial institutions in the network, which in turn issue CDs. However, the customer only deals with the bank that receives the original deposit, minimizing administrative burdens for the customer. Because the CDs are held at multiple banks across the Network in amounts that stay within the FDIC deposit insurance limit at each bank, the customer is eligible for total amounts of deposit insurance that are greater than the standard insurance limit for any one bank. When possible, such CD deposits should go to other financial institutions in the Network that participate in the IOLTA program.

**C. Interest-Bearing Bank Accounts.** Up to 100% of the Low-Risk Portfolio and up to 50% of the Moderate-Risk Portfolio may be kept in interest-bearing checking accounts, savings accounts, or money market accounts at Arkansas financial institutions that participate in the IOLTA program. These accounts should be fully insured by the FDIC.

**D. Insured Overnight or Cash Sweeps.** Up to 100% of the Low-Risk Portfolio and up to 50% of the Moderate-Risk Portfolio may be kept in an Insured Cash Sweep (ICS) Account held at an Arkansas financial institution that participates in the IOLTA program. Financial institutions that are in the ICS Network divide customer deposits that exceed FDIC insurance limits into interest-bearing savings accounts at other FDIC-insured banks in the Network. However, the customer only deals with the bank that receives the original deposit, minimizing administrative burdens for the customer. Because the funds are placed at multiple banks across the Network in amounts that stay within the FDIC deposit insurance limit at each bank, the customer is eligible for total amounts of

deposit insurance that are greater than the standard insurance limit for any one bank. When possible, such sweeps should go to other financial institutions in the Network that participate in the IOLTA program.

**E. U.S. Government Bonds.** Up to 50% of the Moderate-Risk Portfolio may be maintained in U.S. Treasury Bonds or Bills or U.S. Government Agency Bonds and bonds of U.S. Government Sponsored Enterprises (GSEs) that are backed by the full faith and credit of an agency of the United States Government. The maturity of these bonds will generally be less than five (5) years.

**F. Repurchase Agreement Sweep Accounts.** Up to 45% of the Moderate Risk Portfolio may be maintained in Repurchase Agreement Sweep Accounts. A repurchase agreement sweep allows for the investment of otherwise idle funds in a customer's account. Funds are automatically withdrawn from the account at the close of each banking day for investment by the bank, as agent for the customer, in securities issued by the U.S. Treasury or agencies of the U.S. Government. The bank is then obligated to repurchase the securities upon demand or as needed to repay the balances withdrawn from the customer's account for investment in the repurchase agreements along with interest.

**G. A Mixed Asset Fund (MAF).** Up to 30% of the Moderate-Risk Portfolio may be invested in an asset mix comprised of equities and money market instruments, ~~or~~ mutual funds that invest primarily in equities and money market instruments, and covered calls.

(1) The equity investments will emphasize high quality issues with a balance of income and appreciation. The value of an equity investment in a single company will not exceed 10% of the entire equity portfolio or 20% in a single industry.

(2) All bonds shall carry a minimum "A" rating by Moody's or S & P. No investment in the corporate bonds (non-government) of a single entity shall exceed 10% of the fixed income portfolio.

(3) All mutual funds must be well diversified and offer professional money management.

(4) Investments in the asset mix shall not be in entities that are adverse to the mission of the Foundation.

(5) Foundation assets may not be placed in any investments not listed above without first receiving written consent of the Finance Committee and the Board.

(6) Unauthorized investments include any options ~~such as puts or~~(with the exception of covered calls;), commodities or other commodities contracts, short sales and margin transactions, restricted stock, private

placements, and unregistered stock ~~and foreign securities.~~ Any investment not specifically listed as an authorized investment is not authorized for direct purchase even if it not included in the list of unauthorized investments. Exceptions to this policy may be made upon a majority vote of the Finance Committee followed by a majority vote of the Foundation Board, in keeping with the objective of maintaining security of principal and obtaining capital appreciation consistent with investment guidelines.

**III. Reporting Requirements.** Foundation staff may invest the Foundation's CDs consistent with the provisions of this policy or may elect to place these with the Foundation's investment manager. The investment manager will be responsible for the Bond Fund and the Mixed Asset Fund (MAF). The investment manager will meet with the Foundation's Executive Director periodically (as often as monthly) by phone to discuss the Foundation's investments in light of then current market conditions. The investment manager will prepare a statement of assets, account performance and market review, including comparative statistics, and report to the Finance Committee quarterly and shall meet with the Executive Director and ~~Board~~ annually.

