



Legal Professionalism Committee Meeting Minutes
May 3, 2016, 10:30 am, Raleigh, NC

Commissioners attending: Catharine Arrowood, Chair
Luke Bierman
Richard Boyette
Jay Conison
Phylliss Craig-Taylor
Drew Erteschik
Judge Robby Hassell
Mark Merritt
Justice Bob Orr
Raymond Pierce
Matt Sawchak
Lisa Sheppard

Commission staff attending: Will Robinson
Jon Williams
Emily Portner

Issues discussed:

1. Approval of minutes

The committee unanimously approved draft minutes of its April 5 meeting, as amended.

2. Presentation by Reid Phillips, partner in Brooks, Pierce, McLendon, Humphrey & Leonard

Mr. Phillips serves as outside counsel to Capital Associated Industries in a federal lawsuit that challenges the scope of North Carolina's prohibition on the corporate practice of law. *See, e.g., Capital Associated Indus. v. Cooper*, 129 F. Supp. 3d 281 (M.D.N.C. 2015) (denying motion to dismiss, but also denying motion for preliminary injunction).

In a presentation, Mr. Phillips shared his concerns with the current doctrines that limit the persons and entities that can practice law in North Carolina. Mr. Phillips also discussed the implications of the *Capital Associated* case for the work of this committee.

A copy of Mr. Phillips's slides is attached to these minutes.

3. Presentation by Jennifer Lechner, Executive Director, North Carolina Equal Access to Justice Commission, and Sylvia Novinsky, Director, North Carolina Pro Bono Resource Center

Ms. Lechner made a presentation on the dimensions on the civil-justice gap in North Carolina, as well as possible ways to close the justice gap. She pointed out several factors that make cases harder on pro se litigants and pro bono lawyers—especially county-to-county variations in local rules and other practices.

Ms. Novinsky made a presentation on the role of pro bono lawyering in filling the justice gap. She discussed the results of a recent survey on barriers to pro bono service.

A copy of the slides from Ms. Lechner and Ms. Novinsky is attached to these minutes.

4. Discussion of committee's recommendations for interim report

The committee discussed and framed the following recommendations for its interim report:

Recommendation 1. The committee endorses the work of the North Carolina Equal Access to Justice Commission and the related North Carolina Pro Bono Resource Center.

The committee recommends that that the Equal Access to Justice Commission explore ways to increase the help offered to self-represented litigants throughout North Carolina. For example, the Equal Access Commission might consider the following projects:

- Analyzing whether the North Carolina court system is accessible to and usable by self-represented litigants. This analysis should consider whether the current level of access raises any due process issues.
- Creating a statewide action plan for self-represented litigants.
- Identifying ways to streamline commonly encountered court processes to make them easier for self-represented litigants to handle.
- Standardizing forms and templates for pro se litigants across North Carolina.
- Studying trial courts' local rules and identifying ways to standardize or consolidate these rules as much as is reasonable.
- Creating websites with user-friendly court information and online forms, with links to live assistance from court personnel.
- Providing online triage services that give self-represented litigants routes for pursuing their cases and, at the same time, help the courts process and track cases.
- Offering standard training to help judges and court personnel work with self-represented litigants.
- Forging agreements with law schools' clinical programs, in an effort to involve law students (under supervision) in client service.
- Developing court assistance offices, self-help centers, and courtroom-based resources to help self-represented litigants.
- Collaborating with public libraries and law libraries to help self-represented litigants.

- Collecting and analyzing data on the barriers facing unrepresented litigants, how unrepresented litigants fare in court, and the impact of efforts to help them.

The committee also recommends that the North Carolina Pro Bono Resource Center consider the following initiatives:

- Developing a statewide campaign to educate North Carolina lawyers about their responsibility to provide pro bono legal services under Rule 6.1 of North Carolina's Revised Rules of Professional Conduct.
- Working with local bar organizations to develop pro bono projects throughout North Carolina.
- Expanding training opportunities for lawyers who volunteer to provide pro bono legal services.
- Supporting efforts to track and recognize North Carolina lawyers' pro bono service.

Recommendation 2. The Legal Professionalism Committee should continue to study (and, if appropriate, propose changes to) the definition of the practice of law in North Carolina, as well as the entities with the authority to adjust that definition. Any proposals should account for the evolving needs and expectations of clients, as well as the impact of technology on law-related services. The committee should also study whether North Carolina should license or certify any other providers of law-related services – and, if so, what categories of providers should be licensed or certified, and how these providers should be regulated.

Recommendation 3. The Legal Professionalism Committee should continue to study (and, if appropriate, propose changes to) the choice of the organization(s) with the authority to regulate entry into the practice of law, as well as entry into any other regulated tiers of law-related services. Likewise, the Legal Professionalism Committee should continue to study (and, if appropriate, propose changes to) the choice of the organization(s) with the authority to regulate the professional conduct of lawyers and any other providers of law-related services.

Recommendation 4. An appropriate organization should study the standards and methods that North Carolina should use in the future to assess candidates for the practice of law, as well as candidates to provide any other licensed or certified

categories of law-related services. The standards and methods should consider the evolving scope of the practice of law, the scope of practice of any other regulated type of law-related services, recent and future changes in the dynamics of law-related services, and the needs of clients.

5. Adjournment

The meeting adjourned by consensus at about 2 p.m.

/s/ Matthew W. Sawchak
Reporter