



**Limited License Legal Technicians Subcommittee
Colorado Supreme Court Advisory Committee
First Meeting
June 26, 2015, 2:00 p.m. – 4:10 p.m.
Colorado Bar Association Offices, 9th Floor
Meeting Minutes**

Members Present: Alec Rothrock (Chair), Hon. Dan Taubman, Hon. Liz Starrs, Melissa Petrucelli, Susan Gleeson, Kristen Burke, Jonathan Asher, Daniel Vigil, Cynthia Covell, Loren Brown, David Stark, Steven Vasconcellos, Steve Lass, Janet Price, Helen Shreves, Alan Obye, Marie Nakagawa (Subcommittee Secretary), Margarita Lopez, Kara Martin.

Members Absent: Allison Gerkman, Barbara Butler, Christopher Ryan, Chuck Turner, Hon. Adam Espinosa, Hon. Suzanne Grant, Jim Coyle, Judy Graff, Lynne Weitzel, Michelle Sylvain, Patrick Flaherty, Velvet Johnson.

Approximately twenty members of the public were also present.

1. Introduction and Presentation by Judge Taubman

Mr. Rothrock welcomed everyone to the first meeting of the Limited License Legal Technician (“LLLT”) Subcommittee. This is a subcommittee of the Colorado Supreme Court Advisory Committee.

Mr. Rothrock introduced the concept of the subcommittee: to discuss and explore whether a program similar to the LLLT program in Washington should be something to recommend to the Advisory Committee, which has authority to make recommendations to the Colorado Supreme Court. There has been no decision made regarding the feasibility of an LLLT-like program in Colorado. Mr. Rothrock stressed that the Subcommittee has no ability to create and/or implement a program. The Subcommittee’s mission is to ultimately come up with a report to present to the Advisory Committee. If the Subcommittee members cannot come to an agreement at the end, a report reflecting the disagreement may be presented to the Advisory Committee.

Mr. Rothrock asked everyone to introduce themselves with a short background so the group can get a sense of who is contributing to the discussion. A sign-up sheet was also circulated.

After general introductions, Mr. Rothrock introduced Judge Taubman for a presentation on existing Access to Justice programs in Colorado and the continuing need for more access to justice. This information is intended to help provide context specific to Colorado’s access to justice concerns.

Judge Taubman explained that there is a need for more access to justice in Colorado. The need is greater among the low-income population for civil cases. There is a lower need in criminal cases due to the Constitutional right to counsel for indigent clients. Studies show that 20% of the need-based population is met by legal service providers, such as Colorado Legal Services, which is the main legal services provider for low-income clients. For context, Colorado Legal Services has a staff of 51 lawyers compared to over 400 Colorado Public Defenders. It is clear there is an unmet need, especially for civil cases. Colorado is trying to meet this justice gap in many ways.

Judge Taubman circulated a handout and explained to the Subcommittee that there are several Access to Justice programs in Colorado.¹ The handout shows a fairly complicated and complex system of Access to Justice programs. The programs fall primarily under the following umbrellas: the Colorado Bar Association (Modest Means Task Force, Appellate Pro Bono program, Local bar pro bono programs), the Colorado Supreme Court (Chief Justice's Commission on Professional Development, Supreme Court Pro Bono Recognition Program, Self-represented Litigant Coordinators, Supercommittee, Advisory Committee), the Colorado Access to Justice Commission (with local Access to Justice Committees in each judicial district but one), and other programs (Denver area law firm pro bono coordinators group, Federal District Court Civil Pro Bono Panel, Colorado Legal Services, Colorado Lawyers Committee). Judge Taubman explained the role of each group, and asked the Subcommittee to keep this context in mind when discussing how a concept like Washington's LLLT program may fit in the existing structure of access to justice programs.

2. Discussion

Mr. Rothrock thanked Judge Taubman for his presentation, which was very informative and helpful as background for the Subcommittee. Mr. Rothrock then opened the discussion to the group.

The discussion began by referring to the Washington Supreme Court's Order adopting the LLLT rule. It was pointed out that with all the existing access to justice programs in Colorado, the limitation that still exists is the non-lawyer's inability to give legal advice. Washington addressed that limitation by creating a group of professionals who could give limited legal advice.