**IV. Management of Funds.** The overall responsibility for implementing this investment policy shall reside with the Finance Committee and the Executive Director. All investment activity shall be executed by the Executive Director of the Foundation with assistance from the Finance Committee and Investment Manager. The Finance Committee will meet quarterly to review the accounts and investments and will report information regarding performance to Foundation Board at each of its quarterly meetings.

**V. Investment Manager.** The Foundation's investment manager shall be selected by the Board from among those banks, brokerage firms, or other financial advisory entities that submit written responses to the Foundation's Request for Proposals (RFPs).

**VI. Asset Allocation Review and Approval.** At least annually, the Finance Committee shall review the Foundation's asset allocation to reaffirm its continuing relevancy or to revise the allocation as appropriate to accommodate the current investment climate and to see if the eligible investments are still relevant. Because of the nature and mix of short and long term investments, the Board would expect any change made in asset allocation to be achieved over a prudent period of time, thereby minimizing adverse effects on the value of the fund.

**VII. Amendment of Policy.** The Finance Committee shall review the investment policy at least annually to reaffirm its continuing relevancy or to revise as necessary. This policy may be amended at any meeting of the board, where there is a quorum present, by a majority vote of those present.

**VIII. Conflicts of Interest.** In all matters related to the investment of funds held by the Foundation, it important that members of the Board of Directors and employees avoid

| any situation which might constitute a conflict of interest. –The Foundation’s current conflict of interest policy will apply to this investment policy.

Adopted 9/10/99

Revised 8/09/01

Revised 9/12/03

Revised 6/9/2010

Revised 4/19/2016

| Revised 10/ /2016

**ARKANSAS ACCESS TO JUSTICE FOUNDATION  
POLICY ON GIFTS OF SECURITIES**

Gifts of marketable securities should be transferred electronically to an account maintained at the Foundation's brokerage firm. All marketable securities shall be sold promptly upon receipt unless otherwise directed by the Foundation's Finance Committee. In some cases, marketable securities may be restricted, for example, by applicable securities laws or the terms of the proposed gift; in such instances the decision whether to accept the restricted securities shall be made by the Finance Committee.

The Foundation calculates the value of a gift of marketable securities based the average value of the securities on the date received multiplied times the number of shares. The Foundation's brokerage firm will provide the high and low for the day. Any fees or gains/losses are borne by the Foundation and recorded as such in its financial statements.

Adopted 9/19/2016



# Arkansas Access to Justice Foundation, Inc. Stock Donation Form

ARKANSAS  
ACCESS TO  
JUSTICE

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Stock: \_\_\_\_\_

Ticker Symbol: \_\_\_\_\_

Broker Name: \_\_\_\_\_

Broker Phone Number: \_\_\_\_\_

Number of Shares: \_\_\_\_\_

Approximate Amount of Gift: \_\_\_\_\_

**Please make this Donation:**

- In honor of       In memory of

Name: \_\_\_\_\_

*Please include a full mailing address for the individual or family you would like for us to notify of your gift. The amount of your contribution will not be included in the gift notification.*

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

- I prefer to make this donation anonymously.

Additional Notes: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Please instruct your broker to show this as a donation to Arkansas Access to Justice Foundation, Inc. Arkansas Access to Justice is a nonprofit 501(c)(3) organization and your contribution is tax deductible.*

Date

Name

Organization

Address 1

Address 2

City, State Zip

Dear Mr. Smith:

I am writing to thank you for your generous gift of XX shares of Bristol-Meyers Squibb stock to the Arkansas Access to Justice Foundation, Inc. The high/low average that day was \$26.48 per share. Gross proceeds from the sale totaled \$2111.20, and have been designated for the Foundation's endowment. In order to ensure your gift is fully tax deductible, we are acknowledging that that the Arkansas Access to Justice Foundation has exclusive control of your contribution and that no goods or services were provided to you in exchange for this gift.

Through your generosity, the Arkansas Access to Justice Foundation can continue to fulfill its mission of ensuring all Arkansans have equal access to the civil justice system. By contributing specifically to our endowment fund, you are providing a lasting gift that will ensure justice for vulnerable Arkansans who would otherwise have nowhere else to turn.

We are grateful for your support and for your commitment to ensuring justice for all.

Warm regards,

Amy Johnson  
Executive Director



## Access to Justice Children's Story Prize Committee Call

10/5/16 8:30 a.m. – 9:00 a.m.

