

**Justice Action Group
JAG Executive Committee
September 6, 2018 – 4:00 p.m.
Feeney Conference Room, Portland**

MINUTES

Present: J. Mead, J. Rich, Jamie Kilbreth, Charles Dingman, Sue Roche, and Elizabeth Stout
(for her presentation only)

By Phone: Diana Scully and Susan Driscoll

I. Approval of Minutes: No additions or corrections noted and the minutes were unanimously approved.

II. Report from the Chair – J. Mead:

- a. Inventory updates: Justice Mead will update the Justice Systems Committee section and will circulate an updated version. No other additions/corrections noted for the inventory list.
- b. Katahdin Counsel Recognitions & Review of Katahdin Counsel Statistics: Justice Mead talked about how numbers are still down. He discussed the five-year recognitions that we plan to give this year. He said if anyone has any thoughts on how to increase the numbers, please let us know. He is certain attorneys are still providing pro bono work, but they're just not reporting because they don't see the need for additional recognition.
- c. KDK Consulting Group Options for MJF/JAG Website Edits/Additions: Justice Mead talked about how the web page is really coming along. It's much more dynamic. He has been drafting content for the sidebar. He said there will be another page for JAG members where they can see agendas/minutes. One of the exciting things is the database (actually a data table) to address bullying/harassment in the legal profession. He shared the inquiry letter he plans to circulate to all legal entities in the state. He hopes it will encourage coordination and consolidation of efforts within law firms. He's hoping it will encourage firms who aren't doing anything to also want to be a part of an initiative. Sue Roche asked if we are looking for other professions and Justice Mead said, no, we're sticking to the legal profession. He also shared his draft mailing list to see if anyone had suggestions of any other groups/people to add to it. He said we are not including the Board of Overseers because they would be the ones receiving the complaints of harassment, etc. Judge Rich suggested the U.S. Attorney's office and Justice Mead said it would be a good one to add. Justice Mead thanked the MJF and Diana for offering to share their web page with us. It made it much more economical and feasible for us.
- d. Implicit bias conference: Jamie inquired if \$1,500 to \$2,000 is available from MJF to fund the providers' implicit bias training this fall. Justice Mead commented that JAG doesn't actually have a stand-alone account in its own

name. There are funds in the MJF's account that are earmarked for JAG's use because they were contributed by the judicial branch, MSBA and MJF. He said there is currently an amount—perhaps \$5,000?—in JAG-earmarked funds, but it will steadily be depleting because the Court and MSBA will no longer be contributing to it. Sue Driscoll confirmed that the MSBA is not currently budgeted to contribute to JAG funding. Judge Rich asked whether, since the last vote of the MSBA to provide funding in the amount of \$2,500 some years ago, the MSBA had ever voted against funding, and Sue Driscoll indicated that she did not think so. Justice Mead expressed no personal opposition to contributing some of the earmarked funds for the implicit bias training. He moved for the MJF to direct \$1500 of the JAG funds to underwrite the implicit bias training. Everyone was in favor to authorize the funds. Motion carries.

e. Courthouse signage initiative (MSBA): Sue Roche inquired about the courthouse signage. Sue Driscoll said the MSBA is currently working on them and hopes to have a mockup within the next four to six weeks.

III. Report on Limited Representation Incubator Program – Elizabeth Stout: Justice Mead spoke about the limited representation incubator program that was started several years ago by Elizabeth Stout. It was very experimental at the time and Liz was present to report to the Executive Committee as to how things are going. Liz reported that she started the Maine Community Law Center in 2015. She started it after watching people go through the District Courts who were frustrated, confused, and not really knowing what was happening with matters that were affecting core issues of their lives. After seeing this she felt as though she had an obligation, as all attorneys do, to make the system work better. Liz said many people do it by providing pro bono work, by serving on committees such as this, by doing lots of different things. Liz felt with her experience of working in district court that that was where she could contribute to making the system better.

