

CHIEF'S COMMISSION ON THE LEGAL PROFESSION

MINUTES OF MEETING

October 3, 2013

2 E. 14th Ave., 4th Floor

3:00–5:00 PM

MEMBERS IN ATTENDANCE	Chief Justice Michael Bender, John Baker, Kristen Burke, Chad Caby, Judge Russell Carparelli, Paul Chan, Sarah Clark, Jim Coyle, Judge Wiley Daniel, Katy Donnelly, Kelly Dunnaway, John Eckstein, Barbara Ezyk, Mechelle Faulk, Mark Fogg, Marci Fulton, Judge Richard Gabriel, Charley Garcia, Emma Garrison, Ed Gassman, Christina Habas, Carol Haller, Dale Harris, Melissa Hart, Karen Hester, Chief Judge Bob Hyatt, Dean Marty Katz, Judge John Kuenhold, Margrit Lent Parker, David Little, Presiding Judge John Marcucci, Jerry Marroney, Chief Judge Mick O'Hara, Patty Powell, Chief Justice-Designate Nancy Rice, Jan Spies, Dave Stark, Judge Liz Starrs, Shannon Stevenson, Judge Tim Tymkovich, Lorenzo Trujillo, Caren Ulrich Stacy, State Representative Mark Waller, Dean Phil Weiser, and Kim Willoughby.
OTHERS IN ATTENDANCE	Dayna Bowen Matthew and Pia Dean, Colorado Health Equity Project; Ellen Wakeman, Colorado County Attorneys Association; and Marianne LaBorde, Montgomery, Kolodny, Amatuzio & Dusbabek, LLP.
ATTACHMENTS	The meeting agenda, materials, and handouts are available at: http://www.courts.state.co.us/Courts/Supreme_Court/Committees/Committee.cfm?Committee_ID=35 .
NEXT MEETING	December 5, 2013 at 3:00 PM

AGENDA ITEMS

WELCOME AND ANNOUNCEMENTS

CHIEF JUSTICE BENDER

Chief Justice Bender welcomed the Commission Members and Liaison Members. He explained that the meeting would continue two important lines of conversation being had by the Commission: (1) ways to better prepare law students to become lawyers both through training and job opportunities; and (2) ways to positively affect diversity and inclusiveness in the legal profession.

He congratulated Mimi Tsankov and the Colorado Chapter of the Federal Bar Association for their receipt of the FBA's National President's Award, in recognition of their support of the 1L joint

professionalism orientation event.

COLORADO HEALTH EQUITY PROJECT

DAYNA BOWEN MATTHEW

Dayna Bowen Matthew, a professor at the University of Colorado Law School and the Colorado School of Public Health, presented to the Commission about the Colorado Health Equity Project (Handout A). She explained that CHEP is a collaboration of student, faculty, public interest, pro bono attorneys, public health advocates, and physicians dedicated to improving health outcomes for vulnerable Coloradans by integrating the delivery of legal and medical services in hospital and community health care settings.

She described CHEP's four-fold mission: (1) to provide interdisciplinary training to health care, legal, and public health students and professionals in a clinical setting; (2) to serve Colorado's vulnerable populations with pro bono service in an effort to remove the barriers that impede good health; (3) to collect social science research and data regarding prevention and wellness among Colorado's underserved populations; and (4) to promote the development of public policy on health equity.

Chief Justice Bender expressed enthusiasm for the project, noting that it seems to integrate training and mentoring. Professor Matthew responded that there is no better way to train law students than to provide them with an opportunity to solve a client's problem.

DU/CU LEGAL RESIDENCY PROGRAM

DEAN MARTY KATZ AND DEAN PHIL WEISER

University of Denver Sturm College of Law Dean Marty Katz and University of Colorado Law School Dean Phil Weiser presented on their new joint legal residency program (Materials Pages 1-2). Dean Katz observed that training is increasingly moving back into the law school and requiring law schools to be more effective with clinics and other experiential learning opportunities to provide real world training to law students. He indicated that the medical school model consists of two years of learning and two years of practical skills, plus residency. He noted that the residency component is continued education without paying tuition and that although residents don't make as much as doctors make, they make something and are, in effect, trading dollars for education.

With that as background, Dean Katz then explained that he and Dean Weiser began to wonder whether they could create a twelve- to eighteen-month, post-graduation legal education program for the state's law school grads that might be similar to medical residency. The idea would be that a graduate would be placed in with a law firm, legal department, or other legal organization that would hire the graduate at a reduced salary for a fixed period of time. The graduates, he noted, would have the expectation of receiving additional education and experience in exchange for a lower salary, and the model would be similar to the very best externship opportunities, which provide a variety of certain types of experiences and feedback.

Dean Weiser remarked that the hope for this program is to overcome the obstacles of entry-level hiring by providing a side door into law firms, legal departments, and other legal organizations. He cited Malcolm Gladwell's popular remark that it takes 10,000 hours to develop proficiency in any given area, so this program, while filling a need, is only a start in terms of training and learning for new lawyers.

