

**Justice Action Group Executive Committee Meeting**  
**June 4, 2018 – 2:00 p.m.**  
**SJC Conference Room**  
**Capital Judicial Center - Augusta**

**MINUTES**

Present: J. Mead, J. Rich, Diana Scully, Sue Roche, Susan Driscoll, and Charlie Dingman  
By Phone: Jamie Kilbreth

- I. **Approval of Minutes** from the March 15, 2018 JAG Executive Committee Meeting. No corrections/additions noted and the minutes were unanimously approved.
- II. **Report from the Chair – J. Mead**
  - a. Inventory updates: Justice Mead asked if there were any additions and/or corrections. None were noted.
  - b. Report of ATJ Day: Justice Mead reported that ATJ Day went well and was a very successful day. He thanked everyone involved.
  - c. Report from 2018 ABA ATJ Conference: Justice Mead reported on the recent ABA National Meeting of State Access to Justice Commission Chairs held May 12, 2018. Justice Mead was a panelist on a program entitled “ATJ Commission Funding, Staffing, Structure and Planning” where he presented on the issue of operating an ATJ Commission with little or no funding. [He noted that a majority of participants in that session came from states with little or no funding for their respective commissions.]

Justice Mead commented on the following interesting programs and initiatives that were presented and discussed at the ABA ATJ conference:

- Court Service Centers: Connecticut and several other states have instituted court service centers where unrepresented litigants can obtain materials, forms, and information on court proceedings. The “service center” often is simply a part of the Clerk’s counter and is staffed by a member of the Clerk’s staff. It is claimed that it does not add significant workload to the Clerks’ Offices because people come to the counter regularly to ask questions and seek assistance. This simply institutionalizes it.
- Unrepresented Litigators Assistants and Facilitators: Several states have assistants and facilitators (often law students or volunteer paralegals) who assist unrepresented individuals.
- Limited Representation Initiatives: The judicial branches in many states have taken leadership roles in encouraging the use of unbundled legal services; Justice Mead offered a brochure that is available in Connecticut.

- Call Centers: Because many unrepresented litigants do not have access to internet services (or lack the ability to access them), many states have set up (and publicized) centralized legal services call centers where callers can be connected with legal services organizations.

- Fees, Fines, and Funding: Legislatures and courts have recently been adding additional surcharges to court fees and fines to fund legal services. Although this is convenient means to funnel funding to the legal services community, there has been recent pushback. Many consider the fees and surcharges to be “taxes” on justice, and there is a movement to dial them back.

- “Prime Partners:” Several states have initiated programs where banks that hold IOLTA accounts are encouraged to pay interest on those accounts at the prime rate plus 1%. In return, if they participate, they are awarded a particular recognition status (like our Katahdin Counsel program), and lawyers are encouraged to direct their business to those banks. They report that the banks are enthusiastically embracing the program. [NOTE: The MJF has instituted a similar program for many years.]

- New York City Eviction Defense: New York City has embarked on an ambitious program that intends to have 100% of all eviction defendants represented by lawyers within five years. This is a step up from their “navigator” program where eviction defendants were assisted by a person who simply helped them navigate the system.

- “Limited License Technicians:” The State of Washington has a program where “limited license legal technicians” can assist unrepresented litigants in areas of the law with which the technicians are familiar.

- Civil Gideon is not dead: There continues to be a push for a Gideon-style entitlement to counsel in civil matters. See <[civilrightto counsel.org](http://civilrightto counsel.org)> for an update on the efforts and a comprehensive review of the status of right to counsel in civil matter in each state. It’s a pretty impressive website with lots of data and information.

Justice Mead indicated that the meeting and the exchange of ideas was extremely worthwhile. JAG is well known in the ATJ community as being one of the first ATJ Commissions in the country (notwithstanding the fact that we are not, strictly speaking, a commission). The cost of attending was underwritten by funds held by the MJF and earmarked for JAG purposes. It is not clear where funding will come from when those funds are depleted.