Liz spoke about when she graduated in 1990, the usual route was to become an associate at a law firm and after being guided and mentored you would work your way up to becoming a partner. She said these opportunities today just do not exist in the same form. She was seeing many new attorneys coming into the system without that kind of support and it's her theory that it was contributing to sort of a decline in civility where people are insecure, don't know what they're doing, they're more defensive which makes things more contentious and less pleasant and she felt the quality/enjoyability of the bar that she was seeing was declining and things were becoming less collegial. She felt training and support for new lawyers was really a key factor for this.

Liz said around 2014, Bill Robitzek introduced the idea of legal incubators to her. She started looking into them and found that they are all over the country. Most of them are part of law schools. A few of them are freestanding, as is Maine's. When Maine's opened, they were the 51st incubator in the country, and now she believes there are 67 incubator programs. She spoke of income disparity and that the number of people who can afford \$600-\$700 an hour for attorney fees has dwindled

tremendously. Liz said there is a huge market of available clients for these incubator programs and she believes, and the people involved in these incubators believe, that they can help new lawyers tap into this available market using technology so that they can develop sustainable and satisfying practices and serve the folks who are in need of legal services. She said the phrase is, "doing well by doing good." Liz also feels that people's confidence in our governmental systems is not as strong as it once was. As a part of this legal system, she feels a responsibility for that and feels that if people can have a better understanding of this process that they're going through and some guidance going through it that their confidence in it as a reliable place to go to get a remedy is going to increase. These are the factors that led her to do what she does.

When she was forming this organization, the University of Maine School of Law didn't have the capacity to take it on, so she, along with her board, built a model that relies on client fees as opposed to outside funding. So far, it's been sustainable and has gone according to their business plan and they are on track to where they need to be.

Liz reported that since they opened they've had 516 matters. Since January of this year they have 152 new matters. She said about 20-25% of these matters are limited representation where they provide coaching and support, but they do not actually go to court for the client.

Areas of practice include family law, criminal law, child protection, landlord/tenant, probate guardianships, some simple wills, some business formation, some copyright cases. They had one law fellow who did immigration work, but she has graduated, so they are not currently doing any immigration work. They've had 7 fellows come into the program and two have graduated, and another is about to graduate in October. They did have one leave the program primarily because of health insurance. As of October they will have five and as of October 2019 they will have six and that's where their business model leads them to.

The fellows have billing targets and they generally reach those targets. The program has no outside funding so the only money the fellows take home is money that they earn. Liz reported that once they have six fellows in the program it should be self-sustainable without the need for Liz to carry cases, which she is doing right now. These six are just out of law school and they have passed the bar. Liz mentioned that they are a 501(c)(4), not a 501(c)(3), and said she'd be happy to talk about that if anyone wants to discuss it further.

Liz talked about the future of the program. She has committed to this program for five years. The business plan that they have should be up and self-sustaining by the end of that five years. She feels at the end of that five years, for the health of the organization, it's important that it be turned over to somebody else. They have been in conversations with the University of Maine and the Maine Law School to see if they can connect with a larger organization that can provide some organizational support to this program. She said one of the main things she wishes she could offer to the new executive director is health benefits. She's simply unable to do that with her budget. Her goal is to get this organization into a more secure position so that when she leaves, it will keep going. And she wanted to bring it to this group for any ideas or advice that the Executive Committee could give her on how they could put

together a plan over the next two years to get this organization as a more permanent fixture.

Liz commented that we need one in Bangor and she has no doubt it could run there. She said the people they get are ones that have gone to VLP, etc. and they either don't qualify or there's no capacity, so this program is the backup.

Justice Mead inquired of how Liz explains the program to a prospective attorney, what can they expect? She said many of the candidates are universally committed to the idea of access to justice. They are almost all committed to the idea of having a solo or small firm practice. Many of them would like to be in a smaller city such as Brunswick, Sanford or Biddeford; someplace other than Portland. In terms of what they provide to them, they provide a desk, computer, bar membership, malpractice insurance, the basic things you need to practice law. They have one administrative assistant to share. A lot of the assistant's work is doing the intakes. They have at least five new potential clients a day looking for services. They provide mentoring, guidance and support for various areas. Liz provides it in family law. There are two board members who provide it in criminal law, and two board members who provide it in housing-related laws. Liz said they also have other partners within the community who have come to her to say, I'm here, let me help.

