



**Limited License Legal Technicians Subcommittee
Colorado Supreme Court Advisory Committee
Second Meeting
August 28, 2015, 2:00 p.m. – 4:20 p.m.
Colorado Bar Association Offices, 9th Floor
Meeting Minutes**

Members Present: Alec Rothrock (Chair), Jim Coyle, Daniel Vigil, Susan Gleeson, Melissa Oakes, Jonathan Asher, Cynthia Covell, Patrick Flaherty, Loren Brown, Velvet Johnson, Margarita Lopez, Kevin Hanks, Marie Nakagawa (Subcommittee Secretary), Kara Martin, David Stark, Christopher Ryan, Steve Lass, Hon. Liz Starrs, Allison Gerkman, Hon. Adam Espinosa, Helen Shreves, Hon. Dan Taubman.

Members Absent: Kristen Burke, Steven Vasconcellos, Barbara Butler, Chuck Turner, Hon. Suzanne Grant, Judy Graff, Lynne Weitzel, Michelle Sylvain.

Approximately twelve members of the public were also present.

1. Introduction

Mr. Rothrock welcomed everyone to the second meeting of the LLLT Subcommittee. He reminded everyone that the first meeting occurred on June 26, 2015, and we had decided to meet every other month. Mr. Rothrock proposed that the Subcommittee meet one more time and work on a recommendation to the Advisory Committee. If there is no unanimity, then additional reports may be written to explain those reasons. He suggested that the Subcommittee focus on those recommendations at the next meeting.

At the first meeting, three smaller groups from the Subcommittee decided to look further into issues that were raised during the meeting. Those three groups looked into: 1) what other jurisdictions are doing with licensing; 2) other ways of addressing these issues in domestic cases; and 3) what other areas have the legislature or Supreme Court allowed non-lawyers to provide legal services. Mr. Rothrock asked each group to give an update to the Subcommittee.

2. Reports from the groups and discussion

The first group, represented by Mr. Joseph Slonka, looked into what other jurisdictions were doing with licensing, but did not limit their research to only law licenses. This group also looked at how other jurisdictions were using non-lawyers. He passed out a handout summarizing the findings

from the group.¹ Mr. Slonka explained that the handout is a snapshot view of each state, and he would be happy to follow-up in more depth if that is what the Subcommittee wanted. The Arizona document preparers program and the New York Navigators program were noted. He explained that the handout does not include Canada, but Canada has already licensed paralegals.

Mr. Rothrock asked why the LLLT idea is so radical when Canada has already been licensing paralegals. Mr. Slonka replied that the Canadian paralegals cannot give legal advice.

Someone asked whether other states have unbundled legal services. It was believed that yes, other states do allow unbundled legal services. It was asked whether document preparers, such as those in Arizona, are available to the intended consumers and providing the help those consumers need. Mr. Slonka did not know of any data that shows the success of the document preparers program, but noted that paralegal licensing in Canada has been a great success. Someone pointed out that Canada is not a good comparison because Canada gives significantly more money for legal aid and access to justice programs.

Mr. Andrew Oh-Willeke represented the group that considered what other areas the legislature or Supreme Court has allowed non-lawyers to provide legal services. Mr. Oh-Willeke explained that in federal law, there are areas in which non-lawyers have been authorized to provide legal advice; for example, CPAs can give tax advice, patent agents may practice specifically in patent court, and there are document preparers allowed in immigration and bankruptcy law. It was noted that for matters concerning public benefits, such as food stamps, paralegals may appear in administrative courts.

Before the third group's report was presented, there was discussion regarding the cost of Washington's LLLT program. It was explained that the cost to implement the LLLT program was approximately \$160,000, with \$25,000 to create the LLLT exam. The cost is estimated to be paid back in around five years through LLLT license fees. The law schools and community colleges in Washington developed curricula for LLLT education. The biggest cost appears to have been the technological infrastructure. However, Washington's transition to incorporate LLLTs was relatively smooth because the state had already implemented Limited Practice Officers. There were nine exam takers for the first LLLT exam; seven passed. The incoming class for LLLT classes have approximately 120 students, and there is already a waitlist of about 100 students.

The Institute for the Advancement of the American Legal System (IAALS) at the University of Denver had two members present, Ms. Alli Gerkman and Ms. Natalie Knowlton, who discussed IAALS' study of self-represented litigants. The preliminary evaluation of the results showed that self-represented litigants are interested in getting legal representation regardless of whether the help comes from a lawyer or a non-lawyer. Very few self-represented litigants did not want representation. Mr. Rothrock asked if the pro se litigants would pay for legal assistance, and how much. The research did not ask that specifically, but most of the pro se litigants in the study said they could not afford lawyers, and many were low-income but not enough to qualify for legal aid. The study focused on self-represented litigants whose income for one person was in the \$20,000-\$60,000 a year range, some had college degrees, some had post-college degrees, ages 20-70 years

¹ Group #1 Handout is attached hereto as Attachment 1.

old, and had anywhere from one to seven children. The study focused only on self-represented litigants in family law cases. Everyone agreed the information on the IAALS study was very interesting and helpful, and asked for an update when the full results became available.