On call: Bill Waddell, Katie Stephens, Vicki Smith, Amy Johnson

Committee members agreed on “Hope for Justice Prize” as the best fit for a name for the prize. A timeline for publicizing the contest, soliciting entries, and announcing winners was discussed, and committee members agreed that the contest should run from January to March, with a prize announcement around Law Day, which is in early May.

There was a discussion about what would happen if, in a given contest year, there were no submissions that the Foundation board found to be worthy of a prize. Everyone agreed that the terms and conditions document should include language reflecting that the Foundation would reserve the right not to award a prize every year.

Committee members also talked about how award-winning submissions would be used. Print publication would be cost prohibitive. Should the story be available on the website for download for a fee? The consensus was that submissions should be available for free download, but that a “donate” button should be located next to the download link. Donations could then go into the Foundation’s endowment fund. The number of downloads can be tracked through website analytics.

Current language in the terms and conditions document limits the Foundation’s rights to use a prize-winning story for a period of one year. Committee members agreed that there should be no time limit on the Foundation’s ability to use winning stories.

Katie Stephens offered to update the terms and conditions document and circulate for review/approval.

# The Hope for Justice Prize

for Stories about Children and Access to Justice

- [Entry Form](#)
- Deadline for entry: 5 p.m. CST, March 1, 2017

The *Arkansas Access to Justice Foundation* (“the *Foundation*”) will accept entries for the 2017 Hope for Justice Prize for Stories about Children and Access to Justice (“the Prize”) through March 1, 2017.

Entries must be original works of fiction of no more than 3,000 words that illuminate the importance of access to justice in the lives of children. Since access to justice is not limited to courts and the law, the work is not required to focus on lawyering or the governmental justice system. The story should be aimed at children 8 years of age and older. Two winners will be announced for the best original work by (1) a high school student and (2) an adult (19 years of age and older). Each winner will receive a prize of \$1000. The winner is responsible for all taxes associated with receipt of the prize. As a condition of receiving the prize, the winners must submit a completed W-9.

Deadline for entries is 5 p.m. CST, March 1, 2017. The *Foundation* will accept only one entry from any individual author. Entries must be submitted electronically through the *Foundation's* website: <http://www.arkansasjustice.org/hope-for-justice-2017>. Entries submitted by other means will be not accepted or judged. The *Foundation* is not responsible for errors in transmission, computer errors, or similar problems.

Entries must be unpublished. Entries posted publicly on the Internet, in whatever form, will be considered published for the purposes of the contest. The *Foundation* will be the sole judge of an entry's eligibility. The author of any work submitted will retain copyright to his or her entry. However, by submitting a work for consideration in the contest, the winning author grants the *Foundation* the non-exclusive and perpetual right to publish the work in any publication platform, whether print or digital, without further compensation.

Contest entries will be judged by a panel selected by the *Foundation's* board of directors and the winner will be confirmed by the board of directors. Entries will be judged on the basis of creativity, appeal to children, and insight into access to justice and its role as a core value of society. The *Foundation* reserves the right not to choose a winner based on its sole discretion.

The winner will be notified on or before May 1, 2017. The winner will be notified by email prior to any public announcement. If the winner does not respond within five business days, or the email is returned as undeliverable, the winner forfeits all right to the Prize and an alternate winner will be chosen.

The *Foundation's* officers, directors, staff members, contest judges, and their immediate household or family members of such persons, are not eligible to enter or win.

Sponsor: Arkansas Access to Justice Foundation, Inc., 1300 West Sixth Street, Room 113 Little Rock, AR 72201, (501) 682-9421 (phone), (501) 682-9415 (facsimile)

## Copyright License Agreement

This Copyright License Agreement (“the Agreement”) is entered into between the Arkansas Access to Justice Foundation (“AATJF”), Beka Duke (“Duke”), and William A. Waddell, Jr. (“Waddell”) on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ in consideration of the mutual promises set forth below.

WHEREAS, AATJF is a 501(c)(3) not-for-profit entity created to promote access to justice in the State of Arkansas with its principal place of business in Little Rock, Arkansas; and

WHEREAS, Waddell has written a children’s story concerning access to justice issues entitled “Palindromic Pledge” (“the Story”); and

WHEREAS, Duke has illustrated the Story (“the Illustrations”); and

WHEREAS, Waddell and Duke have copyrighted the Story and the Illustrations and are in the process of registering the copyrights with the United States Copyright Office; and

WHEREAS, Waddell and Duke are willing to license the Story and the Illustrations to AATJF on the terms set forth herein; and

WHEREAS, AATJF is willing to use the Story and Illustrations to promote access to justice among elementary-age children in Arkansas;

NOW, THEREFORE, the parties hereby agree as follows:

**1. Grant of Rights.** The rights hereby granted in Sub-clauses 1.1, 1.2 and 1.3 shall not extend beyond the State of Arkansas and shall be non-exclusive. AATJF shall comply with the requirements of this Agreement at all times as a condition of the grant of rights. AATJF shall require and monitor compliance of others given the right to use the Story and the Illustrations under this license. The rights hereby granted do not allow the translation from one language into another of the original published work, in whole or in part.

