
Appendix J

**Access to Justice Hearing
October 18, 2007
Grand Junction, Colorado**

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Appendix J
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Summary of Grand Junction Access to Justice Hearing

The Grand Junction Access to Justice Hearing, held on October 18, 2007, featured testimony by six witnesses, including Mesa County Magistrate Stephanie Rubinstein, Kathy Boelte of the local Colorado Legal Services (CLS) office, and two well-respected private attorneys, Ed Nugent and Susan Eggert. A distinguished four-person panel, including Representatives Bernie Buescher and Steve King, and Mesa County Chief District Judge David Bottger, listened attentively as the witnesses described the unmet need for civil legal assistance for poor people in Mesa County.

Witnesses described the types of problems faced by the indigent, and the difficulties of navigating the legal system without help from an attorney. Magistrate Rubinstein testified that 67% of the divorces in Mesa County were pro se, and that often those litigants miss critical legal arguments that should be presented. Kathy Boelte testified about the difficulty the two attorneys in her office face in providing help to the poor, and described one situation involving a victim of domestic violence CLS was able to help. Ed Nugent described the tremendous efforts of the private bar in Mesa County to bridge the justice gap by providing pro bono services. Susan Eggert testified on behalf of a pro bono client, who credits her representation by Ms. Eggert and by CLS with enabling her to get her life together after leaving an abusive relationship.

Grand Junction Access to Justice Hearing Panelists

<u>Name</u>	<u>Affiliation</u>
Fred Bauman	Panel Chair; Vice Chair, Colorado Access to Justice Commission
David Bottger	Chief Judge, District Court, 21st Judicial District
Bernie Buescher	State Representative (D-Mesa)
Steve King	State Representative (R-Delta)

Grand Junction Access to Justice Hearing Witnesses

<u>Name</u>	<u>Affiliation</u>
Fred Baumann	Vice Chair and Resource Committee Chair, Colorado Access To Justice Committee
Reenie Terjak	Attorney, Colorado Legal Services
Stephanie Rubinstein	Magistrate, Mesa County Court
Kathy Boelte	Attorney, Colorado Legal Services
Ed Nugent	Private Attorney
Susan Eggert	Private Attorney

Summary of Witness Statements

Attendance - 51

Fred Baumann

Mr. Baumann is the Vice Chair of the Colorado Access to Justice Commission and chairs of the commission's Resource Committee. He described the sources of funding for CLS, including the federal Legal Services Corporation, the Colorado Lawyers Trust Account Foundation, the legal community, and state funding. Mr. Baumann explained that Colorado's state funding (\$500,000) now ranks fortieth nationally and would need to increase an additional \$1.82 million to become average. Additional details of this presentation are included in Appendix B.

Reenie Terjak

Ms. Terjak is an attorney with Colorado Legal Services (CLS). She presented an overview of CLS, which provides assistance in civil cases to individuals and families throughout the state whose incomes are within 125% of federal poverty guidelines. Statewide, CLS currently has forty attorneys serving in fifteen offices. In 2006, it served 6,632 eligible clients, primarily in the areas of family law, income maintenance, and consumer law. Additional details of this presentation are included in Appendix A.

Question from Rep. Buescher: Is it true that CLS no longer deals with administrative advocacy?

Response: We do not handle legislative advocacy regarding federal agencies and do not attempt to change policy, but we do help individuals.

Question from Rep. King: Do you see the need for representation through telecommunications and teleconferencing?

Response: Several years ago, Montana received a grant from the Legal Services Corporation (LSC) to do this exact thing. CLS just received funding from LSC to pilot such a program in the southeast part of the state. We intend to initially use it to give advice or teach classes. The majority of judicial districts do not allow remote representation at this time.

Stephanie Rubenstein

Ms. Rubenstein is a Magistrate in Mesa County Court. She noted her long-term interest in the topic of legal aid for the indigent because of her previous pro bono experience. Magistrate Rubenstein stated that the majority of cases she sees involve divorce or other family issues. She explained that dealing with pro se litigants was a huge challenge, because often the pro se parties do not know what to do in court and as a result, critical legal arguments are not made. For instance, pro se litigants regularly send notice incorrectly, which often eliminates the litigant's chance of being heard in the court. This results in a general mistrust for the court system.

