

**MINUTES OF THE MAY 23, 2007
MEETING OF THE
SUPREME COURT OF GEORGIA
EQUAL JUSTICE COMMISSION
COMMITTEE ON CIVIL JUSTICE**

The eighth meeting of the Supreme Court of Georgia's Committee on Civil Justice ("Committee") was held on Wednesday, May 23, 2007, beginning at 11:00 a.m. in Meeting Room 3 of the State Bar of Georgia Building, 104 Marietta Street, Atlanta, Georgia. Anne Lewis, Committee Co-chair, presided.

Outgoing co-chair Marc Gary welcomed all attendees.

The Honorable Leah Sears, Chief Justice of the Supreme Court of Georgia, bid co-chair, Marc Gary, farewell and commended him for his contributions to the Committee on Civil Justice. She then presented Mr. Gary with parting gifts from the Committee and a framed Resolution by the Supreme Court of Georgia, signed by all Justices.

Mr. Gary then expressed his gratitude to the Committee and Chief Justice for allowing him to serve. He stated it has been "the greatest honor in my legal career." He gave special recognition to Anne Lewis for her co-chairing assistance. Mr. Gary then stated his recommendation for the new incoming co-chair, thanked all committee members, and departed with wishes of success to the committee.

Chief Justice Leah Sears introduced incoming co-chair, Teri McClure. Ms. McClure is general counsel for UPS. Ms. McClure earned her bachelor's degree from Washington University in St. Louis, Missouri and her juris doctorate from Emory University School of Law in Atlanta. Ms. McClure is a member of several bar associations and serves on the boards of many civic and professional organizations.

Ms. McClure thanked Chief Justice Sears and all committee members for the opportunity to work with the committee. She stated that UPS is a company that recognizes the importance of community service. She thanked Marc Gary for his confidence in recommending her for the position of co-chair.

Approval of January 26, 2007, Minutes – The Committee approved the minutes of the January 26, 2007, meeting without correction.

Roll Call (by signature) – Karlise Grier circulated the roll for signature. Committee members present for the meeting were: Chief Justice Leah Ward Sears; Marc Gary; Anne W. Lewis; Teri Plummer McClure; P. Todd Carroll; Richard H. Deane, Jr.; Hon. William S. Duffey; Rev. Jane Fahey; Prof. Timothy W. Floyd; Linda Klein; Victor M. Lai; Charles T. Lester; Representative Ed Lindsey; Rita A. Sheffey; Hon. Wayne M. Purdom; and Michael Tyler. Advisory Council members who were present for the meeting were Martin L. Ellin; Phyllis Holmen; and Sharon N. Hill.

Introduction of Guests - Ms. Lewis introduced guests present: Debra Nesbit, AOC; Jane Martin, AOC; Eden Freeman, AOC; Mark Seymour, AOC; Debra Irwin, AOC; Holly Chapman; Paula Cohn; Kirk Elifson; Gerry Weber; and Teri Latala. She introduced Mr. Richard Van Duizend, consultant to assist the Committee with strategic planning, mission, and vision of the Committee.

Sub-Committee Reports

Delivery Coordination and Needs Assessment Subcommittee – Mr. Charles Lester, Subcommittee Chair, stated that the Delivery Coordinator and Needs Assessment

Subcommittee (“DCNA”) has been very active. The subcommittee would like to begin with an initial legal needs survey to assess the extent of the need. He remarked that DCNA is pleased to have the volunteer services of Dr. Kirk Elifson because of his experience in developing and conducting broad-based surveys. Mr. Lester stated that the survey could cost upwards of \$200,000, and so far, \$67,000 has been committed by various organizations. Mr. Lester stated that with follow-up, he felt that the subcommittee would be able to raise additional funds from private sources. He stated that if all needed funds could not be raised, the components of the Request for Proposal could be adjusted to fit the monies received. Mr. Lester encouraged all members present to consider assisting with funding for this survey. Mr. Lester stated that donations would be approved recipient contributions for tax benefits through the State Bar of Georgia Foundation, Inc.

Members of the DCNA have met with Kennesaw State to discuss the legal needs survey. They have also met with Georgia State University for economic issues relational to the survey.

Reverend Jane Fahey had questions about the accessibility in rural areas – transportation, language, and cultural barriers.

Mr. Lester stated that there would be 60 questions on the survey; the committee would be involved in designing the questions. The committee also has the benefit of studies by other states. The current outline is a general description.

Judge William Duffey asked if any of the focus groups would be outside Atlanta. He said there needs to be a cross-section of participation.

Todd Carroll asked if the subcommittee expected to implement every component with \$200,000 in funds.

An outline of the survey and the proposed RFP, both of which were handouts at the meeting, are attached as amendments to these minutes.

Karlise Grier then presented a condensed version of the PowerPoint presentation of the “Legal Needs Survey Specifications Outline” as approved by the subcommittee on April 23, 2007.