1.1 Conversion and Adaptation: Waddell and Duke hereby authorize AATJF to create an electronic copy of the Story and Illustrations (“the Master Copy”) which may be downloaded by readers as provided herein. In addition, AATJF is granted a license to publish up to 500 print copies of the Master Copy per twelve-month period for the purpose of AATJF board-approved special events with children or for use as promotional material with donors to AATJF; provided that that quality of the print copies must be equal to the quality of the Master Copy unless otherwise authorized in writing by Waddell and Duke. Except as otherwise authorized by this paragraph, no rights of conversion or adaptation are conferred by the Agreement. All distribution of the Story and the Illustrations pursuant to this Agreement shall display the copyrights of Waddell and Duke.

1.2 Reproduction of Single or Multiple Copies: For the sole educational use of and by elementary school children, their teachers and their parents as a part of a classroom lesson or activity, AATJF is hereby authorized to allow teachers to make

multiple copies of the Master Copy by any means, including by print, photocopying or electronic means; provided that any copies made pursuant to this paragraph shall display the copyrights of Waddell and Duke.

1.3 Online Distribution: AATJF is authorized to create a secure online or offline delivery system by which the Master Copy is available for download by elementary age children, their teachers and their parents subject to the restrictions and requirements of this Agreement. AATJF shall not charge a fee for the downloads and shall not require a donation for persons to download the works, but AATJF may place a donation link on the download page which invites persons to make voluntary donations to AATJF to support the general work of AATJF or AATJF's Hope for Justice Children's Story Prize.

1.4 Report of Distribution: AATJF shall report to Waddell and Duke at least annually during the term of this Agreement regarding the number of downloads and distributions of the Story and the Illustrations. The report shall state how many copies have been made, in what format, to how many persons (who need not be personally identified, as long as they are identifiable as a part of a class or other group authorized to receive the works) and how these copies have been distributed or transmitted. AATJF shall keep records for at least three years after the termination of this Agreement of the files so distributed and, for electronic files transmitted, of the identity of the recipients.

1.5 Sub-Licensing & Assignment: AATJF shall have no right to sub-license the Story and the Illustrations. The rights of AATJF under this agreement may not be assigned or transferred in any form.

1.6 Other Licenses: The license granted by this Agreement is not exclusive. Waddell and Duke retain all rights to the Story and the Illustrations and may grant other licenses for the use of the Story and the Illustrations during the term of this Agreement. However, for the initial term of this Agreement, Waddell and Duke agree that they will not license the Story and the Illustrations to another non-profit entity that operates exclusively within the State of Arkansas.

## **2. Limitations**

2.1 AATJF shall not make any alteration to the text of the Story and the Illustrations and will faithfully reproduce the original Master Copy. Notwithstanding the foregoing, AATJF may produce lesson plans or discussion questions for readers that quote from the Story in order to assist teachers and parents in their educational use of the book. AATJF may copyright those lesson plans or discussion questions.

2.2 AATJF shall include on all copies made pursuant to this Agreement the international © symbol, a credit to Waddell and Duke as the creators of the Story and the Illustrations and shall display the following notice prominently:

*“This material has been copied under license and may not be sold, copied or reproduced in any form without written permission by the licensee, the Arkansas Access to Justice Foundation, or the licensors and copyright holders, William A. Waddell, Jr. and Beka Duke.”*

2.3 AATJF shall take reasonable steps to ensure that neither itself nor any of its users to whom authorized copies are distributed or transmitted engage in unauthorized use of licensed copies. Unauthorized use includes:

2.3.1 selling or supplying copies for a financial profit. “Financial profit” means to recover costs to an extent that allows for the recoupment of fixed cost elements or investments into infrastructure. The charging of a fee that recovers the variable costs associated with a particular transaction only, shall not be considered as a supply for a financial profit if disclosed to Waddell and Duke in Schedule D;

2.3.2 use for purposes other than for educating elementary age children or the promotion of access to justice;

2.3.3 making or distributing copies without a record of the copying being made; or

2.3.4 the copies are not marked as required.