Diana spoke about the ABA wanting to eliminate the ABA commission on IOLTA altogether. She said the commission on IOLTA has been around for 32 years. She’ll

be circulating a Call to Action draft to try and get them to save it at least for another year.

d. Anti-harassment/bullying by Maine lawyers – Conceptual Draft/Proposal from Rick Record: Justice Mead mentioned Rick Record's proposal has been reviewed and remains under consideration and discussion. Sue Driscoll said the MSBA has been very busy with what they've been working on for the upcoming meeting. She talked about civil guidelines/reminders that could be done up on a plaque of some sort and posted in courthouses. She said when it's ready maybe they can come back to Rick Record or the Law Court to discuss it.

e. Review & Discussion of Indigent Legal Services Working Group Report: No report given on this.

f. Katahdin Counsel Recognitions & Review of Katahdin Counsel Statistics: Justice Mead indicated that interest in the program is lagging. He indicated that both the Pro Bono Committee and the SJC have been brainstorming regarding this lag. Sue Driscoll indicated some attorneys are doing pro bono, but don't want to be recognized. Justice Mead stressed the importance of having the numbers/hours to show the Legislature just how much pro bono work attorneys are already doing when we're asking for funding.

g. KDK Consulting Group Options for MJF/JAG Website Edits/Additions: Justice Mead discussed KDK's proposal. It seems like a lot of money, but he has been advised by others that the proposal is very much in keeping with the cost of such services. He isn't sure we need the granular level of access that KDK suggested. He doesn't think we need a "members only" private portal. He thinks we should go with the basic level option, with possibly some additional features such as a link to our database or legal services providers perhaps on the front page. Justice Mead suggested we present this at the upcoming board meeting.

h. Unprofessional Conduct – *Initiatives and Solutions*: Justice Mead reminded the committee of Nan Heald's letter and revelations of unprofessional conduct and sexual harassment within the profession. There are many excellent initiatives being undertaken to address the issue, but there may be duplications of effort.

The EC and Board approved, in principle, JAG undertaking an effort to collect information regarding initiatives taking place across the state and publishing them in a database or table so organizations can see what other organizations are doing so they might coordinate efforts and avoid duplication.

Diana reported that the MJF (which uses KDK's services) is very good about posting content—they send it to KDK and it appears in short order. Sue Roche reported that ILAP can update and post items to their website without the use of outside consultants.

The issue of final approval of the upgrade to the JAG website will be presented at the JAG Board meeting.

i. LD 1680: Charlie Dingman reports that LD 1680 remains on the Appropriations Committee table awaiting an uncertain future as are all other pending matters.

**III. Vice-Chair's Report – Judge Rich** See report of the Pro Bono Committee below.

**IV. Pro Bono Committee Report– Judge Rich**

a. Reporting of Pro Bono Hours w/Annual Attorney Registration: Judge Rich reported that the committee met on May 21st and it was a very good meeting. In regard to Katahdin Counsel, he reported that everyone thought it was a great idea to do a 5-year award. His group thinks there's a lot of pro bono work going on that's not being reported.

He said if pro bono reporting is on the MSBA registration cards, it is very likely that we'll see an increase in KC participation. He said at the very least we'll be able to capture the hours. He suggested the development of the new card would begin at the earliest in late 2018 and launch in 2019 and it would cost \$2,667. There are three questions proposed. The third question inquires from attorneys who have invested more than 50 hours of pro bono work whether they would be interested in being recognized for Katahdin Counsel?

We need to ramp up the message on the benefits of Katahdin Counsel to grant writing and funding requests. By making it a stronger argument we could get more reporting and offer the opt-out option if attorneys do not want KC recognition. The Board of Overseers will discuss these questions at their next meeting on June 20th and possibly put it out for comments/questions. If we go ahead with this, we will need to put together a comprehensive proposal with all the facts and figures and arguments in favor as well as a draft rule for the SJC to review.

