

**Justice Action Group Executive Committee Meeting  
November 29, 2017 – 2:00 p.m.  
Feeney Conference Room  
Cumberland County Courthouse, Portland**

**MINUTES**

Present: J. Mead, J. Rich, Diana Scully, Juliet Holmes-Smith, Al Ayre, Bill Robitzek, Jamie Kilbreth, and Charles Dingman

**I. Approval of Minutes:** (Sept. 7, 2017 meeting) No additions or corrections were noted. A motion to accept the Minutes of September 7, 2017 was unanimously approved.

**II. Report from the Chair – J. Mead**

Justice Mead reported that the Legal Services Corporation funding crisis seems to have resolved for the time being. Legal services providers and interested organizations and individuals mobilized to send a loud and clear message to Congress, and the message was heard.

Pro bono legal assistance programs in Texas and Puerto Rico have been established. Katahdin Counsel credits will be awarded for any efforts contributed to these services.

Justice Mead will be attending the ATJ Conference in May 2018; Juliet Holmes-Smith will be attending the Equal Justice Conference which is held in conjunction with the ATJ Conference.

- a. Inventory review and update: Pro Bono Committee section was updated to reflect that the last meeting was held on 11/27/17 and the next one is scheduled for 2/26/18. Al Ayre reported that the new lawyers program has a great schedule and is underway.

**III. Vice-Chair's Report – Judge Rich**

Regarding the private sector outreach initiative, Judge Rich and Jamie Kilbreth reported that they are continuing their efforts to remain in contact with Jackie Studer. She remains committed to the ATJ cause and may be a great addition to the JAG Board, but we need to clarify what our expectations would be for private sector members. In the past, uncertainty regarding their role has lead former members to withdraw. [NOTE: Kevin Gildart reminded us that corporate types prefer a clear objective that they can aggressively pursue.]

Justice Mead suggested that private sector representatives might be better considered after in-house discussions of their role as JAG members. They could be particularly useful whenever we commit to making a request for direct funding from the Legislature. Jamie Kilbreth suggested that we speak to Ken Spirer to see if he had any thoughts on the subject. Justice Mead will try to make contact before the Board meeting.

Nan Heald continues to reach out to the private community in conjunction with the Muskie Dinner.

#### **IV. Chief Justice Saufley**

Chief Justice Saufley joined the meeting to speak with us about concerns regarding unprofessional behavior, particularly sexual harassment, that have come to light after Nan Heald's article in the Maine Lawyers Review. It is increasingly clear that inappropriate intimidating behavior has been taking place that ranges from unwanted touching and disparaging commentary to outright bullying. Some women litigators are reluctant to report these behaviors over concerns of being subjected to lawsuits and increasingly aggressive behavior; they also point out that they are not needing someone to come to their rescue—they just want it to stop.

The Chief reported that these behaviors don't seem to be taking place in front of judges for the most part, but the judges need better tools to deal with it when it does. Bringing specific complaints to the Board of Overseers of the Bar is unlikely to solve cultural issues. What is needed is a much larger conversation.

Diana said that the MJF board had also been talking about Nan's article. They had a very rich conversation about this behavior. Even after the meeting finished, she was still hearing more about it. Diana questioned Al Ayre whether the MSBA had any ideas or suggestions. Al reported that the Bar is going to put together a task force to talk about this.

Jamie said the ACP talked about this at one meeting and he believes they'll be talking about it more. He thinks we should create mechanisms on how someone can report a behavior without a disciplinary action. People need to know that reporting is okay.

The Chief suggested creating a digital whiteboard where anonymous reports could be logged immediately after such events (e.g., "This was my experience in court today.") It would allow all of us to hear what's being experienced in real time. The Chief also suggested that an informal consultation/resolution approach might be worthwhile—something along the lines of the Maine Assistance Program model.

Jamie suggested an approach of having the two parties meet to talk about the behavior to clear it up without disciplinary action. Perhaps going the ADR route.

Juliet said most of the behaviors she's been hearing about are people with power exerting that power over others with less power. She agrees there are people that need to be educated regarding that type of behavior but doesn't think getting those two people together to talk about it will resolve the issue.

Charlie Dingman suggested speaking with Danielle Conway, that she may be a good resource and have some good ideas. The Chief believed that Nan Heald had also been talking to a professor at the University of Southern Maine. The Chief suggested the possibility of doing a survey.

