

ATTORNEY GENERAL'S ACCESS TO JUSTICE TASK FORCE  
CONSUMER PROTECTION COMMITTEE

Wednesday, July 22th  
3:30 pm – 5:00 pm

**The Names of the Participants**

Amy Hennen
Arzhang Navai
Angie Barnett
Aracely Panameno
Ashley Harrington
Christine Hines
David Finkler
Anthony Davis
David Schlee
Delegate Pam Queen
Toby Guerin
Helene Raynaud
Delegate Joseline Peña-Melnyk
Kathleen Hyland
Lydie Glynn
Marceline White
Markisha Dobson
Matt Bohle
Michele Honick
Reena Shah
Jane Santoni
Phillip Robinson
Pokuaa Owusu Acheaw
Steve Sakamoto-Wengel
Sarah Frush
Nikki Thompson
Emanwel Turnbull
Hank Greenberg

**Agenda**

1. Introductions/roll call -Steve Sakamoto-Wengel (5 minutes)
2. Review & approve minutes of the last meeting-Marceline White (5 minutes)
3. Updates-Federal or state updates related to consumer protection (5 minutes)
4. Recap Policy & Equity Committee call-Steve Sakamoto Wengel (10 minutes)

5. Action items emerging from Policy & Equity call (10 minutes)
  - a. Letter calling for moratoria on evictions and debt collection, extension & expansion of Gov. Hogan EO
  - b. Funding for MD HOPE-like hotline to go in funding request to B&T, Appropriations and where things stand on both items/next steps
  - c. Q&A
5. Process questions-Steve Sakamoto-Wengel (5 minutes)
6. Ideas for short-term agenda/ short-term action items-Brainstorm 15 minutes
7. Action items and Adjournment (5 minutes) Marceline White

### **Actions & Tasks (Overview)**

Meeting called to order at 3:37. Committee reviewed minutes from the last meeting. Kathleen Hyland made a motion to accept the minutes at 3:38, David Schlee seconded the motion. The motion passed unanimously.

Exchange ideas on federal or state updates related to consumer protection; Funding for MD HOPE-like hotline.

### **The discussion made by the participants**

- I. Marceline: Started discussion about federal updates related to consumer protection. Two things I want to draw people's attention to: 1, the CFPB has a call for comments on time-barred debts, the National Consumer Law Center is doing a sign-on letter around CFPB's proposal on Time-barred debt, right now the CFPB's proposes disclosures which would require the debt collectors to communicate that the consumers have to pay the debt but also making a payment could harm them by giving the renewed permission to use them, so call for the prohibition of all collection of time-barred debts. We can send the sign-on letter to the folks, and take it to the federal level, not relevant to MD specifically since we barred collection and revival of time-barred debt; 2, the other is OCC's true lender rule that would facilitate fraudulent "rent-a-bank" schemes where a non-bank lender forms a superficial partnership with a bank to charge interest rates beyond what state law allows non-banks to charge. That deadline for comments will be on September 3<sup>rd</sup>. MCRC will be writing a letter on the time-barred debt and we can send the links for both letters out with these notes. Steve: for the state updates, if folks here from Legal Aid, MVLS or any other organizations are seeing things particular please let us know
  - o Amy P Hennen: so I don't have enough data to tell you what's going to come through our doors, with the courts mostly have been closed, we see a decline for client service but nothing particular.
  - o Anthony: we just went back to our office this Monday 20<sup>th</sup>, next Monday we will open the door for walk in, we have not had any issues in debt collection upfront, only housing matters.
  - o Sarah: (Civil Justice): our intake number is way up, 50% in June. We did have an illegal eviction case that came through the other day, smaller landlord but nothing big. Foreclosure calls have been relatively quiet, but we do expect that to pick up.

