
Appendix L

**Access to Justice Hearing
October 18, 2007
Pueblo, Colorado**

**Co-Sponsored by
The Colorado Access to Justice Commission and
The Tenth Judicial District Access to Justice Committee**

Appendix L
Table of Contents

<u>Contents</u>	<u>Page</u>
Summary of Pueblo Hearing	L-3
Panelists	L-4
Witnesses	L-4
Summary of Witness Statements	L-5
David Butler	L-5
Molly Ryan	L-5
Roberto Silva	L-5
Dennis Trujillo Johnson	L-6
Sharon Blackman	L-6
Lois Harder	L-7
Jesse Allen	L-7
Deborah Eyler	L-7
Valerie Haynes	L-8
Ann Willis	L-9
Robin Sanchez	L-10
Steve Fieldman	L-10
Mike Desaulniers	L-10
Pueblo Access to Justice Hearing Invitation	L-11
Pueblo Chieftain, October 18, 2007	L-12
Tenth Judicial District Access to Justice Committee Members	L-13
Tenth Judicial District Access to Justice Committee Recent Accomplishments	L-13

Summary of Pueblo Access to Justice Hearing

The Pueblo Access to Justice hearing, held October 18, 2007, featured testimony by 13 witnesses, including Pueblo County Magistrate Deborah Eyler and Mike Desaulniers, President of the Pueblo County Bar Association. A distinguished panel of six, including Senator Abel Tapia, Representative Dorothy Butcher, Colorado Supreme Court Justice Alex Martinez, Pueblo County Court Judge Adele Anderson, and Colorado Bar Association President David Lytle, listened attentively as the witnesses described the tremendous unmet need for civil legal assistance for poor people in Pueblo County. Forty-one people attended the hearing.

Witnesses detailed the legal problems of domestic violence victims, the homeless, and grandparents caring for their grandchildren. According to Roberto Silva, managing attorney of Colorado Legal Services (CLS) in Pueblo, the office had to turn away 44 prospective clients in the 15 days before the hearing because of insufficient resources. Magistrate Eyler testified about the difficulties judges face when pro se litigants have difficulty presenting relevant information in court, and the judges must remain impartial. Valerie Haynes of the Pueblo County Attorney's Office explained the unique legal problems faced by grandparents raising their grandchildren and their need for legal assistance.

Silva highlighted the magnitude of the problem when he noted that his staff had decreased from 11 to seven during the past five years and explained that without additional funding CLS cannot meet the low income community's legal needs.

Pueblo Access to Justice Hearing Panelists

<u>Name</u>	<u>Affiliation</u>
David Butler	Panel Chair; Secretary, Colorado Access to Justice Commission
Adele Anderson	Judge, Pueblo County Court
Dorothy Butcher	State Representative (D-Pueblo)
David Lytle	President, Colorado Bar Association
Alex Martinez	Justice, Colorado Supreme Court
Abel Tapia	State Senator (D-Pueblo)

Pueblo Access to Justice Hearing Witnesses

<u>Name</u>	<u>Affiliations</u>
David Butler	Secretary and Resource Committee Member, Colorado Access to Justice Commission
Molly Ryan	Colorado Legal Services
Roberto Silva	Managing Attorney, Colorado Legal Services, Pueblo
Dennis Johnson	Pueblo Community College
Sharon Blackman	YWCA
Lois Harder	Attorney, Colorado Legal Services
Jesse Allen	Client, Colorado Legal Services
Deborah Eyler	Magistrate, Pueblo County Court
Valerie Haynes	Pueblo Deputy County Attorney
Ann Willis	Deputy Manager, Posada
Robin Sanchez	Student, Pueblo Community College
Steve Fieldman	Deputy District Attorney, Pueblo
Mike Desaulniers	President, Pueblo County Bar Association

Summary of Witness Statements

Attendance - 41

David Butler

Mr. Butler is the Secretary of the Colorado Access to Justice Commission and a member of the commission's Resource Committee. He described the sources of funding for Colorado Legal Services, including the federal Legal Services Corporation, the Colorado Lawyers Trust Account Foundation, the legal community, and state funding. Mr. Butler 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 are included in Appendix B.

Molly Ryan

Ms. Ryan 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 are included in Appendix A

Question from Dorothy Butcher: Who can access your online service?

Response: Anyone who has the Internet can access it. There are a lot of self-help tools available on our website.

