



COMMISSION MEETING MINUTES

June 22, 2023
11:30 a.m. – 1:30 p.m.
Supreme Court of South Carolina

Presiding: Justice John C. Few

In attendance:

Members:

The Hon. John C. Few
Hannah Honeycutt
The Hon. Frank Addy
Charles Boykin
Micah Caskey
Anne Caywood
Larry Cunningham
Emma Dean
Olivia Jones
Chris Koon
The Hon. Mary Geiger Lewis
Tope Leyimu
Anthony Livoti

Andrea Loney
The Hon. Deborah Malphrus
Clarkson McDow
Al Parker
Aparna Polavarapu
Dawn Przirembel
Megan Seiner
Mary Sharp
The Hon. Joseph Strickland
Jeff Yungman

Guests:

Jason Bobertz
Michelle Mapp, *ACLU of South Carolina*
Leo Markowitz
Hans Pauling, *Richland County Solicitor's Office*
Fielding Pringle, *Richland County Public Defender Office*

Lucy Banks Smith
Kieley Sutton, *Richland County Public Defender Office*
Guy Vitetta

1. Welcome and Introductions

Justice Few welcomed everyone to the commission meeting and introduced our guests. Leo Markowitz, a recent graduate of the Honor's College at the University of South Carolina gave a short introduction of his undergraduate thesis, which was about how marketing can help legal aid organizations close the justice gap. Commission member Elizabeth Chambliss was Leo's thesis advisor; Hannah Honeycutt was a second reader for his thesis defense.

2. Approval of February 16, 2023 Minutes

Chris Koon moved to approve the minutes from the Commission's February 16, 2023 meeting. Judge Lewis seconded the motion. The minutes were approved unanimously.

3. Stout Report on the Economic Impact of Tenant Right to Counsel in South Carolina - Michelle Mapp, ACLU of South Carolina

Michelle Mapp gave a presentation about a recent report from Stout Risius Ross about the estimated economic impact that a right to counsel in eviction cases would have in South Carolina. "Eviction right to counsel" refers to laws enacted throughout the country that guarantee free and full legal representation for eligible tenants in eviction proceedings. These laws are funded and enacted through the state legislative process.

The Stout Report collected five years of data from SC Court Administration and collected data from focus groups that included research professors, legal aid attorneys, homeless services providers, tenant organizers, landlords, community development organizations and others. The report estimates that South Carolina could realize \$21 million in fiscal benefits and 18,300 South Carolina citizens would likely avoid major disruption to their lives every year if renters had the right to counsel when facing eviction. The fiscal benefits would be reflected in money saved in costs due to homeless services, healthcare, and other costs associated with someone losing their home.

South Carolina has one of the highest eviction rates in the country: evictions are filed against more than 25% of renters and in 40 of South Carolina's 46 counties, most renters cannot afford a two-bedroom apartments without spending more than 30% of their gross income on rent. Nearly 30% of South Carolinians rent their homes and nearly 25% of those renters are "severely cost burdened," meaning that they spend more than half their gross income on rent. Additionally, at \$40, South Carolina has one of the lowest eviction filing fees in the country.

In 2021, 99% of renters had no legal representation in eviction proceedings against them. According to the Stout Report, South Carolina renters who have legal representation are much more likely to remain housed and avoid a major disruption in their lives, and landlords are more likely to receive money due to them without costly collection efforts.

A question was asked about what the best filing fee would be for eviction cases. Michelle answered that she and her partners are in talks now about doing an additional study about what the cost is to South Carolina courts when an eviction is filed. This would inform a recommendation for a filing fee that would reflect the true burden on the government to administer an eviction case. The average filing fee for the rest of the country is \$120.

A comment was made about the decreasing eviction rate in Charleston, and Michelle credited the Commission with contributing to this statistic by supporting expansion of the Charleston Housing Court program. A commission member had recently checked with the Housing Court Coordinator in Charleston, and 91% of cases where a client is represented by that program result in no eviction. The program also connects people with rental assistance, which helps landlords get paid. There is an article in the May edition of the SC Lawyer Magazine co-authored by Michelle and commission member Jeff Yungman about why eviction is such a critical issue and Housing Court is so important.