- Philip Robinson: All CARES Act (forbearances) are going to start ending, so people are going to sit through with getting their repayment extended or not, and as at the beginning there was lots of misinformation, so that likely to start happening now in the month or two.
  - Jane Santoni: there have also been a series of decisions in the courts of special appeals, which have been pretty anti-consumer in the debt collection interpreting the statute of limitation (sent to Steve last week). There are 4 different opinions, 3 are unpublished, one is published. So the court of special appeals is not particularly friendly to consumers recently.
    - Philip Robinson: For the committee's purpose, I've volunteered on these cases. There is a different pending on appeal, willing appeal. The willing appeals stand for the following propositions, in contravention to specific statutes passed by the legislature, a landlord may threaten tenants with unlawful eviction, which is perfectly okay according to the court of special appeals so long as the tenants does not vacate the property. So with what this group is doing and the larger group is going, that decision should not stand. So I would encourage every non-profit and every individual for-profit who cares about tenants to consider contacting Jane to sign on the petition for certiorari to the Court of Appeals.
- II. Steve: The Policy & Equity committee met last night, including all the co-chairs in the Task Force, Reena, Judge Davis, deputy attorney general, etc. Part of what we considered were the 2 letters that came out of this committee (first one is to Chief Judge Barbera reviewing moratoria on eviction the debt collection cases, we decided to extend that to 01/31, which would give the legislature the chance to meet in January to pass emergency legislation and to get the governor to sign that; a separate letter that goes to the governor asking him to extend the executive orders through the same dates, and those executive orders are currently prohibiting garnishment of CARES Act payments, prohibiting repossessions, limiting foreclosures; and in the letter we also asked that the garnishment order be extended to all garnishments, not just CARES Act payments, and that the Executive Order providing a COVID-19 defense in landlord-tenant failure to pay rent cases be extended to other cases such as Tenant Holding Over Those letters will be considered by the committee and be forwarded to the AG for review and consideration. The other issue that came up is the funding issue, as we know the governor is currently sitting on the CARES Act money that needs to be spent by the end of the year. The Committee of Legal Service Funding has requested using some of the money for MLSC legal service providers; the Housing Committee is requesting money for rental assistance; we are looking to get that money for a HOPE style hotline. The Task Force is considering how to proceed with those requests, either a single request or separate requests, and Marceline is also starting to consider what the cost would be for the hotline specifically.
- Marceline: we did incorporate the impact on different communities (workers and specifically Black workers affected by COVID-19). There was a discussion coming from the Housing Committee about having a broader discussion on structural racism in the letter (how structural racism creates the context for all of the problems we are seeing today) but decided that we would provide this

historical context within the longer-term Task Force report in December. ) The letter on moratoria is going to the AG's office, the goal is to get that out by the 25<sup>th</sup>.

- Sarah: do we know if the Funding Committee is going to limit their request to MLSC funded organization or something else?
  - Yes, they are. But Susan said they would consider non-MLSC if they need to, but they are trying to get money to organizations they've already approved as they need to get the money out of the door and spend it by December. That's why there is the conversation they are having now about having one ask to the governor that incorporates other organization as well (so that they may ask this specific civil aid MLSC funding but also ask for complimentary kinds of services and providers)
  - Philip Robinson: rephrase some of that, MLSC provides funding with lots of constraints to legal service entities. So the other nonprofits that are able to help are not MLSC qualified and the political debates on our side need to be that this cannot be an MLSC driven project, as it needs to be broader than just MLSC, as there are lots of other good nonprofits (non-MLSC entities) who are able to do good work and to assist our clients.
- III. Steve: The Task Force itself has adopted a three-quarter vote of participants to support something before considering the recommendation of the full Task Force, and we think it makes sense to adopt the same threshold to the committee level. If there is any discussion on that?
  - Reena:  $\frac{3}{4}$  is what they are shooting for.
  - Steve: asking if we need to adopt the same at the committee level and make a motion to adopt that as the process the committee is going to follow.
    - Jane moved, Toby seconded, and all in favor.
- IV. Marceline: there are other time-sensitive issues we need to make decisions quickly. We may hope to do something in between these meetings, sending out a poll asking for feedback. We can share the results to the whole group and make it transparent to the folks if it is  $\frac{3}{4}$  we move it forward, and if not it will come back to the committee for discussion. Last Friday, we had the conversation with the Policy and Equity Committee, and because of the timeline we were moving something very quickly over the weekend, so we want to put something more transparent and accountable in place for this committee going forward; we will also be using poll for people to participate.
- V. Marceline: we want to bring back to the committee what kinds of things we would like to see funded so that we can put together some to that number pretty quickly to add to the "ask". The housing committee is putting together a robust "ask" around eviction prevention and also legal services is putting forward their ask. And we can also put together something we need to support the consumer protection committee.
  - Sarah: Guess I'm thinking that various committees are making up their own recommendations, would be the larger committee that pulls together the things from individual committees and prevents overlaps?
  - Marceline: we will take this committee's asks back to the Policy & Equity Committee and the goal of that committee is to make sure that all of the different committees are coordinated.