Roberto Silva

Mr. Silva has been the managing director of the local CLS office since 1999. In 2002, 11 people worked at the CLS office; in 2007 there are only seven. The office lost two lawyers and two paralegals. In 2002, CLS was not meeting the needs of the community. Now, with a diminished staff, CLS is not coming anywhere close to meeting the needs of the local indigent population. The drop in staff was due to decreased funding, and without additional funding there is no way that CLS will be able to meet the needs of the community.

The Pueblo CLS office currently has three attorneys, three paralegals, and a receptionist. The three lawyers provide a full range of legal services, including litigation, legal advice, and drafting legal documents. One paralegal helps with hearings when he can. Mr. Silva represents clients in all types of family law cases. The office also handles landlord-tenant law and elder law issues.

The elderly often face health and protection issues. What happens to elderly Pueblo residents is often tragic, and frequently problems are caused by their own family members. In these circumstances, CLS serves as a watchdog to prevent exploitation of the elderly. Many cases deal with health care, such as Medicaid denial. Several years ago, CLS represented a client who would have died for lack of treatment unless he qualified for Medicaid. The cost of his treatment was expected to exceed \$100,000, but Medicaid officials found him ineligible because they didn't like his lifestyle of drinking beer. CLS was able to help him qualify for Medicaid. This case illustrates how important it is for poor people to have proper representation.

In 2006, CLS in Pueblo opened 606 cases, the majority of which were in the area of family law. CLS generally does not track the number of cases it is forced to reject, but in anticipation of this hearing kept track of this over the last 15 days. During this period, CLS turned down five child support cases, ten divorces, two grandparent custody cases, three post-divorce cases, four small claims cases, six custody cases, six Social Security cases, two bankruptcy cases, one probate case, one foreclosure, and four wills — a total of forty-four cases.

Although some CLS offices represent clients in bankruptcy and foreclosure cases, CLS lacks funding to do so in Pueblo. According to Mr. Silva, there are 730 foreclosures in Pueblo County. How many of those involved in foreclosure proceedings had valid defenses, but were not able to afford representation?

One area that needs to be addressed is consumer law. CLS in Pueblo formerly handled cases in this area, including wage garnishments, but can no longer do so because of funding limitations. Many people have wages garnished improperly, but can't afford legal representation.

Question from David Butler: Suppose you wanted to meet all the needs you have here in your area, how much staff would you need?

Response: That is hard to say. Many low income people know by word of mouth that we are not capable of helping and so they don't even come in anymore. If we received more funding, I think many more people would request representation by CLS. At one time, the office had a staff of 20 people. I would be happy just to get back to the eleven that we had in 2002.

Dennis Trujillo Johnson

Mr. Johnson, an employee at Pueblo Community College, has been working with the Pueblo County pro bono association for about 10 years. The pro bono association is doing the best that it can, but there is a gap in its services. In the past, it has held Ask a Lawyer nights at the College, attended by as many as 50 students. Sometimes, Mr. Johnson would get five or six calls for assistance the following day from students who couldn't make it to the previous evening's meeting. Now, if a student calls, Mr. Johnson calls Judge William Alexander, who sends an e-mail requesting help from lawyers in the community. Mr. Johnson is afraid to advertise this practice to students because he thinks the pro bono program will get more phone calls than it can handle.

Pueblo Community College has many students who are trying to change their lives. They face many challenges and many students face legal issues that may force them to drop out of school. Eighty-five percent of the students qualify for financial aid, which qualifications are about the same as to qualify financially for CLS. Too many students have to quit school early. If there were more funds available for CLS, it would be able to help many more students who have to drop out of school and work to get the help that they need.

Question from Justice Alex Martinez: It is very difficult to measure these needs, and the consequences of these needs not being met. Do you have any other comments on what the consequences are when these legal needs are not met?

Response: I am convinced that a college education can save these peoples' lives. Too many of the students are forced to drop out of school.

Question from Justice Alex Martinez: Can you tell us what the consequences of these students dropping out of school are for the rest of society?

Response: If they are not able to stay in school and take care of themselves, they may be forced to get public assistance. If they are able to stay in school, they can take care of themselves and their children.

Sharon Blackman

Ms. Blackman works for the YWCA. She is working on a new project called Safe Havens that will shelter children who are victims of domestic violence. The YWCA also has a shelter for women and children who need assistance as a result of domestic violence. It currently has about eight women and four or five children. The YWCA helps women learn new skills to assist them in being successful in the future.

Ms. Blackman has been working with the criminal justice system for 17 or 18 years now and has not seen a decrease in domestic violence cases over that period. The YWCA is now trying to help children as much as possible in these cases. The law enforcement agencies in the area have been very helpful in this matter.