DEBRIEF OF MAY MEETING GROUP DISCUSSION**SARAH CLARK**

Sarah Clark summarized that the small group discussions held in February resulted in the following three themes: (1) lawyers are failing to develop and maintain a sense of professional identity; (2) the business of law is coopting—if not corrupting—the profession and distorting lawyers’ understanding that a career in law is about service not just about money; and (3) the profession needs to do more to promote and sustain gender and minority diversity.

Sarah noted that the Commission’s previous two years have done a great deal regarding the first two themes in terms of programs to develop professional identity—such as CAMP, the 1L joint professionalism orientation, and October Legal Professionalism Month—and in terms of programs to re-focus the profession on service—such as increasing pro bono commitments, the Colorado Lawyers for Colorado Veterans program, the Federal Employees Pro Bono Program, and incorporating modest means and self-help into the definition of access to justice.

She explained that the Commission is just now getting to work on the third theme of promoting and sustaining diversity in the profession by including the Center for Legal Inclusiveness and all the specialty bar associations in the Commission and putting support behind pipeline projects and other efforts currently taking place in the profession.

REAL WORLD APPLICATION AND GROUP DISCUSSION**CAREN ULRICH STACY**

Caren Ulrich Stacy presented to the group and began discussion regarding the role that clients can play in diversity and inclusiveness efforts in the legal profession. Caren explained that while working as the director of professional development at a large, national law firm, one of her responsibilities was to respond to surveys and questionnaires from the firm’s clients regarding the firm’s diversity. She noted that although some of these surveys and questionnaires were check-the-box, others were much more in-depth and got everyone in the firm thinking about how to chip away at the mountain. She suggested to the Commission that by sending these more in-depth surveys, the firm’s clients were causing meaningful change within the firm in terms of how it thought about improving and sustaining diversity at all levels of lawyering.

Judge Gabriel and Mark Fogg asked whether clients – post-recession – are still trending toward demanding diversity, to which Caren replied that her experience has not been that good economic times necessarily drive diversity. She acknowledged that clients pay closer attention to the bottom line when shopping around for outside counsel in a slower economy, but that her experience has been that clients pull in diversity as a way to value one firm over another in determining which firms stay on as outside counsel and which ones are let go.

John Eckstein wondered whether those trends were similar for midsize firms with more midsize clients, which sparked an exchange of ideas with Judge Carparelli and Paul Chan about how to involve midsize clients in these efforts – through local and diverse chambers of commerce, for example.

Professor Matthew suggested that diversifying a firm’s workforce is the right thing to do not only because it is a revenue-generating practice, but also because it just the right thing to do in and of itself. She noted that the Colorado Health Equity Project is, effectively, a diverse law firm with the values and

ethos for good representation of all the people of the State of Colorado.

Judge Carparelli noted that the discussion dovetailed nicely with Working Group C's efforts to promote inclusiveness by focusing on the barriers. He explained that the Commission has appeared to evolve from professionalism and civility to inclusiveness and diversity, and that the Commission should continue to incubate both. He explained three steps to promoting inclusiveness: (1) increasing awareness; (2) establishing a commitment to the success of all the members on a particular team; and (3) helping others to step forward to be successful.

Karen Hester remarked that the Center for Legal Inclusiveness has a program called Imbedding Success that helps associates to build the skills they need to develop client relationships.

Dave Stark echoed Caren Ulrich Stacy's earlier observations and comments with his own experience making client pitches and emphasized the diversity makes a firm a better place and strengthens its culture.

Judge Carparelli revisited the topic of implicit bias and encouraged the Commission Members and Liaison Members to get out of their comfort zones and attend events hosted by the Colorado Women's Bar Association, the Sam Cary Bar Association, and others – a comment that was emphasized by Patty Powell.

Paul Chan noted that we have a pipeline problem as well because even if we filled both law schools entirely with diverse students, we still would not come close to represented populations in the profession, an issue for which Mechelle Faulk shared a concern. Mechelle also informed the Commission that the Center for Legal Inclusiveness has a program designed to talk with high school students and that maybe more could be done with that program.

Caren noted that the issue is made more complex by the current lost generation of lawyers. She summed up the discussion by explaining the three main barriers that diverse attorneys come up against: (1) a lack of organic networks; (2) that law firms don't interview in a way that brings diverse attorneys into the fold; and (3) a lack of good mentoring.

Judge Carparelli had the final word in the discussion, informing the Commission that this will be the topic for the Assembly of Lawyers, just before the swearing-in ceremony on November 4. At that program, he explained, there will be presentations regarding the contributions diverse lawyers have made to the Colorado legal profession.

WORKING GROUP B

MARK FOGG

Mark Fogg delivered the report for Working Group B—development of professional identity and social responsibility for new attorneys and thereafter (Materials Pages 3-11). He reported a new partnership between Working Group B and the Colorado Attorney Mentoring Program to train Colorado's mentors, something that was asked for by various mentoring programs and that is not being done anywhere else in the country, to our knowledge. He explained that John Baker is chairing a subcommittee that has been developing a mentoring training curriculum that embeds diversity and inclusiveness in the ethos of the mentor/mentee relationship. He further explained that he is building a stable of lawyers to both train the mentors and to train the trainers, as well as recruiting the leaders of the specialty bar associations to have Working Group B serve as a forum for them to share information on a regular basis.

