

## BRINGING ACCESS TO JUSTICE TO THE LOCAL COMMUNITY

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When the Mississippi Supreme Court created the Mississippi Access to Justice (ATJ) Commission, the order empowered the Commission to “develop[] . . . local, regional and/or statewide systems that encourage the coordination of resources and funding.”<sup>1</sup> One priority identified by the Commission for 2010-2012 was to “[d]evelop a model for local Access to Justice committees or similar entities to develop local initiatives to expand access to civil justice, involving local judges and attorneys and new partners, operating with recognition from the Commission/Supreme Court and reporting back.”<sup>2</sup> In discussing how best to achieve this task, Mississippi ATJ Commission members recognized the importance of giving local individuals the chance to feel responsible for their areas and the superiority local residents have in identifying the critical needs of their communities.<sup>3</sup>

From 2008 to 2010, the Mississippi ATJ Commission held four hearings—one in each Mississippi congressional district—to provide a forum for the community to discuss its concerns and needs. The hearings included two types of panels. The first panel invited various members of the local bar, judiciary, business leaders, press, and other political and community leaders. Its role

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<sup>1</sup> *In re* Establishing the Miss. Access to Justice Comm’n, No. 89-R-99032-SCT, (Miss. June 28, 2006) (en banc), *available at* <http://courts.ms.gov/images/Opinions/133134.pdf>.

<sup>2</sup> *Action Priorities 2010-2012*, MISS. ACCESS. TO JUST. COMM’N 1, 2-3, <http://www.nlada.org/DMS/Documents/1264001402.73/Action%20Priorities%20final.pdf>

<sup>3</sup> Minutes of the Miss. Access to Just. Comm’n meeting on Developing Local ATJ Comms., Dec. 7, 2009 (on file with Miss. Access to Just. Comm’n).

was to listen to testimony presented by witnesses regarding the community's legal needs. The Commission also invited local service providers, pro bono attorneys, judges, and clients to serve on "Witness Panels."<sup>4</sup> From these regional hearings, the eyes of many were opened to the legal demands of those around them, and it was apparent that the needs for each region were not always the same.<sup>5</sup> For example, Thao Vu of Boat People SOS noted a need for bilingual attorneys to assist the Vietnamese community on the Mississippi Gulf Coast.<sup>6</sup> She commented that the closest Vietnamese-speaking attorney lived in New Orleans.<sup>7</sup> At another hearing, attorney Patricia Ice from the Mississippi Immigrants' Rights Alliance Legal Project discussed the increasing Hispanic population in Mississippi, "especially in the south and southeast regions of the state," and the "enormous need for Spanish-speaking attorneys."<sup>8</sup>

During the hearings, North Mississippi Rural Legal Services observed the difficulty of access to legal services by elderly residents who are too frail to go to a provider's office.<sup>9</sup> The report for the hearings also noted that one-third of Mississippi attorneys are located in the Jackson area, "which poses a huge challenge for *pro bono* in other parts of the state."<sup>10</sup>

Even without a formal, local ATJ program in place, local groups have begun to spring up around Mississippi in response to the obvious need and the example of the statewide ATJ Commission. Groups on the Gulf Coast, in Hattiesburg, Greenville, DeSoto County, Hinds County, and Oxford are actively considering how to provide local services to those in need.

On Thursday, December 2, 2010, the Mississippi ATJ Commission hosted its first Local Access to Justice Reception in Gulfport, Mississippi, titled "Expanding Access to Justice in

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<sup>4</sup> Bonnie Allen, *Report of Public Hearings on the Unmet Civil Legal Needs of Low-Income Mississippians*, MISS. ACCESS TO JUST. COMM'N. 1, 8 (2009), <http://www.msatjc.com/pdf/New%20ATJ%20Report.pdf>.

<sup>5</sup> *Id.* at 10.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 24.

<sup>9</sup> *Id.* at 18.

<sup>10</sup> *Id.* at 30.

Mississippi: How Gulf Coast Lawyers Can Make a Difference.”<sup>11</sup> At the reception, area attorneys were encouraged to become involved in pro bono representation and volunteer at a legal clinic the following day in Biloxi.<sup>12</sup> Since that time, there has been significant progress in the Gulf Coast region thanks to the efforts of judiciary and community leaders in Harrison County, especially Youth Court Judge Margaret Alfonso and Harrison County law librarian Fran Perry, who have implemented a pilot program, which creates standardized legal forms to assist self-represented litigants.<sup>13</sup> This group has continued to meet and discuss the development of additional forms and new innovative ways to assist low-income Gulf Coast residents.