Question from David Butler: Do you have interchanges with CLS locally?

Response: Yes, it is part of our consulting group, and we use it to help with restraining orders and other things when they can.

Lois Harder

Ms. Harder, a CLS attorney in Pueblo, said CLS frequently works with the YWCA. Most CLS clients are women with young children. For example, Kay's husband was making good money in the military but left her one day, leaving her with their children and with no money or way to provide for their family. For two years, she has struggled to provide for her family without help from the military. After her husband obtained an ex parte motion to obtain custody of the children, friends referred her to CLS. With help from CLS, Kay went to work for Parkview Hospital, and now has frequent visits with her children. Kay is a good example of the many clients CLS serves. They are good people who are trying to improve their lives. Jesse Allen, the next witness, is not a typical client.

Jesse Allen

Mr. Allen and his son were victims of domestic violence. If it were not for CLS, he is not sure if he and his son would be here today. CLS helped him obtain a divorce from his abusive wife and obtain full custody of his son. When his son was born, his wife was in prison. He has been taking care of his son since he was born. When his son was six months old, his wife was released from prison and immediately started using drugs. She became physically abusive, and the abuse almost turned deadly. If CLS had not helped, he might still be in an abusive situation and could have lost his life.

Deborah Eyler

Magistrate Eyler is currently a full-time magistrate primarily handling domestic cases. Previously, she was a court facilitator and dealt with family law matters. She interacted a lot with members of the public to assist them in accessing the courts and to help pro se litigants. At least half of the domestic relations cases that are filed in Pueblo are by petitioners that are pro se. The court sponsors pro se divorce classes twice a month to assist pro se litigants. The classes are informational, but the instructors cannot provide legal advice. Many of those attending these classes are individuals referred by CLS, because it was unable to represent them. Magistrate Eyler has dealt with a large number of these cases, and, based on her experience, knows that the majority of pro se litigants do not know how to present relevant information in court. Thus, judges must do their best to obtain relevant information from them. These individuals need to come to court better prepared, but in most cases are not able to do so unless they have an attorney representing them.

Question from David Butler: Do you have help from pro bono lawyers in the area? If so, has unbundling at least helped these lawyers to provide legal advice?

Response: Help has been very limited in this area. I have seen very few cases where this has happened. These cases are very difficult and can be very time consuming, and many lawyers are only able to take cases that consume less time.

Question from Judge Adele Anderson: What happens to an unrepresented party when the other side has representation?

Response: It is disadvantaged. It depends on the judge as to how disadvantaged the person is. Some judges are willing to ask pro se litigants questions to obtain necessary information, but others are not. It is difficult for judges to remain impartial in these circumstances. Even when the judges ask questions, the unrepresented individuals are not able to say everything they need to since they don't understand how the system works.

Question from David Lytle: What volume of cases do you see like this?

Response: The court hears 1,100 to 1,200 of these cases a year. At least 50% of them were sent to me because the petitioner was pro se, but then you have to add in the cases where the respondent is pro se. At one point, I was told that approximately 70% of the cases had at least one pro se party.

Question from Justice Alex Martinez: What is the impact of these people not being represented?

Response: Frequently, they do not come into court prepared to give the judges the information they need. They don't know their rights. They frequently agree to stipulations without understanding the consequences. For instance, they don't realize that it is not just a matter of who pays the bills, but that a spouse is not released from liability if the other spouse stops paying or is unable to pay.

Question from David Butler: So are you saying that they don't get justice, or that they don't get a fair and appropriate outcome?

Response: Yes, that is exactly the case. For example, they are not getting as frequent access to their children as they should, because they don't know how to act properly in court and don't know how to fight false allegations by the other party. If they had an attorney, he or she could help them obtain appropriate parenting time with their children. Instead, they don't understand this, feel helpless, and drop out of their children's lives. They feel like the system is working against them.

Valerie Haynes

Ms. Haynes is an attorney with the Pueblo County Attorney's Office. One of the primary legal issues she sees is the legal needs of grandparents. People in Pueblo pride themselves on taking care of their families. Grandparents are the family preservation program in Pueblo. In many instances, even though they don't have legal custody, they care for their grandchildren, because of issues the children's parents are facing. These grandparents help the state by keeping these grandchildren out of state programs such as foster care that would otherwise be overwhelmed by them.