In 2006, out of the 917 divorces that were litigated in Mesa County, 67% were pro se. This suggests that there is a greater need in Mesa County for indigent representation than other counties. There are vast numbers of people that cannot afford legal assistance but do not qualify for representation by CLS.

Magistrate Rubenstein acknowledged that the solution to the lack of representation is not clear. Attorneys who volunteer their time and expertise in pro bono efforts are a great help, but these services alone are not enough to solve the problem. Likewise, while complimenting the strides that CLS is taking, Magistrate Rubenstein reiterated that those services still do not bridge the justice gap. Magistrate Rubenstein believes that many families that need assistance do not receive any help due to the lack of available resources.

Question from Rep. King: Is unbundling allowed in this area?

Response: Unbundling is available to a small degree. But it is difficult for attorneys to give discrete advice on a regular basis because of the heavy caseload local attorneys have. When attorneys provide limited services to a client, they must rely only on what the person relates about the problem; they cannot independently verify the information provided. As a result, attorneys must be concerned about the prospect of malpractice claims.

Bernie Buescher comment:

A recent ethics decision said that CLS attorneys have the same legal obligation to clients as any other attorney, and they would have to resign if they can't help their client out completely. We are required to provide services to the accused in criminal actions, and there is probably as much if not more of a need on the civil side.

Question from Judge Bottger: Can you address whether you have encountered pro se litigants who do not represent children to the best of their abilities because the clients do not provide enough legally pertinent information?

Response: Often litigants will provide too much information, because the litigants feel so much emotion; much of the information offered often is irrelevant to the issue at hand. The best way to get clear information is with child and family care investigators. Child and family care investigators are very expensive (about \$3,000 at a minimum), and as a result the investigators will often not be hired and judges will not receive critical information from child and family care investigators. If a judge does not get this information it is difficult to make a correct decision. Magistrate Rubenstein concluded that Grand Junction needs more resources to provide the indigent with civil legal services.

Kathy Boelte

Ms. Boelte is a staff attorney with the local CLS office. She described how the Grand Junction CLS office, consisting of two attorneys, collaborates with the freestanding Mesa County pro bono group in an attempt to better serve the needs of the indigent. Instead of having low income people go to each organization and fill out the various forms, CLS has applicants fill out only one form. When CLS cannot take a case because of a conflict of interest or lack of resources, CLS will attempt to refer the client to the bar association for pro bono services. Despite the best efforts of both the local bar association and CLS, their combined efforts do not even begin to address the needs of poor people in the area who have legal problems.

Ms. Boelte described the types of problems faced by the indigent for which legal services would be important. Many old, frail people, who might have been intelligent in their earlier years, now have growing legal issues. Numerous people have severe debt with medical bills and landlord tenant issues. CLS's two lawyers, plus the pro bono volunteers, simply cannot take care of all these problems. In fact, the CLS office will often take the complex and arduous cases and give out less time consuming cases to pro bono attorneys. This helps attract further work, since it helps private attorneys feel positive about their pro bono experience.

The Grand Junction CLS office finds it difficult to recruit new attorneys because the pay is so low. The starting salary at CLS is \$16,000 less than the starting salary at the Mesa County District Attorney's office and \$14,400 less than the starting salary at the Public Defender's office. CLS needs additional resources so it can raise its starting salary to attract recent law school graduates.

Ms. Boelte spoke on behalf of a client that CLS had represented. The client was going to testify at the hearing, but had too many problems to come. She is a 23 year old victim of domestic violence who has an eight-month old disabled son who recently lost both her housing and job. She did not have the means to hire an attorney, but she was fortunate to receive services from CLS, which helped her to protect her child from domestic violence.

Ms. Boelte also described some of the legal problems facing indigent citizens in Grand Junction. Elder exploitation, also known as home invasion, is the highest growing problem in the CLS office. Elder exploitation can occur when relatives of the elderly change the title on a home, take food stamps, or sign transfer documents to take advantage of vulnerable elderly people. In these cases, CLS serves protection orders to protect these people from abusive relatives. Ms. Boelte described a case where, with CLS's help, an elderly client was restored to her home.

In 2006, CLS received 245 applications for full representation in divorce cases but was only able to provide brief service or advice in fewer than 60 cases. This year, there have been 181 applications for full representation in divorce matters, and 70 have received full representation.

Ms. Boelte concluded her testimony by explaining how additional resources would enable CLS to provide more services to protect vulnerable citizens, including children and the elderly.