Mr. Rothrock asked the Subcommittee for thoughts on where they should go from here. Is the Subcommittee, as a whole, thinking that something like the LLLT program should be recommended? Does the Subcommittee think we should look at other ideas? It was pointed out that this question comes up in bar association meetings all the time. People want to know whether the LLLT program will happen in Colorado, and there seems to be guarded response about whether it is a good idea, especially in rural areas. It was asked whether we could expand the Self-Represented Litigant Coordinators (SRLCs) program to help the pro se litigants. SRLCs already help pro se litigants with forms. Perhaps we could have a Navigators type of program to fill the void in the courtrooms. However, there is a concern with the scope of what SRLCs can do due to the court's responsibility for judicial neutrality. Court employees cannot give legal advice to both sides of a case, and SRLCs wanted guidance on this in the early stages of the program. As for budget, the Court is now limited in terms of how many SRLCs can be hired. If the need is representation in the courtroom, then the focus may have to be on the modest means program or more attorneys working on a sliding fee scale. Someone asked if the IAALS study showed pro se litigants would pay for representation by a non-lawyer. We know there is a market for non-lawyer representation because consumers can pay something, just not the rates lawyers are charging. Consumer are currently paying for the unauthorized practice of law, so we just need to figure out how to get those non-lawyer providers under regulation in order to protect the public.

Someone asked what family law lawyers charge. The consensus appeared to be the hourly rates are anywhere between \$150 to \$550 per hour. The highest anyone had heard of was \$600 per hour, but that was rare.

There was discussion regarding the third group's report, which considered creating an alternative forum for resolving cases with pro se litigants. Ms. Helen Shreves talked with several people and came up with a plan for a simplified family claims court. She handed out her plan to the group.² The idea is based on the concept of a Small Claims Court and using bankruptcy court procedures with a presiding Administrative Law Judge or Magistrate. Someone wondered who would pay for the decision maker, and it was suggested that the filing fee could be directed to pay for that cost. Someone asked if this would be a private court or a court in the judicial branch, and Ms. Shreves said it would be part of the judicial branch. It was expressed that this was a very interesting concept, similar to the IAALS program where pro se parties can enter into a process together in a positive way. This simplified court could be a similar process and eliminate the long wait in the court for simpler cases. Someone suggested that perhaps qualified paralegals could even represent these parties in the simplified court, or even LLLTs if we are concerned about the cost for representation. Someone asked about the average rate for contract paralegals, and while no one had any data, someone knew of a paralegal who charges \$75 to \$100 per hour. There was discussion regarding the high rate of landlord tenant cases as well, where probably 98% of the pro se parties are tenants.

² Simplified Family Claims Court handout is attached hereto as Attachment 2.

3. Conclusion

Mr. Rothrock asked the Subcommittee about wrapping up the discussion. There were a lot of good ideas today, from a simplified claims court to using navigators to thinking about landlord tenant law.

There was discussion that the Subcommittee could brainstorm as a group about what the consumers need, and to think about the specific profiles of the consumers of legal services. It was pointed out that consumers need an array of choices; a consumer cannot make good choices if there is no selection to choose from.

Someone pointed out that if doctors have internships, why can't we have the same process for lawyers to train with a supervising lawyer? In New York, there is a mandatory requirement for all lawyers to have 50 hours of pro bono service. However, young lawyers who need training also need to make a living as well, which has become an important issue as new lawyers are graduating with law school debt of \$150,000 to \$200,000 and are having problems finding employment. It would be unfair to push the cost of the pro se litigants issue onto the already struggling young lawyers. But there must be a way to connect the pro se litigants with the unemployed new lawyers.

The Subcommittee concluded that three different groups should pursue specific ideas for the next meeting. The groups are the following: 1) One group will study in more detail the three different models of providers – the document preparers, navigators, and LLLTs; 2) the second group will consider the profiles and needs of different consumers; and 3) the third group will consider how lawyers could get more involved in helping to resolve the access to justice issues. Also, Ms. Shreves will pursue the simplified court idea and develop it further for the next meeting.

Judge Taubman suggested that someone from the Modest Means Task Force could present to the Subcommittee at the next meeting.

The next meeting is on Friday, October 30th at 2:00 p.m. at the same location at the CBA.

Mr. Rothrock thanked everyone for a lively discussion and adjourned the meeting at 4:20 p.m.