Bill Robitzek indicated that the Maine Justice Foundation is going to have training within their own organization and might potentially fund some training for court staff or others who may need it.

The Chief Justice and Justice Mead believe that this issue has sufficient impact upon access to justice issues, particularly the need to avoid discouraging new legal service attorneys from leaving the practice of law due to hostile and unprofessional experiences, as to justify the Justice Action Group to become involved in the effort to address these concerns. The Executive Committee unanimously agreed.

JAG's role will be a topic of discussion at the December 7th Board Meeting.

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

Judge Rich indicated that the Pro Bono Committee met at Juliet's office on Nov. 27th and discussed the emeritus out-of-state counsel rule proposal. Zach Heiden and Jennifer Archer have formed a subcommittee to work on it. The Pro Bono Committee is going to meet in February and they are committed to having a draft proposed rule at that point. They'll report at the 2/26 meeting. The Committee was not able to put together the pro bono event with private law firms during pro bono month in October 2017 but this will be a project in 2018. Juliet will continue to work on this, but nothing is going to happen this calendar year.

Judge Rich talked about the ABA survey. He said the committee thinks that they need to use the information from the survey while it's still current. Juliet will reach out to pro bono coordinators at the providers and at some law firms to put together a group to identify the barriers that were uncovered by the survey and figure out what they can do to address them.

Judge Rich discussed the prospect of optional reporting of pro bono hours on the Board of Overseers' annual registration form and mentioned that Victoria Powers had prepared a memo in response to Justice Mead's request for more particulars on this proposal. Judge Rich indicated that Victoria believes that an optional question on the form asking for pro bono hours may not require a rule change. The proposed cost to add one question would be \$2,500 to \$5,000. For the next registration year, the scope of the work would need to be to the contractor by January of 2018. Obviously, that timeline is not feasible, and the committee will continue to explore this proposal.

#### **V. Justice Systems Committee Report – Juliet Holmes-Smith**

Juliet reported that it continues to be active and they are nearing completion of their initial work plan. They're working on a report that they will be presenting by early February. She indicated Judge Darvin had attended the last meeting and had provided some insight. She also reported that FLAME is going very well, it is still ratcheting up.

#### **VI. Legislative Committee Report – Charlie Dingman**

Charlie reported that they still don't see this as the appropriate time to approach the Legislature for direct funding. He thinks the results of the last election are helpful but the time is still not right. There are some legislators that have not been termed out and have a

good chance of reelection that would likely be supportive of ATJ causes. Justice Mead asked if there was anything JAG could do to help with the process, and Charlie indicated probably not at this time.

**VII. ACP Chair's Report – *Jamie Kilbreth***

Jamie indicated we already covered his report when the Chief was speaking. Nothing further to report.

**VIII. Website and Logo and Letterhead discussion – *Diana Scully***

Diana said we're still waiting for the federal court to OK the reference to the USDC on the letterhead. Judge Rich indicated that his Chief is okay with the letterhead but based upon the opinion of associate general counsel at the Administrative Office of the Courts in Washington, D.C., she would like an informal ethics opinion from the Ethics Committee in D.C., as recommended by him. Judge Rich is endeavoring to obtain that opinion.

**IX. Executive Committee Organization Updates:**

- Courts: AMM reported that the Administrative Office of the Courts has reorganized its access personnel. Currently there is a three-person group (Rick Record, Kristina Famolare, and Allison Gray) who are addressing access issues. They have been invited to the board meeting and will offer brief descriptions of their work.
- ACP: Reported earlier in meeting.
- MJF: Diana reported they've been really busy working on the Campaign for Justice. The new campaign director (Trish O'Donnell) will attend the board meeting and give a brief report of her first three months. She reported that Nan Heald has been nominated for the Dana Award and Stan Tupper has been nominated for a new lawyers' award. Bill Robitzek and Bill Harwood are the co-chairs for the 2018 Campaign for Justice. Trish will report at the JAG Board meeting
- MSBA/Lawyers in Libraries: Al said they are appointing a task force on Tuesday regarding what the chief brought up today. They are also urging the Bar to hire some of the young folks out there.
- MTLA: No one present from MTLA today to report.

**X. Other Business: None**

**XI. PROPOSED 2018 DATES FOR BOARD & EXECUTIVE COMMITTEE:**

Proposed dates will appear in the Board Agenda.