Question from Rep. King: 64% of litigants are pro se here on the Western Slope, while 34% of litigants are pro se on the Front Range. Is that directly related to the fact that you only have two attorneys?

Response: That is a good question. The only way to get the answer is to do a study based on the court records to see how many of the pro se litigants are indigent. We believe that, with more resources, we could provide representation to many more indigent clients.

Ed Nugent

Mr. Nugent is a local attorney who has been dedicated to assisting indigent clients since the beginning of his legal career. Having practiced law for over thirty years and beginning as a public defender, Mr. Nugent believes in pro bono activities and legal aid services, and knows that they make large strides in bridging the justice gap that plagues the poor population. He has participated in pro bono activities his entire career, and is still heavily involved today.

The Mesa County Bar Association was one of the first in the state to pilot a successful pro bono program and is considered to be a model for other areas. Its success stems in large part from its use of an executive director, Karen Detmers, who is able to match potential pro bono clients with an attorney, as well as coordinating the services of the various attorneys. Furthermore, the local bar association in Mesa County has a board of directors who provide direction on the pro bono activities of its members. Currently the county bar places a "tax" as part of its membership dues, \$9,000 of which goes to the Mesa County pro bono program. These attorneys "put their money where their mouths are," by taking money out of their own pockets to assist low income individuals. Additional funding of \$10,000 towards the program comes from COLTAF. The dedication of local attorneys to pro bono work is exceptional, as evidenced by an almost 50% participation rate among attorneys not involved in government.

CLS and other legal aid providers are vital and necessary entities in the vast majority of low income legal cases. However, the pro bono program has several advantages that CLS is unable to currently provide. For example, temporary restraining orders are often needed in emergency situations, due to the violent and potentially life-threatening nature of domestic violence. CLS attorneys are unable to help in situations regarding temporary restraining orders, and an individual must have an attorney to get one. The pro bono executive

director is able to match these individuals with a pro bono attorney on short notice. The pro bono program in Mesa County also has no income eligibility requirements. Many people are literally one paycheck away from being indigent, and are unable to afford legal representation. Last year, the local pro bono program was able to help the majority of individuals seeking a divorce that CLS was forced to turn away due to eligibility requirements. Overall, they have a very successful pro bono program.

Question from Rep. King: How many hours do Mesa County attorneys dedicate to pro bono work for the indigent?

Response: Mesa County attorneys volunteer approximately 2,500 hours annually. Awards are given to attorneys who volunteer at least 100 hours to create incentives to provide pro bono work. This is a difficult number to estimate however, because some cases involve 40 hours of work, while others only take six, making it difficult to standardize.

Pro bono offers many programs to the indigent community in Mesa County such as clinics and workshops that are meant to provide basic legal advice and “how to” services to a large number of individuals at once. However, while these programs are very helpful, they can actually be mildly dangerous to clients because not all the information is processed and only bits are actually absorbed.

Ed Nugent continuing:

Mr. Nugent concluded that there is no substitute for “boots on the ground,” referring to the need for actual representation of clients in order to provide assistance with the legal problems that plague many of the indigent. Constitutionally, we are obligated to provide criminal defense for all persons, regardless of their financial situation. Many of the problems that plague our society, such as abusive relationships and landlord-tenant issues, could be lessened if we could provide civil legal representation to larger numbers of people that otherwise do not have access to it, in the same manner as criminal defense. The best pro bono program in the world is unable to fill the legal justice gap that exists, and additional funding is the only way to fill that gap.

Comment from Rep. Buescher: In the state legislature we struggle to provide adequate funds for vulnerable populations. For example, Colorado is last in the nation for funding among mentally ill people, and we were one of two states that did not provide drug and alcohol social security benefits for people. So this is a problem with tough issues that needs to be remedied through the help of the state legislature. However Mesa County should be commended for its great pro bono program.

Comment from Judge Bottger: These are all problems that many people do not realize exist to the extent that they do. They need to be addressed by those in decision making positions.

Susan Eggert

Ms. Eggert is a private attorney, who testified on behalf of her client, who could not testify because she was too nervous.

The client, Maria, is 50 years old and has a nine year old daughter. She has been separated from her husband for ten years, and both she and her daughter are victims of sexual abuse. At one point in the relationship, Maria went to a private attorney seeking assistance with a divorce. However, when the process was explained to her, she realized it was too expensive for her. She decided that she had no choice but to return to the relationship and lived for five more years without the knowledge that there were any legal services available to help her.