Justice Few emphasized that the Housing Court is not about helping tenants to avoid paying rent, but to facilitate money exchanging hands and connecting renters with the assistance they need. He thanked our legislative representatives for being at the meeting and pointed out that we have these representatives on the Commission so they can hear conversations like this.

A question was asked about possible legislation to enact tenant right to counsel. Michelle reported that HB 3844 was filed this past session that would legislatively establish a right to counsel in South Carolina. Additionally, up to 10% of federal rental assistance money could be used to establish a right to counsel program and an increase of the filing fee for evictions would more than pay the \$7.2 million cost of the program.

4. Request for Resolution in Support of the City of Columbia Drivers License Reinstatement Clinic - *Kieley Sutton (Richland County Public Defender Office)*
& *Hans Pauling (Richland County Solicitor's Office)*

Kieley Sutton and Hans Pauling presented a request for a resolution in support of the City of Columbia Drivers License Reinstatement Clinic. They began by explaining that failure to pay traffic tickets has a snowball effect. Suspension of a driver's license for failure to pay a ticket comes with a \$180 reinstatement fee, which many people also cannot afford. This leaves people having to make difficult choices about whether to pay bills or the fines and fees, and whether to drive on a suspended license or give up a job opportunity, miss healthcare appointments, or drive their children where they need to go. Additionally, the issue gets worse the longer the fines and fees are not paid, with fees and reinstatement fees growing with each driving under suspension violation.

Kieley pointed out findings from the Commission's 2021 Justice Gap Report and 2023 Statewide Legal Needs Assessment, which found that 20% of South Carolinians are eligible for subsidized legal assistance, transportation was identified as one of the material barriers to accessing legal resources, and the snowball effect of fines and fees was identified as a contributor to the high demand for legal services, with suspended licenses being one of the consequences of poverty.

Other states have responded to this problem in various ways, with Georgia enacting SB 10 in 2021, which drastically reduced the number of suspended licenses in that state; North Carolina's Pro Bono Resource Center (a program of the North Carolina Access to Justice Commission) establishing the Driver's License Restoration Project, which has helped 44,000 individuals reinstate their licenses through fee waivers; and Tennessee declaring a law that provided for suspension of drivers licenses due to fines and fees to be unconstitutional (*Thomas v. Haslam*).

The City of Columbia Drivers License Reinstatement Clinic will identify traffic tickets (excluding DUI, DUAC, or suspensions for DUI/Implied Consent) that are more than two years old and have outstanding fines and fees owed to the court. Clinic volunteers will populate a consent order to reopen the ticket, recall the ticket from the DMV, and dismiss that ticket in order to eliminate the outstanding fines for the court and the associated reinstatement fee for the DMV. Inspiration for the clinic came from North Carolina's Driver's License Reinstatement Program and Bench Warrant Amnesty Days already being held in Richland County.

Several questions were asked about the exclusion of DUI and DUAC charges from the program, the fairness of dismissing tickets for some people and not others, and the logistics of the program. The decision was made to postpone taking up any request for a resolution until the October Commission meeting.

5. Committee Updates

a. Commission Governance - *Chris Koon & Mary Sharp*

Co-chair Chris Koon gave the update for the Commission Development Committee, whose membership is as follows:

- Micah Caskey
- Chris Koon (co-chair)
- Tope Leyimu
- Andrea Loney
- Mary Lucas
- Dawn Przirembel
- Megan Seiner
- Mary Sharp (co-chair)
- Jeff Yungman

Chris updated the Commission on several proposed changes to the Commission's establishing order. The committee proposed: first, to add a magistrate judge to the Commission's membership; second, to add an attendance requirement that would provide for removal by the Chief Justice if any member misses more than one Commission meeting or activity in a given year; and third, to correct several minor scrivener's errors from the last round of edits.

No one had any objection to any of these amendments and they will be presented to Chief Justice Beatty for final approval.

b. Self-Represented Litigants - *Will Dillard & Al Parker*

Co-chair Al Parker gave the update for the Self-Represented Litigants Committee, whose membership is as follows:

- Anne Caywood
- Molly Day
- Will Dillard (co-chair)
- Olivia Jones
- John Kassel
- Tonnya Kohn

- Judge Lewis
- Brandy McBee
- Judge Malphrus
- Al Parker - co-chair
- Judge Strickland
- Judge Waites

The committee has decided to focus its efforts in three areas: forms and resources for SRLs, educating attorneys about SRL issues, and developing resources on legal advice and legal information for court staff. The committee has been in conversation with Karama Herrington and Daniel Jones from Court Administration (who attended the last committee meeting) about updates to self-help resources for the new SC Courts website that the committee may be able to help with. The committee has also been in contact with Christine Christopherson, the director of education for Court Administration, about developing a training and/or one-page fact sheet for court staff about legal advice versus legal information.