WORKING GROUP C**JUDGE CARPARELLI**

Judge Russell Carparelli, Chair of Working Group C—development of communication and professionalism between and among judges and attorneys did not provide a separate report because he reported on Working Group C’s efforts during the discussion about diversity and inclusiveness (Materials Pages 12-21). He noted that the October issue of *The Colorado Lawyer* would be devoted to professionalism, which David Little reminded the Commission is set up with self-exams for CLE credit.

WORKING GROUP A**LORENZO TRUJILLO**

Lorenzo Trujillo, Chair of Working Group A—development of professional identity, social responsibility, and practice skills in law school, and involvement of judges and leaders of the bar in law school— informed the Commission that the 1L joint professionalism orientation “For This We Stand” event was once again a success (Materials Pages 22-24). He reported that this year the program included the University of Wyoming Law School, which has about 80 students in its 1L class, and that about 20 of those attended. He informed the Commission that evaluations are being submitted and reviewed, and will be reported on at the December meeting. He also reported that Working Group A will be taking stock of the pipeline projects currently underway to determine what, if anything, can be done to help support these efforts.

WORKING GROUP D**DAVE STARK**

Dave Stark, Chair of Working Group D—development of the relationship between the legal profession and the community to enhance access to justice, delivery of justice, and education of the public— indicated that Working Group D has prepared a proposed comment to Rule 6.1 of the Colorado Professional Rules of Conduct for model pro bono policies for in-house legal departments and government agencies (Materials Pages 25-27). He also announced the launch event of the Federal Government Pro Bono Program, which was created by Mimi Tsankov and at which U.S. Attorney John Walsh will speak. Last, he reported that the Working Group’s ongoing efforts include: increasing pro bono commitments outside the metro area; promoting the new federal pro bono panel program; and supporting the work of the law firm pro bono coordinators committee.

ANNOUNCEMENTS AND FURTHER DISCUSSION

Shannon Stevenson invited the Commission Members and Liaison Members to attend the Colorado Women’s Bar Association game night event at the Punch Bowl Social on Tuesday, October 8, 2013, from 6-9 PM. More information about the event and other CWBA events can be found at <http://www.cwba.org/cwba-calendar>.

Judge Marcucci informed the Commission about a new pro bono project being developed by Denver County Court and Bill Leone’s law firm, Fulbright & Jaworski LLP. As background, Judge Marcucci explained that Denver County Court has a problem: over five years, 500 individuals have been arrested approximately 17,000 times. He explained that jail isn’t the solution for these folks and that they need a holistic approach. Working with Bill and other members of the Denver community, Judge Marcucci informed the Commission of a new project for Courtroom 2300 for these individuals. The goals are to

provide 24/7 access to peer support and legal teams so that these folks can have issues addressed when they arise in hopes of helping them to break the cycle of being in and out of jail. He said it's an exciting project, but just getting underway and will have an eighteen-month implementation.

Chuck Turner announced the Colorado Bar Association Young Lawyer Division's efforts in responding to the Colorado floods. He commended Margrit Lent Parker for her work to update Colorado's disaster legal services policy after Katrina and noted that the policy has been used both in response to wildfires in the past few years as well as in response to the floods. That policy, he explained, has enabled the Colorado Bar Association to set up a helpline, website, and clinics, with 173 calls so far and 160 volunteer lawyers. He also noted that the CBA hired 1.5 employees to handle the volume of calls coming in and that CBA President Terry Ruckreigle has appeared on Lawline9 to talk about the efforts, which was great publicity for the profession.

Margrit Lent Parker noted that there had coordination with FEMA as well as training for the volunteer attorneys to help familiarize them with specific subject areas like landlord/tenant and mobile home park issues.

Ed Gassman introduced to the Commission the idea of a non-profit legal residency institute for new lawyers. Different from the legal residency program being undertaken by CU and DU, Ed reported that the institute will be a bricks and mortar location where twelve grads will be employed as fellow and will aim to serve a modest means clientele. He explained that the goal of the institute will be to provide the training and skills necessary for the fellows to start their own law firm after their fellowship, as well as to instill the ethics of the profession as being a helping profession. He further explained that the institute is in its beginning phases and that more details will be presented at future meetings.

Charles Garcia informed the Commission of the Colorado Access to Justice Commission hearings being held around the state, with one in Denver at 4:30 PM on October 4.

FINAL 2013 COMMISSION MEETING DATE

CHIEF JUSTICE BENDER

Chief Justice Bender announced the Commission's final 2013 meeting date, which will be his final meeting as Chair of the Commission:

- December 5, 2013

All meetings are held on Thursday afternoons from 3:00–5:00 PM in the Supreme Court Conference Room on the 4th Floor of the new Ralph L. Carr Colorado Judicial Center at 2 E. 14th Ave., Denver, Colorado 80203.

ADJOURN

Minutes of Meeting submitted by Sarah Clark, October 31, 2013