After the slide presentation, Linda Klein stated a concern about 125% of poverty level as being too low especially considering when considering that legal services are at issue. Did the subcommittee consider a higher level? Mr. Lester stated that the subcommittee talked about surveying people above the 125% as part of the design.

Kirk Elifson asked at what income point one can seek assistance from Legal Aid. Phyllis Holmen stated that Legal Aid will consider a client with an income of up to 200% of poverty level. Marty Ellin stated that many programs have no income criteria at all, “that’s why we want 200%.” Judge Duffey stated that the difference between 125% vs. 200% data is not going to be appreciable. He suggested that the committee survey organizations to determine what levels are being used so the level the committee chooses is reasonable.

Phyllis Holmen stated that inside the Atlanta area, clients that are at 300% above poverty level could not afford legal services. Marty Ellin stated that 200% seems to be the cap. Mr. Lester suggested using 175% as a compromise.

Kirk Elifson stated that if we increase the poverty percentage, we increase the range needed to be included in the survey. He advised the committee to be guided by standard cut offs.

Terry Walsh stated that when going to policy makers, it would be advantageous to say that programs are impacting a greater population. He was in favor of increasing to 175%. Tim Floyd stated he believed that public defenders use the 175% cutoff. The Committee determined that the income level will be put to the committee and voted on during new business portion of the meeting.

Pro Se Subcommittee

Judge Wayne Purdom, chair for the Pro Se Subcommittee, asked the committee members to consider a proposal regarding guidelines for clerks of the court to answer questions for pro se litigants. Judge Purdom stated that there is a need for clerks to have standards for information they can give to pro se litigants. From a court clerk's standpoint, if clerks do not have guidelines to answer, the tendency is not to answer any questions.

In the past ten years, approximately 13-15 states have adopted the *Guidelines and Instructions for Clerks Who Assist Pro Se Litigants in Iowa's Courts* without much change; five to six courts have adopted the guidelines and instructions word for word. Judge Purdom stated that court clerks are in contact with many people and that the Iowa standards are recognized as being appropriate with no huge controversy. He wants to encourage the administrative and probate courts to use the Iowa guidelines and has submitted a motion for the Committee's consideration. Phyllis Holmen stated that the courts did some training several years ago on guidelines for court clerks.

Judge Purdom stated that the AOC's training is based on Greacen's standards but standards have not been adopted. However, several courts have adopted guidelines in effect now. Reverend Jane Fahey asked if the expectations are that courts would adopt the Iowa specific code. Judge Purdom stated that particular courts could adopt verbatim or would have discretion to modify. Reverend Fahey asked if the courts would have the latitude to adopt. Judge Purdom replied, "Yes." He stated that he would invite comments through the Uniform Rules of Process.

Anne Lewis added that the Committee would take up the proposals by the subcommittee in the context of a pilot project being proposed. Judge Purdom stated that at the Southeast Pro Se Conference, he learned about organizations in California and Alaska using guidelines in remote areas. He stated that it was the subcommittee's thoughts that a remote pilot project in terms of delivery to less-populated areas would be valuable and economically feasible if someone had the resources to try it. He stated that Judge Brenda Weaver in the Appalachian Circuit has already spoken with State Representative David Ralston to do a pilot project with a remote site. This pilot project would give insight to what is needed to do for delivery of services around the state. Judge Purdom stated that a new bill will make it easy on courts and eliminate some of the questions now going to clerks. State Representative Earl Ehrhart has expressed his commitment to the project as well.

Rita Sheffey asked how broad the area would be for the pilot project. Judge Purdom stated that at least three counties. The subcommittee has looked at three models. Ms. Sheffey asked for the long term, will the pilot project be replicated around the state and at what costs?

Judge Purdom stated that with one attorney, two paralegals working about ten hours per week, costs were estimated to be around \$70,000 including fringe benefits. He stated that "off the shelf" model equipment would be ideal. However, the subcommittee has not gotten to the point of costing out other than they feel that the costs would be less than six figures.

Michael Tyler stated that the subcommittee is looking for private funding initially and later asking for state funding. He suggested refining the costs and seeking private funding.

Rev. Jane Fahey stated she was curious as to how the AOC is funded and would like to see the AOC and Judge Purdom coordinate of funding. Rep. Ed Lindsey echoed this and encouraged Judge Purdom to work with the AOC on the development of a proposed project.

Marty Ellin stated that data has been gathered from areas outside of Fulton County and the largest cost is personnel. Judge Purdom stated that there is a timeline problem with pursuing state appropriations and suggested going with private funding. He stated he wanted to come before the committee before sitting down with Judge Weaver.

The Committee took a break.