According to the Commission’s Executive Director, Davetta Lee, the Hattiesburg area has also begun to develop a permanent pro bono project.<sup>14</sup> Chancery Court Judge Deborah Gambrell has initiated a Pro Bono Clinic to be held during Pro Bono Week. Local attorneys, non-profit organizations, and the University of Southern Mississippi paralegal program have all expressed support. The main issues the Hattiesburg area seeks to address at this time concern expungements and guardianships.<sup>15</sup>

Similar efforts in other areas, although not labeled as ATJ programs, show a promise of formalized local pro bono programs. In Greenville, a group of local lawyers, under the umbrella of Mississippi Volunteer Lawyers Project (MVLP), appear each quarter at the Washington County Chancery Court of Judge Marie Wilson to assist dozens of pro se litigants in family law matters. These local attorneys are joined by University of Mississippi students who are participating in the school’s Pro Bono Initiative.

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<sup>11</sup> Director, *Local Access to Justice Reception in Gulfport*, MISS. ACCESS TO JUST. COMM’N BLOG (Apr. 14, 2011, 9:27 AM), <http://www.mississippiaccessjustice.blogspot.com/2011/04/local-access-to-justice-reception-in-html>.

<sup>12</sup> *Id.*

<sup>13</sup> Minutes of the Miss. Access To Just. Comm’n on Gulf Coast’s Pilot Program Creating Standardized Forms for Pro Se Litigants, Aug. 9, 2011 (on file with the Miss. Access to Just. Comm’n).

<sup>14</sup> Interview with Davetta Lee, Exec. Dir. of the Miss. Access to Just. Comm’n (Jan. 9, 2013); Email from Davetta Lee, Exec. Dir. of the Miss. Access to Just. Comm’n, to Author (Jan. 24, 2013) (on file with author).

<sup>15</sup> Minutes of the Miss. Access To Just. Comm’n on Hattiesburg’s Pro Bono Initiatives, Dec. 6, 2011 (on file with the Miss. Access to Just. Comm’n).

Together, these three groups—MVLP, the local bar, and the law school—assist most of the area’s unrepresented family law litigants in moving their cases through the court system.

At the University of Mississippi School of Law, the newly established Pro Bono Initiative has reached out to the Lafayette County Bar, matching local attorneys and law students to assist MVLP in a twice-yearly Family Law Clinic at the Robert C. Khayata Law Center and to assist in child support modification cases. In DeSoto County, Judge Percy Lynchard and Special Master Malenda Meachum, along with the DeSoto County Bar and the University of Mississippi Pro Bono Initiative, are developing a DeSoto County Pro Se Project. Mississippi College’s Mission First Clinic has joined with Hinds County in a project to serve self-represented litigants in a variety of cases.

These fledgling projects are examples of the importance of locally-grown solutions to local problems and a promising sign of the willingness of local bars to address access issues in their own communities. The challenge is how to encourage, foster, and support such movements.

Despite these significant achievements, there has been very little development of local and regional ATJ groups in other parts of the state. Thus, the question before the Commission and other concerned Mississippians is how to continue to advance access to justice throughout the entire state. To this end, I have reviewed methods employed by other state ATJ commissions.

Colorado has made significant strides in establishing and organizing local ATJ committees. In 2003, the Colorado Access to Justice was formed, and a Pro Bono subcommittee was established.<sup>16</sup> From its inception, the Pro Bono Committee stated that its main goal is to help and encourage judicial districts to be self-sufficient and to form their own local Access to Justice Committees to address their individual residents’ needs. The Committee anticipated that its role would change “to one of support for those [local] committees, including being a

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<sup>16</sup> On June 15, 2005, the Pro Bono Committee changed its name to “Local ATJ Support Committee.” For simplicity, we will simply refer to it as “the Committee.” See Minutes of the Pro Bono Comm. of the Colo. Access to Just. Comm’n on Establishing a Local ATJ Comm., June 15, 2005, available at <http://www.cobar.org/index.cfm/ID/2897/subID/6558/DPWAJ/June-15,-2005/>.

clearinghouse of information.”<sup>17</sup> In 2004, there were only four districts actively working towards serving the civil-litigation needs of their residents. Like Mississippi, Colorado conducted regional hearings to promote interest in the communities and to identify issues pertinent to each district. In 2006, the Pro Bono Committee discussed establishing mentors from active districts to assist neighboring judicial districts in order to assist with the expansion of local ATJ committees. Colorado now has fourteen local ATJ committees.<sup>18</sup>

Colorado’s local ATJ committees have implemented ideas such as a self-help video bank, which instructs individuals how to navigate the courthouse and prepare for court.<sup>19</sup> These videos were produced in both English and Spanish and made available at local libraries and courthouses.<sup>20</sup> The tenth district hosts “call-a-lawyer” talk show.<sup>21</sup> The twentieth district is focusing on persons with limited English skills, working on programs for diversity training, and hiring interpreters for translating court documents.<sup>22</sup>