One evening Maria returned home to find her daughter being molested by her husband. She immediately left with her daughter, but was only able to grab her purse and car. She was taken in by a shelter in Grand Junction, where they referred her to CLS and the Mesa County pro bono program. Through a volunteer pro bono attorney she was able to get a temporary protection order against her husband. Maria was a “stay-at-home” mother and wife, and had no resources of her own. Having lost everything during her emergency move, she virtually had nothing. Through the help of Ms. Eggert, Maria was told of other resources that helped her to get an apartment in an effort to help her rebuild her life.

The next issue that confronted Maria occurred when a lender contacted her and informed her that her car was going to be repossessed. Her CLS attorney advised her of several options, and eventually Maria decided that the best course of action would be to have her husband sign the car over to her, and then sell the car and purchase a more affordable one. Her lawyer informed her of this option, drafted the power of attorney, and had the husband sign it. Maria now works full-time at Wal-Mart, and is receiving counseling along with her daughter, but still has no furnishings for her apartment. While she still struggles to keep her head above water, she is now aware of the potential for legal assistance.

Maria would certainly have been overwhelmed with the judicial system, and would not have been able to proceed to confront her husband in court on a pro se basis. She is shy, and does not talk well in front of people, and would not have been able to articulate her claim in court in front of her abuser. She would also not likely have been able to acquire employment if she were tackling the judicial system on her own, because she would have been overwhelmed with the paperwork involved. Her CLS attorney was able to fill out the forms quickly and efficiently. Overall, Maria credits legal services with providing a means for her to be happy again, and could not imagine what her life would be like without the services she received.

Grand Junction Access to Justice Hearing Invitation

*** Access to Justice Hearings Tonight — Pueblo & Grand Junction The Colorado Access to Justice Commission, in cooperation with local Access to Justice Committees, is conducting statewide hearings on the successes and opportunities for improvement in meeting the legal needs of poor people in Colorado. Tonight, hearings in Pueblo and Grand Junction will host state legislators, Colorado Bar Association members and other leaders of the community. They will hear presentations and testimony regarding the met and unmet legal needs of low-income people in Colorado, including the specific needs of individual communities. For more information on tonight's public hearings and upcoming hearings, go to www.cobar.org/page.cfm/ID/20267, or contact Cheryl Law, (303) 824-5333 or claw@cobar.org.

**Grand Junction Access to Justice Hearing
Media Coverage**

FREE PRESS

October 18, 2007

Poor justice

The Colorado Access to Justice Commission, a group of state and local officials, wants feedback on how the state's legal system meets the needs of the poor. It's Thursday, Oct. 18, at GJ City Hall, 6:30-8:30 p.m. Panelists include CO Supreme Court Justice Gregory Hobbs, MC Chief Judge David Bottger and state reps Bernie Buescher and Steve King. Info: <http://www.coloradojustice.org/>.

Grand Junction Access to Justice Hearing Media Coverage

Legal services for the poor to be discussed at hearing

By AMY HAMILTON, Grand Junction Daily Sentinel, Wednesday, October 17, 2007

Low-income people who don't know their options for legal representation can burden the legal system, members of Mesa County's 21st Judicial District plan to tell to the Access to Justice Commission.

The commission is hosting a public hearing from 6:30 to 8:30 p.m. Thursday at the Grand Junction City Hall auditorium to gather information for legislators and the public on the importance of providing legal services to the poor.

"There can't be justice for all if some people can't get in the front door of the courthouse," said attorney Ed Nugent, who will be speaking at the hearing. "We, as citizens, wind up paying the cost for this by providing other, more costly services because a person may lack legal remedies which may address their problems. The courts spend valuable time, and therefore money, trying to focus unrepresented litigants on what is necessary to present a case."

Information gathered at the hearing will be compiled in a report for Ritter, the Legislature and the Colorado Supreme Court.

Speakers will include Kathy Bolte, from the Grand Junction Colorado Legal Services, Magistrate Stephanie Rubinstein and a person who has been represented by legal services. Panelists include Colorado Supreme Court Justice Gregory J. Hobbs Jr.; Mesa County Chief District Court Judge David Bottger; Rep. Bernie Buescher, D-Grand Junction, and Rep. Steve King, R-Grand Junction.