Pro Bono Subcommittee – This report was given by Terry Walsh. Mr. Walsh stated that information is needed on what pro bono work Georgia lawyers are or are not doing and why. This information is significant in absence of current data. The subcommittee has looked at a report of a one year study performed in 2004/2005 for methodology. A survey was performed by the American Bar Association (ABA). The methodology used was designed to be replicated by states, and Mr. Walsh stated that Georgia needed to perform its own survey to gather Georgia data. Data gathered might help to answer questions about funding sources.

His recommendation was a Request for Proposal, to survey Georgia lawyers plus an appropriate sampling of the entire population.

Resource Development Subcommittee (“RD”) – Rita Sheffey stated that the Resource Development Subcommittee has looked at some general concepts and specific resources. The subcommittee has taken the perspective of looking at all possible resources – financial, non-financial, in-kind, etc. She stated that it would be helpful if subcommittee chairs would inform RD of any issues that are coming up. She indicated that ultimately the Committee would have to go to legislature for funding, but cautioned against pulling that trigger too soon. She suggested looking at private funding first.

She stated that RD members are monitoring other states’ funding mechanism. She has been in extensive discussion with Len Horton with the Georgia Bar Foundation. The Georgia Bar Foundation is ready to assist when appropriate.

Computer technology project – Steve Gottlieb met with Teri McClure to find someone to assist with the logistic issues of collecting old computers and similar equipment for donations to domestic violence shelters.

Loan Repayment – There is a bill at the education committee regarding the repayment of student loans for lawyers doing legal services work.

Product liability/punitive damages case – Tommy Hills advised that the last record of awards is from 2005. This is not a predictable source of funding.

Public Education Subcommittee – Tim Floyd stated that there was a flyer in the meeting materials for the subcommittee’s “Justice for All” seminar on June, 15, 2007, at the State Bar annual meeting. Most of the Georgia Supreme Court justices will hear a moot court argument on “civil Gideon.” Alex Scherr from University of Georgia has written the fact pattern and Charlie Lester’s firm will be writing the bench brief. Gerry Weber will represent the appellant and Tim Floyd the appellee.

Introduction of Richard Van Duizend – Karlise Grier introduced Mr. Richard Van Duizend as a principal court management consultant with the National Center for State Courts.

Discussion of Committee Vision and Values

Mr. Van Duizend stated that he did not see a clear articulation of the direction the Civil Justice Committee was heading. He stated that there are four items involved in developing a vision – 1) to look “long term,” 2) to look broadly, 3) to look outside the box, and 4) to dream the seemingly impossible. He asked that the meeting participants divide into three smaller groups and develop a vision of what access to Georgia civil justice will be.

When the groups came back together, each group had to give its own vision statement, and discussion ensued.

The final vision statement is as follows:

“The cornerstone of a free society is a population that has faith that its legal system will assist them in their daily lives and a judiciary that will resolve disputes in a fair and impartial manner. We envision a civil legal assistance system which is inclusive, responsive and accountable to the needs of all. To be responsive, each person should have timely access to services, information and tools to promote their interest and present their case to an informed, responsible and accountable judiciary.”

Discussion of Sub-committee Objectives

Mr. Van Duizend then had each subcommittee break out to discuss subcommittee objectives. He asked the subcommittees to have a discussion of how the subcommittee's own vision fits into the overall vision. He asked the subcommittees to develop a set of objectives, using measurable statements that begin with "To define....," or "To explore....," etc.

When the subcommittees came back together they offered their groups' visions.

Mr. Van Duizend thanked all participants and offered continued guidance. Anne Lewis stated that Mr. Van Duizend will continue to work with the Justice Committee.

2007 Meeting Schedule

Proposed Summer Meeting

Members voted to set the next meeting for September 21, 2007. Ms. Lewis suggested that subcommittees continue to meet throughout the summer and to continue to work on their projects and objectives. Tim Floyd offered facilities at Mercer University School of Law in Macon for the September meeting; all members agreed.

Old Business – No old business presented.

New Business – Ms. Lewis summarized new business as:

- 1) To approve the issuance of Request for Proposal for the legal needs assessment as presented by the subcommittee, with the only change being to change income levels from 125% of poverty level to 175% of poverty level for the survey. Approved.
- 2) To approve the arrangement with the State Bar of Georgia Foundation to collect monies for the legal needs study to allow for 501(c)(3) tax benefits. Approved.
- 3) To allow the Pro Se Subcommittee to pursue Appalachian Circuit FLIC project and to have Judge Purdom to contact Judge Weaver for the pilot program. Approved.
- 4) To allow the Pro Se Subcommittee to request funding for the Appalachian FLIC project.
- 5) To request that the magistrate and probate judges' councils consider the Iowa rule for approval and adoption. Approved.
- 6) To allow the Pro Se Subcommittee to investigate the pilot project with the Administrative Office of the Courts. Approved.
- 7) To have the legal needs study RFP include a section dealing with lawyers. Approved (see #1 above).

The meeting adjourned at 3:05 PM.