New Mexico is another state that has made great progress in taking its ATJ programs to the local level. However, its approach to implementing local pro bono committees has been decidedly more structured than Colorado’s. In 2006, the New Mexico Supreme Court entered an order adopting a state plan to address the civil legal needs of low-income residents.<sup>23</sup> The plan required the New Mexico Supreme Court to establish pro bono committees in each judicial district. The Chief Judge in each judicial district

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<sup>17</sup> Minutes of the Pro Bono Comm. of the Colo. Access to Just. Comm’n on the ATJ Comm’n’s Relationship to Local ATJ Comms., Nov. 10, 2004, *available at* <http://www.cobar.org/index.cfm/ID/2900/subID/5522/DPWAJ/November-10,-2004/>.

<sup>18</sup> Jill Lafrenz, *Colorado Local Access to Justice Reports 2011*, COLO. ACCESS TO JUST. COMM’N (2011), [www.cobar.org/repository/ATJ%202011%20Local%20Report%20%20combined.pdf?ID=3238](http://www.cobar.org/repository/ATJ%202011%20Local%20Report%20%20combined.pdf?ID=3238).

<sup>19</sup> Minutes of the Pro Bono Comm. Of the Colo. Access to Just. Comm’n on Need to Coordinate Efforts and be an Information Resource, Sept. 8, 2004, *available at* <http://www.cobar.org/index.cfm/ID/2900/subID/5517/DPWAJ/September-8,-2004/>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *In re* the Approval of the Report of the N.M. Comm’n on Access to Justice, No. 06-8500, (N.M. Apr. 28, 2006), *available at* <http://www.nmbar.org/Attorneys/ATJ/ComAccessJusticerpt041906.pdf>.

was responsible for appointing the members of the local ATJ committee. The plan recognized that judicial leadership, both on a state and local level,

[I]s necessary not only to encourage attorneys to provide pro bono services, but also to communicate to all parties involved that the provision of legal services to those in need, or Access to Justice is recognized as an obligation and a public duty at all levels of the New Mexico judiciary and legal community.<sup>24</sup>

Each district's pro bono committee is required to develop an individualized local plan, which would "identify local needs, establish eligibility criteria and address the division of responsibility among the courts, the local bar association, the private bar, legal service providers and the public."<sup>25</sup> The district committees are also required to "submit annual reports with benchmark assessments and resource requests to the Commission."<sup>26</sup> Then the ATJ Commission will "coordinate funding requests through the Courts' unified budget process."<sup>27</sup> As of December 2011, New Mexico has sixteen local pro bono committees from its judicial districts.<sup>28</sup>

In 2010, the California Commission on Access to Justice released a policy paper outlining the issues affecting the rural areas of its state, and the severe lack of resources. In the paper, the California Commission recognized "that local stakeholders are in the best position to set local priorities and develop local action plans that are designed to truly improve access to justice."<sup>29</sup> Noting each rural community "has unique needs and priorities,"

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<sup>24</sup> Christine Chandler, *The New Mexico Ten Step Plan for Improving Access to Justice*, SYS. PLANNING COMM. OF THE N.M. COMM'N ON ACCESS TO JUST., <http://www.nmbar.org/Attorneys/ATJ/2006TheNewMexico10StepPlanforImprovingAccessstoJustice.pdf>.

<sup>25</sup> *Id.* at 8.

<sup>26</sup> *Id.* at 9.

<sup>27</sup> *Id.* at 6.

<sup>28</sup> *January-December 2011 Annual Report: Summary of 2011 Pro Bono Annual Reports*, N.M. ACCESS TO JUST. COMM'N (2011), <http://www.nmbar.org/Attorneys/ATJ/probonoreports/2012Reports/2011SummaryJudDistProBonoCom.pdf>.

<sup>29</sup> *Improving Civil justice in Rural California*, CAL. COMM'N ON ACCESS TO JUST. 1, 13 (2010), <http://calbar.ca.gov/LinkClick.aspx?fileticket=wBD9dBjuIm4%3D&tabid=216>.

the Commission submitted several recommendations, including the development of local task forces to increase access to justice, the improvement of “language access,” and the development of innovative uses of technology to bridge the “urban/rural divide.”<sup>30</sup> “These local task forces might include representatives from legal aid providers, self-help centers, the local bar associations, and county law libraries, as well as other partners who also assist impoverished clients.”<sup>31</sup> However, the paper also cautioned that the pursuit of the goals to improve legal services in California’s rural areas should not “undermine urban legal programs.”<sup>32</sup>