There was discussion questioning how LLLTs would help address the need problem in Colorado if the LLLTs cannot represent clients in court. Why should Colorado direct low-income clients to LLLTs if the clients can get representation from entry-level attorneys at a lower rate than experienced lawyers? It was argued that Colorado's unbundled legal services is the best way to address this problem. It was also argued that the approximately 40% of unemployed new lawyers should represent the modest income clients. Someone added that the LLLT idea may be similar and parallel to what is going on with mediator credentialing, the result of a Chief Justice Directive, where anyone can become a mediator for family disputes if they undertake 40 hours of training and have a high school diploma. There were concerns that this kind of concept encourages the unauthorized practice of law ("UPL"); this was then clarified that if the Court adopts a rule authorizing an LLLT-type of program, the limited legal advice would not be considered UPL.

¹ Handout is attached hereto as Attachment 1.

There was also a question of whether this need is more of a judicial resources problem because there are not enough judges to hear the disputes.

In response to the unbundling of legal services, it was noted that the bar and the court are promoting the unbundling concept to lawyers, but it can also work in conjunction with LLLTs.

Someone asked whether the Subcommittee has to consider need in only family law cases, or whether the discussion is open for other areas of law. Mr. Rothrock replied that the Subcommittee is free to consider whatever area of law may be appropriate, but Washington chose to address the need in family law cases first. Mr. Rothrock also noted that if any proposal is considered by the Court, there is usually an opportunity for public comments on the proposed rule.

There was discussion whether the LLLT idea is the solution to the need for more access to justice. There are many projects and initiatives in Colorado right now, all in their infancy, and we do not know what kind of effect those would have on the existing need. Do we need to find a way to support those other programs first, before pursuing a new concept? It was also asked whether the Washington LLLT program should be studied before Colorado considers a similar program; it was argued that we cannot guarantee how successful the LLLT program may be and we should see what happens in Washington first. It was pointed out that while the waiting approach may be good in theory, it is not always a good practical approach to wait until something is proven before adopting that solution.

It was noted that the Public Welfare Foundation is studying the impact of the LLLT program, and the results should come out next year in 2016, although it is debatable how helpful the study would be with only 15 people taking the LLLT exam in Washington this year. Further, it was pointed out that there have not been any studies on the benefits of unbundled legal services, pro bono, or self-represented litigant coordinators and whether they help to improve access to justice, but no one is questioning those programs.

There was a suggestion that the Subcommittee consider not simply access to justice, but rather whether justice is being served by these programs. There are 900,000 people eligible for assistance by Colorado Legal Services, which means there is one Colorado Legal Services attorney available for every 18,000 eligible people. Right now a lot of people do not have the choice to obtain access to justice or justice.

There was a question whether an LLLT system could be achieved without lawyer supervision. In many cases, the clients need someone who can talk them through the situation and explain the possible outcomes and what is necessary for their case. Someone suggested that the LLLTs may be good as an additional layer in the provision of legal services. It was inquired whether there could be a small claims court concept for family law cases to resolve the smaller disputes.

There was discussion regarding other professionals (non-lawyers) who are able to give limited legal advice in other areas of law, such as CPAs in tax law, representatives in unemployment administrative cases, realtors, social security disability hearings, etc. It might be a good idea to look at more smaller contained areas of law that have a more autonomous body of law. Also, it would be good to look for areas of law where affordability is not a huge concern. For example,

there is not an access to justice problem in personal injury law because clients do not have to pay upfront.