Liz reported that the attorneys do not draw a salary, they take home half of what they bring in. They have a case management system that tracks that. The goal is for their paychecks to exceed \$3,000 per month.

In 2018 to date, there have been 207 consultations with MCLC potential clients. Some people only need one meeting, and some can only afford one meeting.

Justice Mead mentioned that Bangor would be a perfect place for an incubator program. There is definitely a need. He mentioned new lawyers in Bangor who don't have mentors, who are just hanging out a shingle. They try to connect these new attorneys with experienced ones through the Inn of Courts meetings.

Liz talked about another piece of the program is helping them learn things like what is an IOLTA, what do you do with client funds, how do you bill, how do you transfer the money. Things that they are not teaching in law school and these types of things can get them into trouble if they don't know how to do them.

Liz reported that the law school is interested in helping, they've been very enthusiastic about it, but do not have the capacity to help at this time. They can't bring on a project like this right now, nor fund it. She commented if the program just had free space, they could do so much more. Justice Mead commented that he thinks it's amazing that they're not underwritten at all. Liz reported that she took out a \$10,000 loan in the beginning just to get it started. Jamie inquired whether the law school may be able to provide space and Liz said they are unable to even help with that.

Liz talked about a program in Arizona that is run by the bar association. She referred to another program that was created at Wayne State University Law School in Detroit that is freestanding. She said the ask is not huge. It is an operational

program that runs on its own steam. Her worry is finding someone to be the executive director who is willing to do it because there's no benefits, and it doesn't pay much. Justice Mead talked about the Coffin fellowship. He wondered if there is a similar model for subsidizing an executive director position. She indicated that she doesn't feel it's a good idea to be competing for funds that the other legal services providers are competing for.

Jamie commented that there is a real legal education shortfall here. The law school graduates come out of school and don't know how to do anything and that shouldn't be the case. Liz said after her attorneys have worked for her for one year she feels they have enough experience to go out on their own. Justice Mead said this needs to get out to our organizations, our members, to get some creative ideas and maybe they'll come up with something someone hasn't thought of.

Justice Mead thanked Liz for coming down to the speak to the Executive Committee.

IV. Vice-Chair's Report – *Judge Rich:*

a. Reporting of Pro Bono Hours w/ Annual Attorney Registration.

Judge Rich indicated that there was nothing new to report at this time because the Pro Bono Committee had not met since the last Executive Committee meeting in June. The Committee has an upcoming meeting on September 24, 2018. At that time, it will discuss the lack of participation in Katahdin Counsel. He also noted that, since its last meeting, the Pro Bono Committee received the go-ahead of the JAG Board in June to meet with the Board of Bar Overseers to discuss the questions the Committee would like to have added to the bar registration annual form. He'll have a full report at our next EC meeting. Sue Roche inquired whether we post the number of Katahdin Counsel hours by law firm, whether that may encourage some of the larger firms to compete with one another. Justice Mead said we do not, but we do list the names of the attorney and the firm they're affiliated with and he's sure the firms pay attention to that just to see who is doing how much. Judge Rich feels if we promote hours by law firms, it may discourage some firms from participating because the smaller ones can't compete with large firms, and could develop friction between southern and northern Maine to the extent that there are variances in each geographic area.

V. Pro Bono Committee Report– *Judge Rich:* See Vice-Chair's Report

a. Business Community outreach.

Jamie asked about IDEXX and Sue Roche reported that they ended up not continuing with the immigration case that they had taken, and at this point, haven't gotten together to talk about taking another case. IDEXX had staffed its single case with 9 people, and it was challenging having so many people involved.

b. Pro Bono Celebration.