In contrast to these states, Indiana initially established twelve local pro bono districts; it was only in 2008 that Indiana proposed the formation of a statewide ATJ commission to serve as an “umbrella organization” to help “unit[e] and coordinat[e] the efforts of various entities working to address the legal needs of the poor.”<sup>33</sup> The Indiana Pro Bono Commission consists of twenty-one appointed individuals who have the responsibility of allocating Interest On Lawyers Trust Accounts (IOLTA) funds to the twelve District Pro Bono Committees in Indiana. “A trial judge from one of the counties in each Indiana district chairs and appoints the District Committee.”<sup>34</sup> These committees “submit an annual report and plan that addresses the unmet legal needs in their community.”<sup>35</sup> In Mississippi, however, it is not anticipated that local committees will be requesting funding as is done in Indiana, as MVLP centralizes IOLTA and other funding requests and provides professional liability coverage for pro bono cases handled through that organization.<sup>36</sup>

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<sup>30</sup> *Id.* at 14-15.

<sup>31</sup> *Id.* at 15.

<sup>32</sup> *Id.* at 5.

<sup>33</sup> *Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana*, IND. BAR ASSOC. 1, 104 (2008) <http://www.indianalegalservices.org/files/ilsi-unequal-access-2008-full.pdf>.

<sup>34</sup> *Id.* at 16-17.

<sup>35</sup> *Id.* at 17.

<sup>36</sup> In Mississippi, IOLTA funds and funds collected from lawyers in lieu of pro bono service are disbursed as grants through the Mississippi Bar Foundation, Inc. The MVLP, together with the Mississippi Center for Legal Services and the North Mississippi Rural Legal Services—the two Legal Services Corporation funded programs operating in our state—are the principal grantees of these funds annually. *See generally* 42 U.S.C. § 2996 (2006); MODEL RULES OF PROF'L CONDUCT R. 1.15 (e), R.

While Mississippi has made significant progress in encouraging attorneys to participate in pro bono services, the process of establishing permanent local and regional pro bono committees has only begun. We must determine the most effective way to proceed with the development of local pro bono committees in each region or judicial district and how to promote a dialogue between these committees. Currently, the Mississippi ATJ Commission's course of action has been similar to Colorado's—encouraging the local districts and regions to create their own pro bono or ATJ committees and relying on these local committees to develop and support their own ideas and projects. However, there may be a need in the future to employ the formal, centralized approach used by New Mexico and to develop a mandatory state plan that would require each district to submit individualized local plans and annual reports to the Mississippi ATJ Commission.

The best way to structure these local committees is also an important issue. Establishing local committees by judicial districts would certainly be beneficial in that the needs of the entire district could be considered, and attorneys might be persuaded to perform pro bono services over a broader geographic area as opposed to just their home counties. This model would allow attorneys to appear before familiar judges and not be out of their comfort zone. Whether to use circuit and chancery court districts would also be a question. While there are certainly access to justice issues addressed by both types of courts, many of the legal issues addressed for low-income residents do grow out of chancery courts.<sup>37</sup> This may be the appropriate model.

In addition to a more formalized plan for developing local groups through the statewide ATJ Commission, the Commission and MVLP could assist the local groups, as the Colorado plan suggests, by acting as a clearinghouse for the local groups. While local planning and solutions are critical, there may be common

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6.1(b)(3) (2010). *See also MS Bar Foundation/IOLTA*, MISS. BAR, <http://www.msbar.org/programs-affiliates/ms-bar-foundationiolta.aspx> (last visited Feb. 5, 2013).

<sup>37</sup> *See Minutes of the Miss. Access to Just. Comm'n on Which Court Districts to use to Structure Local ATJ Comms.*, Dec. 7, 2009 (on file with the Miss. Access to Just. Comm'n).

tools or resources that can be shared, greatly reducing start-up time and resource development. For example, a newly-begun group in a rural community with a family-law focused program could take sample pleadings developed in an existing program and tailor them to local requirements. Training materials for pro se litigants in a north Mississippi clinic could be shared with a group planning a similar project in a different region. Developing these materials is time-consuming and can take months; a statewide clearinghouse of available materials could be of tremendous assistance to beginning groups.

A mentoring program similar to Colorado's, sponsored by the ATJ Commission, could also be of great assistance to local groups. A new group would benefit immensely from hearing what a more seasoned program found successful or futile, how the group recruited volunteers and organized projects, and how to coordinate with law schools, libraries, and other potential partners. For example, in creating the DeSoto project, the organizers drew on the experience of the Greenville Pro Se Project and the generous advice of Mississippi College's Mission First Clinic in developing a plan that fit local needs, but with the benefit of the experience of others.

Whatever approach is selected, it is imperative that local judiciary, local bar associations, community leaders, and various local organizations take action in their efforts to assist low-income residents with their civil-legal needs. I urge each of the symposium attendees to begin a dialogue within their communities and bar associations regarding the establishment of a local ATJ committee and to contact the Commission for any assistance they may need.

