

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

August 28, 2007

NO. 07-8500

IN THE MATTER OF THE APPROVAL OF THE
2007 ANNUAL REPORT OF THE NEW MEXICO
COMMISSION ON ACCESS TO JUSTICE

ORDER

WHEREAS, this matter came on for consideration by the Court at the hearing of May 7, 2005, upon the request of the New Mexico Commission on Access to Justice (ATJ Commission) to consider and to adopt the recommendations presented in its 2007 Annual Report, which included the *Report of the Self Represented Working Group* and the *2007 State Plan for Providing Civil Legal Aid to Low Income New Mexicans*;

WHEREAS, there continues to be a compelling shortage of civil legal assistance for low income New Mexicans requiring attention;

WHEREAS, the Court recognizes that access to justice is a core function of government, including the courts; and

WHEREAS, the Court having considered the request of the Commission and the Court being sufficiently advised, Chief Justice Edward L. Chavez, Justice Patricio M. Serna, Justice Petra Jimenez Maes, and Justice Richard C. Bosson concurring, Justice Pamela B. Minzner not participating;

NOW, THEREFORE, IT IS ORDERED that the Commission shall continue its efforts to address the need of civil legal assistance for low income New Mexicans and then report it's findings and recommendations to this Court;

IT IS FURTHER ORDERED that *The 2007 State Plan for Providing Civil Legal Aid to Low Income New Mexicans* hereby is ADOPTED and this Court assumes oversight of the State Plan through the ATJ Commission.

Pro Bono Efforts

This Court acknowledges that since the order issued April 28, 2006, assuming oversight of the Pro Bono Plan ,a position of Legal Services Coordinator was created and Rosalie Fragoso was hired to fill the position. In addition, there have been local access to justice committees established in the First, Second, Eighth, Eleventh, and Thirteenth Judicial Districts. Each of these local committees are at different stages in their planning and implementation of their local plan envisioned by the Pro Bono Plan.

IT IS FURTHER ORDERED that the Commission shall continue its efforts to implement the Pro Bono Plan as provided in the order issued April 28, 2006.

Self Represented Litigants Support

IT IS FURTHER ORDERED that the Report of the Self Represented Working Group is ACCEPTED and the Commission is AUTHORIZED to pursue the recommendations to consider guidelines that would assist the courts throughout the state in determining what minimal services should be provided for self represented litigants, including, but not limited to. the use of self-help centers in the courts, to assist the proposed Commission staff in developing training for court personnel, the judiciary, and the bar about assisting self represented litigants, including the use of unbundled legal services, to work on developing user friendly forms and technological means of access to and use of such forms, including accessibility by people with limited English proficiency and to monitor and support, if it deems it advisable, pilot projects on limited representation.

IT IS FURTHER ORDERED that the Commission is AUTHORIZED to continue working on amendments to rules to clarify the propriety of limited representation. The Commission should work with the State Bar to develop risk management tools to address the insurance industry's concerns and to educate the judiciary, the bar and insurers on the value and propriety of limited representation.

Proposed Rules

IT IS FURTHER ORDERED that the proposed Uniform Free Process for Civil Cases rules are adopted along with the form and that the rules and form are to be published in the *Bar Bulletin*.

IT IS FURTHER ORDERED that this Court will consider the adoption of proposed Rule 23-113 that defines the role of court staff that work with self represented litigants.

IT IS FURTHER ORDERED that with respect to the IOLTA program the Commission will prepare for this consideration by this Court two separate revisions to Rule 16-115 dealing with IOLTA accounts that 1) would make participation in IOLTA mandatory and 2) would require that IOLTA accounts be maintained in a financial institution that pays no less than the highest interest rate and dividend generally available from the institution to NON-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other eligibility qualifications.

Funding Needs for Civil legal Services for Low Income Individuals

This Court acknowledges the legislative response to the need for funding for civil legal aid. The Court further acknowledges that the continuing need for funding for civil legal services for low income individuals is ongoing and, therefore, continues its support for such funding.

Staffing Needs for the Access to Justice Commission

The Administrative Office of the Courts is AUTHORIZED to include in its Fiscal Year 2009 appropriation request to the legislature an expansion request sufficient for a full time attorney employee dedicated to staff the Commission and to coordinating activities to improve access to justice by self represented litigants as more particularly discussed in the *Report of the Self Represented Working Group*.

Done at Santa Fe, New Mexico, this 28th day of August, 2007.

Chief Justice Edward L. Chávez

Justice Patricio M. Serna

Justice Petra Jimenez Maes

Justice Richard C. Bosson

Justice Pamela B. Minzner
(not participating)