The SRL Committee also recently provided feedback on a bench card about Limited Scope Representation, which is one of the projects identified by the committee in their focus area of educating attorneys and judges about SRL issues. Guy Vitetta, chair of the SC Bar's Practice & Procedure Committee, attended the meeting to report on the development of the bench card. Guy and Jennifer Woodruff (past chair of the Bar's former Pro Bono Board) wrote a draft of the bench card after speaking with Hannah about the ongoing issues and confusion surrounding limited scope representation in our courts. The draft of the bench card is based on one currently in use in Mississippi that was developed by the MSATJ Commission. Guy has sent the bench card to various Bar committees and sections for their feedback, which has been universally positive.

There were several comments from the Commission about how helpful the bench card would be, including from members of the judiciary, who expressed that family court judges especially would find the bench card welcome and valuable. There was one question reported from the SRL Committee about whether or not the practice would be practical or helpful in every case (for example, an attorney agreeing to limit the scope of representation to drafting pleadings in a medical malpractice case would not be helpful to the client). It was agreed that since all ethical obligations still apply when limiting the scope of an attorney's representation, it would be up to the attorney to make the determination of when the practice would not be reasonable under the circumstances.

Justice Few indicated that the Court would need to review the bench card and ultimately approve it.

6. Break for Lunch

7. Executive Director Update - *Hannah Honeycutt*

Hannah reported that our SCATJ Legal Resource Finder has just gotten a new update. Updates include greeting and closing videos at the beginning and end of the app and a running count of completed sessions that can be accessed by clicking "About the Legal Resource Finder" at the

bottom right corner of the screen. The app has also been updated to make it usable not just for members of the public, but also participants in a new program in Charleston called the SC Justice Navigators Network that trains community service providers to identify legal needs that their clients might be having and refer them to legal help.

Hannah reviewed the “Welcome to South Carolina Court” poster and “Looking for Legal Help?” flyers that the Commission’s SRL Committee helped develop. Both are bilingual, include a QR code linking to the Legal Resource Finder, and are being distributed to clerk’s offices throughout the state.

Hannah then reviewed the analytics for the Commission’s website. Visits to the site have increased 215% year over year, with a big spike in February that coincides with the release of the Legal Needs Assessment. Our top page continues to be the Family Cases section of the Looking for Legal Help page. Hannah reminded everyone that the QR codes on the posters and flyers being distributed to clerk’s offices link directly to the Looking for Legal Help page. The increase in visits to that page suggests that people are using those posters and flyers to find their way to our website.

Button clicks on the website have also increased significantly—544% year over year, with a peak of 72 clicks through to the Legal Resource Finder on June 11. There was also a spike in clicks through to read the full Legal Needs Assessment Report just after the launch event on February 19, with 117 clicks. Hannah also highlighted traffic sources for the website, pointing out that visits as a result of web searches have overtaken visits as a result of direct links, which suggests the site is performing well.

Hannah reviewed several recent and upcoming Commission events:

- February 21: SC Statewide Civil Legal Needs Assessment Launch Event
 - This event was very well attended, with remarks from Chief Justice Beatty, Justice Few, SC Bar President Rusty Infinger, Bruce Rich from UNCG, as well as Hannah and Elizabeth Chambliss.
 - The recording of the event is now available on the Commission’s website.
- Hannah was asked to speak at several board meetings just after the Needs Assessment Launch Event:
 - March 3 - SC Bar Foundation
 - April 7 - South Carolina Legal Services
 - April 26 - SC Association for Justice
 - Hannah pointed out that SCLS has used the Needs Assessment to expand their outreach efforts and SCAJ is using it to encourage their members to get more involved with pro bono and advocate for advancements in access to justice. She hopes that other groups will continue to find ways like this to use the report.
- The Commission has presented three educational events since its last meeting:
 - March 22 - Attorney Lunch & Learn, Richardson Plowden
 - May 17 - SC Bar Leadership Academy CLE & Poverty Simulation
 - June 13 - Summer Associate’s Lunch & Learn, Butler Snow