Jamie asked about Judge Rich's meeting with the pro bono coordinators last spring. Juliet has taken the lead on this and was attempting to get a firm-sponsored celebration, a recognition-type of program for the firms. The Pro Bono Committee will discuss this further at its September meeting, for possible kickoff in October 2019.

VI. Legislative Committee Report – Charlie Dingman: Charlie discussed a couple of efforts underway to have some small group meetings after the election and around the time of their swearing in to begin developing more solid relationships in understanding these issues. They're working with Rep. Barbara Cardone and with Diana Scully to pull that together. They have to reschedule the providers meeting with the legislative committee to brainstorm on specifics with regard to what a legislative proposal may look like in terms of potential revenue sources, potential funding mechanisms and so on. Looking at what is being done elsewhere and looking at the realities here in Maine and trying to come up with some ideas so they have a much more concrete proposal by the time the Legislature convenes in January. **ATJ Day is set for March 12, 2019.**

VII. ACP Chair's Report – Jamie Kilbreth: Jamie reported that their big issue is with the use of IOLTA funds. He thinks it's important for JAG if it's going to be an access to justice commission to support systemic advocacy. He thinks JAG should formally take a position on using IOLTA funds to support systemic advocacy. He was speaking on behalf of the providers. He thinks the Court should be aware that there is tremendous support within the bar and among the providers and stepping back from that would be seen as a huge body blow for access to justice. Justice Mead mentioned that the current concerns were apparently occasioned by a meeting between the full Court and the MJF several months ago when the Chief articulated that there were concerns within the court that the specific uses and purposes of IOLTA funds had never been specifically addressed and there was considerable sentiment that the funds should be applied to direct services. The conversation between the court and the MJF didn't really reach an end point, but rather the MJF was going to come back to the court with a more detailed report regarding its funding and the conversation would continue then. He said Jamie is absolutely correct, that JAG's primary mission is to advocate for funding for the providers. That's why it was created in the first place. The issue that will be presented to the Court. Justice Mead indicated the next step is for the MJF to get back to the Court and then that will go on the administrative agenda of the Court.

Charlie Dingman suggested that when the IOLTA funds issue is being discussed, perhaps Judge Rich could chair that portion of the discussion and that if there was a motion made that Justice Mead would abstain. Because Justice Mead would be one of the decision-makers, he cannot simultaneously serve as an advocate for a particular decision. Accordingly, he has recused himself from any advocacy efforts on behalf of

the providers on this issue and will have no further contact or communication regarding it. Judge Rich and Jamie Kilbreth will spearhead the effort from here on it.

VIII. Executive Committee Organization Updates:

- Courts:
- ACP: See ACP Chair's report
- MJF: Diana reported that the Maine Justice Foundation has a board meeting tomorrow and will be looking at a draft report regarding the use of IOLTA funds for various access to justice purposes. She feels there will be a positive reaction to the report at which point MJF will contact the court to ask for a meeting. She will be interested in the feedback she gets from the board. She said this has been an intense process. MJF has determined costs program by program, including IOLTA, Campaign for Justice, and all other programs (endowments, Bank of America, JAG, Maine Civil Legal Services Fund, and other access to justice activities), and have worked closely with their auditor in doing this. Diana also reported that tomorrow the board will be acting on a major round of requests for proposals for Bank of America. Decisions will be made about grants for foreclosure prevention legal assistance and community redevelopment legal assistance totaling about \$950,000 for up to 3 years.
- MSBA: Sue Driscoll reported they are continuing to present their #MeToo presentations. Eventually they'll have it available on their website. Justice Mead commented that the presentation in Bangor was fabulous.
- MTLA

IX. Other Business: None.

X. Confirm 2018 JAG Executive Committee and Board meeting dates.

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

The Dec. 6th meeting has been changed to **Dec. 10th at 3:00 in Portland!**

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

November 28th - 2:00

Meeting adjourned at 5:30.