3. Conclusion of Meeting

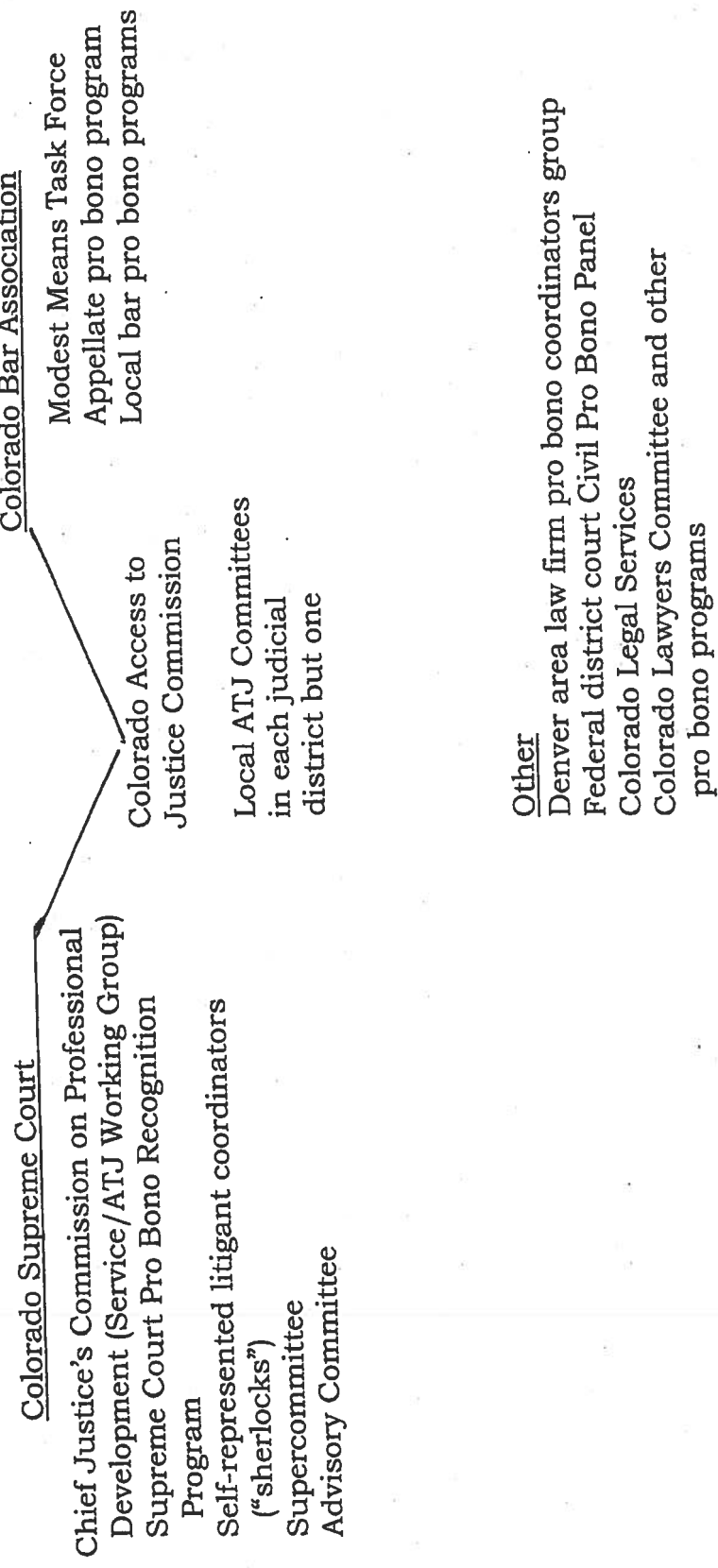
Mr. Rothrock directed the Subcommittee to consider what it should do next, keeping in mind the goal to reach a recommendation. He noted the recurring theme appears to be: what is the problem? Are LLLTs a solution? The Subcommittee decided to form three sub-subcommittees to look into the following areas: 1) what other jurisdictions have regarding limited licensing; 2) alternative fora for addressing this issue; and 3) other authorities allowing non-lawyers to provide legal advice.

The Subcommittee decided to hold meetings on the last Friday of every other month at 2:00 p.m. The next meeting is set for August 28th at 2:00 p.m.

Mr. Rothrock thanked everyone for a productive meeting and adjourned the meeting at 4:10 p.m.

ATTACHMENT 1

Access to Justice Programs in Colorado – 2015



Colorado Supreme Court

Chief Justice's Commission on Professional Development (Service/ATJ Working Group)
Supreme Court Pro Bono Recognition Program
Self-represented litigant coordinators ("sherlocks")
Supercommittee
Advisory Committee

Colorado Bar Association

Modest Means Task Force
Appellate pro bono program
Local bar pro bono programs

Colorado Access to Justice Commission

Local ATJ Committees in each judicial district but one

Other

Denver area law firm pro bono coordinators group
Federal district court Civil Pro Bono Panel
Colorado Legal Services
Colorado Lawyers Committee and other pro bono programs