- This event was presented by Dean Cunningham, who reported that it was a great experience. Hannah reminded Commission members that she has a presentation and script ready for any member to use if they would like to speak to a group they are affiliated with.
- On March 27-29, Hannah and SC Bar Executive Director Emma Dean participated in ABA Day, which is an annual event organized by the ABA during which attorneys from all over the country convene in Washington, DC and speak to their congressional representatives about the importance of legal aid and increased funding for the Legal Services Corporation. Armed with data from the recent release of the Needs Assessment and Justice Gap Report, this was a great time to talk about the need for more support for legal aid in South Carolina. Hannah and Emma were not able to travel to DC this year, but participated virtually and hope to include more people for a more robust showing next year.
- The University of South Carolina School of Law hosted an Access to Justice Roundtable event for researchers and scholars from across the country on March 30-April 1. Elizabeth Chambliss organized the event, which is held at a different institution each year, and Hannah participated throughout the weekend. The SC Needs Assessment project was a frequent topic of discussion.
- On April 18, Hannah participated in the virtual New York State Civil Legal Aid Technology Conference, hosted by the New York State Unified Court System. The conference covered such topics as legal aid data and evaluation, court technology, and digital accessibility.
- May 4-6: Equal Justice Conference, Dallas, TX
 - The Equal Justice Conference is an annual gathering of legal services and pro bono advocates from across the country. The emphasis of the conference is always to strengthen partnerships between key players in the justice system, which aligns perfectly with the Commission's work. South Carolina used to have a very robust delegation attend this conference, with attendees from the Commission, the Bar, SC Legal Services, and other legal aid organizations, but that has tapered off over the years. Hannah encouraged Commission members to consider attending.
- On June 9, Hannah was asked to speak to the California Access to Justice Commission about the SCATJ Legal Resource Finder.
- On August 4, Hannah will give a presentation and moderate a panel consisting of Justice Few and commission members Mary Sharp and Tope Leyimu at the SCAJ Annual Meeting in Hilton Head.
- The National ATJ Chairs Meeting will be held on November 1-2 in Columbus, OH. Hannah and Professor Lisa Martin from USC Law will be speaking at that event about how academia can advance the work of access to justice commissions, highlighting the partnership between the Commission and USC School of Law that led to the Justice Gap and Needs Assessment Reports. Hannah encouraged commission members to attend this important gathering.
- Hannah encouraged commission members to save the date for the 2024 Equal Justice Conference, which will be held May 9-11, 2024 in Detroit.

8. Statewide Civil Legal Needs Assessment - *Justice Few, group discussion*

In the time we had left, several members shared their reactions to the Needs Assessment findings. One member said that they were encouraged to see that 78% of survey respondents were in favor of a right to counsel in eviction cases. Another pointed out that 61% of survey respondents indicated that they needed help with a problem related to housing or child custody and these issues are very solvable by getting a lawyer involved. This seems feasible and made them optimistic.

A member pointed out a chart in the report that illustrated answers for where people go for legal help. 26% of respondents said they didn't know where to go. This, too, seemed like something that could easily be addressed because we can all participate in getting the word out to people who don't know where to go.

Andrea Loney pointed out that we have always known that people may not know that their problem might have a legal solution (which the report confirms) and that SCLS has been using the report to educate other partners (government, community service providers, other nonprofits) about the reasons people don't have access to legal help, illustrating that we have to create partnerships and work together to create meaningful solutions. These efforts have been very successful, with local entities like clerks of court and the United Way inviting them to share the report's findings with them.

Another member pointed out the seemingly disparate findings that attorneys don't provide enough pro bono services, but have not reached a consensus about regulatory reforms that would expand the number of people available to provide legal help. The member suggested that we may be getting in our own way when thinking about solutions to the enormous access to justice problem.

Justice Few indicated that this conversation would continue at future meetings and among the committees and encouraged everyone to continue to contemplate the report and share its findings with others.

9. Other Business

There was no other business brought up for discussion.

10. Future Meeting Dates - *Justice Few*

Justice Few announced the date of the last Commission meeting of 2023, which will take place on October 12 at the South Carolina Supreme Court. The dates of all 2024 meetings will be announced at the October meeting.

11. Adjourn