### **3. Payment and Calculation of Damages**

3.1 Provided that the Story and the Illustrations are used as authorized in this Agreement, Waddell and Duke shall not charge AATJF any fee for the use of the Story and the Illustrations. AATJF agrees that Waddell and Duke retain all rights to the Story and the Illustrations.

3.2 In case of breach of this Agreement, Waddell and Duke reserve the right to claim damages and the parties hereby agree that the damages that may be claimed by Waddell and Duke shall be equivalent to the recommended retail sales price of a copy of the published work for ordinary readers in question per instance of breach and/or copyright infringement.

### **4. Representations**

4.1 Both parties represent that they are authorized to enter into this Agreement.

4.2 Waddell and Duke represent that they own and control the rights they grant under this.

4.3 AATJF represents and agrees not to disclose or provide access to the Story and the Illustrations or any copy in whatever format thereof to third parties other than as authorized in this Agreement.

4.4 AATJF represents and agrees that it does not claim any intellectual property or ownership rights in the Story, the Illustrations, the Master Copy, or any electronic or print files of the Story and the Illustrations.

### **5. Term and Termination / Special Remedies for Breach of Agreement**

5.1 This Agreement shall become effective on the date set forth above after each of the parties signs the same and shall remain in force and effect for a period of two years.

5.2 If Waddell or Duke believes that AATJF has breached the Agreement, s/he shall give written notice of the breach to AATJF and demand that the breach be cured in not less than sixty days from the date of the letter. AATFJ shall respond to the notice in writing and either acknowledge the breach and propose a cure to be

accomplished within the sixty-day period after the date of the demand letter or agree to the immediate termination of this Agreement. In the event that AATJF denies that a breach has occurred or fails to propose a cure to be accomplished within sixty days of the demand letter, the parties agree that Waddell or Duke may give written notice that the Agreement is terminated effective as of the sixty-first day after the demand letter. AATJF agrees to comply with the termination notice and to cooperate with Waddell and Duke in returning all copies of the Story and the Illustrations as well as the Master Copy and all electronic and print copies still in the possession of AATJF. If Waddell and Duke are not satisfied with the cure proposed by AATJF but do not desire to terminate this Agreement as provided herein, the parties agree first to mediate their dispute not later than ninety days from the date of the original demand letter. If the parties cannot agree on a mediator, each party will select a representative, and the three representatives will select the mediator. The parties agree that they shall be entitled to seek legal remedies to address the breach only after the earlier of the unsuccessful conclusion of the mediation or ninety days from the date of the original demand letter. After receipt of a demand letter from Waddell or Duke, AATJF agrees to suspend the distribution of the Story and the Illustrations pending a resolution of the parties' dispute.

5.3 Notwithstanding subparagraphs 5.1 and 5.2 of this Agreement and in addition to any other rights or remedies available in any law applicable in any part of the Territories, including without limitation, a claim of damages, specific performance of any obligation, duty of care or in relation to any other undertaking, covenant or representation under this Agreement, any of the parties may terminate this Agreement by giving written notice at least ninety days before the date of termination. Upon receipt of a notice from Waddell or Duke, AATJF agrees to cooperate in winding down its use of the Story and the Illustrations as authorized by this Agreement and to stop all use of the same on the date of termination, unless otherwise agreed in writing by Waddell, Duke and AATJF.

5.4 If AATJF is dissolved or ceases to exist or to operate, the parties agree that this Agreement shall terminate immediately and that Waddell and Duke shall be entitled to retrieve and/or secure the destruction or return of the Master Copy and all electronic or print copies of the Story and the Illustrations under the control of or in possession of AATJF.

## **6. Governing Law and Jurisdiction / Dispute Resolution**

The parties agree that this Agreement shall be governed by and construed in accordance with the law of the State of Arkansas.

### **ARKANSAS ACCESS TO JUSTICE FOUNDATION**

BY: \_\_\_\_\_  
**AMY JOHNSON, EXECUTIVE DIRECTOR**

\_\_\_\_\_  
**BEKA DUKE**

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**WILLIAM A. WADDELL, JR.**

# Corporate Fundraising Strategy Roadmap 2017

## Objective

During 2017, corporate giving in the form of major gifts of \$5,000 or more to the statewide Campaign for Legal Aid will increase through acquisition of 5 new or lapsed corporate donors.