Judge Bill Alexander and others have set up roundtables to help grandparents with the legal issues that arise when taking care of their grandchildren. At the first roundtable, over 50 sets of grandparents showed up, and about eight to ten lawyers provided advice. When people think about grandparents, the first issue they think of is visitation with their grandchildren. However, what they have found is that visitation is not the issue because the grandparents are taking care of the children. The grandparents, without being legal guardians, try unsuccessfully to enroll the grandchildren in school. They need legal help in getting guardianship of these children. The majority of these cases would be easy since the parents do not oppose the grandparents taking care of their children. To send these grandparents to the department of social services without legal assistance and tell them to try to obtain child support from the parents is not feasible. The grandparents know this will only hurt their families more and will defeat their efforts to preserve their families.

Question from Rep. Dorothy Butcher: Are you saying that the grandparents need to have a lawyer to get custody, and is that temporary or permanent custody?

Response: Yes, they need help and can get temporary or permanent custody.

Question from Rep. Dorothy Butcher: How many cases a year do you think there would be like this in Pueblo that would need attorneys?

Response: There are easily at least 100 cases a year.

Question from Rep. Dorothy Butcher: Do these cases take a lot of hours to complete?

Response: In the majority of these cases, the parent is going through a rough time and would be willing to give the grandparents at least temporary custody of his or her child. These cases would be very easy, but if the parent contests them, then it will be more time consuming.

Questions from Rep. Dorothy Butcher: What happens when the parents are in prison?

Response: It usually depends on how long they will be incarcerated. They still have the right to contest custody, but usually if they are going to be in prison for an extended period of time they will not contest the grandparents getting custody. It becomes more complicated if they are only going to be incarcerated for a short time and seek to contest custody.

Question from Justice Alex Martinez: Are you trying to say that if attorneys are involved in helping these grandparents in these custody cases that they can help resolve these cases easier, even possibly outside of court?

Response: Yes, that is correct.

Ann Willis

Ms. Willis is a case manager at Posada, an organization that provides help to homeless individuals. It is obvious what happens to low income people when they are not able to get the legal help that they need. People that come to Posada are in survival mode. They are doing whatever they can to survive day to day. Posada helps women obtain temporary housing to try and make it on their own. They can't afford to get legal help. She is in the middle class and she can't afford to pay a retainer for a private attorney. She knows that most of the people that come to Posada with legal issues are not going to obtain legal assistance from CLS because of its lack of funding. The only clients she sends to CLS are those who fear for their lives. The people at the Pueblo CLS office are wonderful and do as much as they can but are understaffed and underfunded to meet the legal needs of low income people in the community. Only one out of ten people that she refers to CLS is actually assisted by CLS. Low income people face problems getting into substandard housing, obtaining the return of their security deposits, and obtaining assistance for other legal matters. Ms. Willis finds it ironic that the public defender's office primarily represents men, and that abused women rarely are able to obtain the same level of legal help for civil legal problems.

Robin Sanchez

Comment by Dorothy Butcher: Before Robin Sanchez tells her story, I want to point out this is a typical case that comes into her office. This is not a one in a million case, but is one that happens often.

Robin Sanchez is a full-time student at Pueblo Community College who also works 20 hours a week. She is a single mother of five children. She recently had to go to court over a custody issue of two of her children. She tried every option available to get legal help that she knew of including CLS, but was unable to do so. The father of the children did have representation, and, as a result, her parenting time was reduced from three or four times a week to one day every other week. She feels like she is being punished for going to school and trying to make a better life for her children. She doesn't feel it is fair that just because she could not afford legal representation, she is only able to see her kids every other week for one day. This situation has hurt her school work, job, and the lives of her other three children who live with her.

Question from David Butler: How many different places did you to contact to get legal help?

Response: I called CLS and they gave me the names of some lawyers, but none was able to help. She tried calling the public defenders office to see if they knew of someone, but she didn't know where else to go besides these places.

Steve Fieldman

Mr. Fieldman is the Deputy District Attorney in Pueblo. As a prosecutor, he is not allowed to practice any civil law. If CLS is not able to take a case, the victim becomes much more vulnerable to influence from abusers, who threaten to intimidate the victim. This is not just the case in domestic abuse cases but also occurs in the area of elder law. One or two of the children may be trying to help, but the rest may be trying to take advantage of the elderly parent's health issues and lack of legal help. He assisted one person in an identity theft case on the criminal side, but on the civil side the person couldn't obtain legal assistance and lost his vehicle and many of his other possessions. From his perspective as a prosecutor, Mr. Fieldman believes it is very difficult for low income individuals to find a pro bono attorney for a case that may take two to three years to resolve. If the attorney can assist a client in less than a month, a pro bono attorney may take it, but that is about the only time.