We need to get the Board's position on the proposal at this point before taking any further action.

Judge Rich reported that the Pro Bono Committee has talked about barriers to pro bono services. The committee reviewed the emeritus counsel proposal and felt that it should be focused more on Maine attorneys than out-of-state attorneys.

**V. Justice Systems Committee Report – Jaye Martin**

a. Justice Systems Accessibility Subcommittee Report: Justice Mead discussed Jaye Martin's May 17, 2018 report. Jaye reported that the subcommittee originally anticipated a large scale written report with suggestions for new initiatives and recommendations, but the subcommittee now feels that it can most effectively operate as an ongoing, ad hoc communications conduit between the provider and stakeholder communities and the court. The group felt this was more worthwhile than issuance of a single written report. Justice Mead agreed with the assessment and thanked the group for its ongoing efforts. Jamie Kilbreth reported that the group was planning on meeting with Rick Record and Beth Maddaus (of the JB) in late June.

- VI. Legislative Committee Report - *Charlie Dingman*** Charlie reported that they are working with providers and Barbara Cardone and hope to have a series of breakfast meetings with legislators the week after Thanksgiving and early December to acquaint incoming and returning legislators and seek their support for significant new initiatives. As soon as the dust settles from the elections, they hope to identify legislators who are willing to support the ATJ cause.
- VII. ACP Chair's Report - *Jamie Kilbreth*** - Jamie Kilbreth suggested having a provider representative on the SJC Civil Rules Advisory Committee to provide the perspective of Maine's providers and underserved communities. Justice Mead agreed that this was an excellent idea and he will bring it to the court.
- VIII.** Jamie indicated the providers are having an implicit bias training session in October. The cost is \$1500 to \$2000. They're hoping that it will be partially funded with some JAG funds. He thinks this training may be used by other groups. Sue Roche suggested that if the presenter, who is coming from out of state, could present to other groups at the same time, perhaps the cost may be lower. Justice Mead noted there may be other JAG initiatives that will also require funds. He reminded the committee that JAG doesn't actually have a budget as such, just funds in the MJF account that are earmarked for JAG initiatives, and the past contributors to this fund (MSHA, the courts, etc.) have not indicated an ability to contribute, at least in the near future. We have some funds remaining, but we need to apply them with care. It is feasible that some of the funding for the program may be authorized from the JAG funds. The question can be presented to the Board later this month
- IX.** Sue Roche spoke about IDEXX. They have a team of 9 comprised of a staff of attorneys and non-attorneys that is poised to take on a potential asylum case. Judge Rich feels it's a significant step for IDEXX and may possibly mark a beginning of an active role for corporate in-house attorneys in ATJ matters. Jamie hopes we can take this and encourage Unum and some other companies follow suit. Justice Mead and the committee agreed and discussed things we can do to continue to encourage participation. Perhaps a gathering or reception?
- X. Executive Committee Organization Updates:**
- Courts – Justice Mead indicated there is nothing new to report. He said the Court is meeting with the MJF on June 7th.
  - ACP – Jamie already reported.
  - MJF – Diana mentioned they've been preparing for their meeting with the SJC.
  - MSBA/Lawyers in Libraries – Sue Driscoll spoke in greater detail about the signage they would like to see posted. She mentioned the survey that the MSBA sent out regarding bullying and harassment has received over 1600 responses to date. She is hoping to have meetings with large firms to speak about approaches. The Summer Bar Meeting will focus on technology.
  - MTLA – No report.
- XI. Other Business:** None noted.

**XII. Confirm 2018 JAG Executive Committee and Board meeting dates.**

**JAG Board (Feeney Conference Room - Cumberland County Courthouse):**

June 28th - 3:00

Dec. 6th - 3:00

**Executive Committee (SJC Conf. Room - 4th floor - Capital Judicial Center):**

September 6th - 2:00

November 28th - 2:00

Meeting adjourned at 4:10 p.m.