## Decision Maker(s)

Corporate executives, legal departments, or board members of major corporations in Arkansas (may vary depending on corporation)

## Internal Scan

### ASSETS

- Decent donor and contact membership database
- Current ATJ Commission and Foundation members with corporate contacts
- Existing major gifts donors from similar sectors of potential new donors
- Member of philanthropy roundtable, Southeastern Council of Foundations
- Relationships with banks through IOLTA program
- Supporters and messengers
- Contacts with engaged local/state media

### CHALLENGES

- Staff capacity
- Lack of existing research into potential new corporate donors
- Largely invisible to the decision makers
- Lack of comprehensive themes and messages

## External Scan

### ASSETS

- Community Reinvestment Act regulations-banks
- Media interest in justice issues

### CHALLENGES

- Definition of 'civil justice' creates disadvantage for building support
- Work in landlord-tenant legislation might create barriers



- General distrust of judicial system
- Tort reform

## Position

Facing a split position where some decision makers will have close to no knowledge or idea about civil justice (position 1) and another large group where existing narratives around tort reform and frivolous lawsuits will require a reframing around the value of civil legal aid and the work lawyers do in general (position 3)

## STRATEGY

### Audiences

AUDIENCE 1 -- Leaders in business community

Stage 1, sharing knowledge

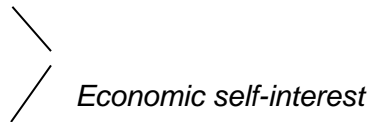
#### Core concerns

Economic bottom-line of their corporations

Jurors of cases you're involved in

Reputation in their local community

Welfare of employees and perception as workplace


  
*Economic self-interest*

#### Barrier

Nobody has asked

Competitive space

#### Theme

Highlighting civil legal aid as a smart investment, return on investment argument

Spotlight economic stability and corporate/citizen collaboration (social cohesion) of communities where services are available

Paint giving as "heroes of local communities"

You're losing money by not investing in the foundation's work

#### Messages

'Good for the bottom-line'

'We know from X study that every time you put a dollar into a civil legal aid organization, six dollars are returned into the community'??

NOTE: Buzzwords 'innovation, stretching a dollar most efficiently, most bang for your buck'

**Messengers**

Existing corporate donors  
Specific board members from same community

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AUDIENCE 2 -- Leaders of philanthropic community (heads of foundations / banks)

Stage 2, building will

**Core concerns**

Social justice  
Root causes of poverty  
Increase impact of existing projects  
Community collaboration

**Barrier**

Nobody has asked  
Competitive space

**Theme**

Tell stories about impact of legal aid as a life-changer for “real people”  
Highlight increased efficiency with legal aid as part of existing project  
Draw attention to community lawyering and impact litigation

**Messages**

“Legal aid changes lives”  
“We need to make the protections of the law a reality for everybody”  
“Civil legal aid providers are making sure that every Arkansan get the legal rights and protection we all deserve”  
“The foundation funds the legal help to make sure that veterans get the help with government bureaucracy”  
“We fund tools to empower people to solve the legal problems that stand in their way of a decent life”

**Messengers**

Fellow funders  
Our foundation  
Board members  
Corporate CEOs  
In-house corporate legal counsel

# COMMUNICATIONS ACTIVITIES

## Tactics

- Personal contact
- Targeted e-mail blasts
- Media outlets: Arkansas business journal, NW Arkansas business journal, Arkansas Lawyer, Chamber of Commerce local “paper”, Arkansas Democrat-Gazette,
- Annual Report with listing of corporate donors
- Campaign of “giving back” to boost reputation of corporation
- Considering paid advertising
- Town Hall meetings

## Timeline

Jan-March: Intelligence gathering

April-Jun: Wider / ask

July-September: Deeper

October-Dec: Ask

## Events

Legislative session (January – April)

National Pro Bono Week

ArkansasGives (April)

Love your lawyer day

Domestic violence awareness month (October)

Hunger awareness (Walmart)

Large “corporate issues” in 2017—see what corporations are focusing on that tie to legal aid

Fundraising events

Arkansas Children’s Hospital events

## Assignments

Commission staff, board and volunteers

Foundation board members

Existing corporate donors

Arkansas Community Foundation

(Bank trust departments)

Local civil legal aid providers

## Budget

## MEASUREMENTS

### **Output**

1-on-1 meetings invites  
Phone calls made  
Emails sent  
Social media posts  
Media pitches made / number op-eds written

### **Outcome**

Meetings held  
Media pieces placed  
Newsletter open rate  
Donation