Mike Desaulniers

Mr. Desaulniers is the current president of the Pueblo County Bar Association. He receives many referral phone calls from low income people needing legal assistance. Judge Alexander tries to help these individuals obtain legal representation, but there is not enough help available. CLS frequently has problems in Pueblo with conflicts of interest, where both parties in a dispute come to them for help, and they can't represent both sides. On the criminal side, the Alternate Defense Counsel Office cases provide representation when there is a conflict of interest. No similar alternative to CLS exists to provide representation to poor people in civil cases when there is a conflict of interest.

Pueblo Access to Justice Hearing Invitation

Colorado Access to Justice Commission Hearing (Televised live by P.C.C. and the Center for New Media Productions)

October 18, 2007 (6:00 p.m. – 8:00 p.m.)
(Short reception to follow)

Pueblo Community College
Occiato Theater in the Gorsich Advanced Technology Center (GATC)
900 West Orman Avenue
Pueblo, CO 81004

The Colorado Access to Justice Commission (ATJ Commission), an independent entity formed with the support of the Colorado Supreme Court, the Colorado Bar Association and the Statewide Legal Services Group in 2003, is conducting hearings statewide on the successes and opportunities for improvement in meeting the legal needs of poor people in Colorado. The purpose of the hearings is to gather information about the met and unmet legal needs of low-income people in Colorado, including the specific needs of individual communities. This information will be compiled into a report and presented to the Colorado Legislature, the Colorado Supreme Court, and the Governor of Colorado, in support of a request that the Colorado Legislature increase the state funding for legal services in Colorado.

The Colorado Access to Justice Commission (ATJ Commission) is comprised of twenty members. One member is appointed by the Governor, the Speaker of the House of Representatives, the President of the Colorado Senate, Colorado Legal Services, COLTAF, and the Legal Aid Foundation of Colorado. Four members are appointed by the Colorado Supreme Court and the remaining ten members are appointed by the Colorado Bar Association.

The mission of the Access to Justice Commission is to develop, coordinate and implement policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to Colorado's civil justice system. Additional information about the Commission is available at www.ColoradoJustice.org.

Tenth Judicial District Access to Justice Hearing Media Coverage

The Pueblo Chieftain Online

Published: Thursday October 18, 2007

Legal needs of indigent to be discussed tonight

Colorado Access to Justice Coalition to meet with public in Pueblo tonight.

**By JEFF TUCKER
THE PUEBLO CHIEFTAIN**

The Colorado Access to Justice Coalition will be in Pueblo tonight to hear about the legal needs of poor people in the community.

The commission is collecting information from communities throughout the state. It will prepare a report based on the information that will eventually be used in a request for more funding to local Legal Services offices, said Municipal Judge William Alexander.

Legal Services works similar to the state Public Defender's office.

While that office represents the poor in criminal cases, the Legal Services office represents the poor in civil matters.

"Legal services can legally represent people in a wide variety of cases but, because of funding issues, they focus on cases that need immediate attention."

Those cases are often divorce involving domestic abuse and other grave matters, but Alexander said the hope is that with more money, more attorneys can be hired to represent cases that aren't as high priority.

Some examples include landlord-tenant disputes or cases between used car dealers and buyers.

Alexander said none of these cases come before his court, but he sits on the Access to Justice Board and often gets calls from people needing the help of Legal Services or other pro bono work.

Alexander said the meeting will feature a six-person panel and a 20-minute presentation on what some of the known legal needs are in the community.

That will be followed by testimony from people within the community about what other needs may be.

The meeting is open to the public and starts at 6 p.m., at the Gorsich Advanced Technology Center on the campus of Pueblo Community College.

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Tenth Judicial District Access to Justice Committee Members

<u>Name</u>	<u>Affiliation</u>
William D. Alexander	Committee Chair; Municipal Judge, City of Pueblo
Mike Desaulniers	President, Pueblo County Bar Association
Melissa Esquibel	Local Attorney
Valerie Haynes	Pueblo Deputy County Attorney
Doug Kwitek	Local Attorney
John Shanley	Local Attorney
Roberto Silva	Managing Attorney, Pueblo Colorado Legal Services

Tenth Judicial District Access to Justice Committee Recent Accomplishments

- *Call A Lawyer* monthly television program on topics including estate planning
- Clinics including “Grandparents Raising Grandchildren”