- Questions (Reena): one of the things you discussed yesterday is the idea of having a hotline which would cost a significant amount. Perhaps having a centralized place is going to be needed, but why is it important to have a stand-alone and new hotline, rather than trying to use an existing entry point. What the pros and cons are, expecting that it may come up later in other committees with different things.
    - What kinds of existing things? - Marceline
      - The 211 system, as people are aware of that system; the court self-help center. – Reena
    - The concept for the HOPE hotline, we are seeing a significant number of debt problems before the crisis exacerbated by COVID-19, of foreclosures, and we need to connect people directly to resources as quickly as possible. The hotline can link them to some debt management assistance, legal assistance, bankruptcy, etc.
    - Helene: there is a recognition about the fact that we can drive people with multiple complex circumstances, focus on leveraging those existing hotlines maybe even as a point as entry, as a referral mechanism, send people to these additional providers. I don't know if there is a consensus or how to best leverage. But we definitely have different systems in place and providers. Whether using an existing process or a new hotline on top of that or not.
    - Delegate Pena-Melnyk: The number of foreclosure cases and people who cannot pay their rent or mortgages will go up tremendously, especially if the governor does not allow the illegal immigrants to access the federal money. Having its only hotlines providing trained people, quick access and different languages is really important, as when you call 211, you wait forever and need to call a couple times to get someone. But this is really something that should have its own number, its own budget, and qualified people.
    - Marceline: having a warm handoff-- showing a list of numbers to a desperate person facing all these difficulties is not the same as directly connecting them to the right person right now.
- VI. Sarah: for the self-help center, you are getting attorneys, but these attorneys cover such a broad range of issues. The call center is not only debt issues but landlord-tenant, and family law. During this pandemic, when the surge is coming, the old way is not going to work. We need to build on to the existing issues and layer in; self-help can handle the volume, but they need these easy resources and hand-outs to get them to more in-depth legal service. there are limits, but I think this is a great chance to enhance the work that already exists if you do it in a centralized way.
- Steve: Sarah could attend the Education subcommittee and talk about the self-help center and what services look like.
- VII. Marceline: are there ideas people have of resources we would need right now that we can put to the “ask” to the governor.
- VIII. Helene: as you mentioned about the hotline and ask for some out-reach dollars, how do we maintain some tracking and data on these operation costs with these asks in addition to direct costs?

- Phillip: on the data thing, but Governor Malley had state stats system including all of the data on helping homeowners and the other services provided for 2008-14 were all reported to the state. it might be helpful to get that data so we can look at what programs recommending. They also collect outcomes.
- IX. Reena: I just want to clarify the funding, the ask is going to relate to the CARES Act funding which is time-limited. Really think about what you can request and also be able to spend by the end of the year, as if it's a one-time thing and there is no additional, there is a need to consider the type of the money it is, as it has to be spent quickly and not sustainable.
- Phillip: borrow from history, during the foreclosure crisis, we got money that had time restriction on it, and there was one nonprofit that got foreclosure money that kept getting reallocated, because other nonprofits couldn't spend their allocations as the money could go away. I encourage using the money to build the foundation, but it will need more money later, you have to also look at who can actually spend it for that foundation and get that foundation set up for the long run; more flexibility with a broader group than the narrower group of people.
- X. Steve: if this pandemic subsides, we have to reevaluate whether the hotline will be still needed.
- XI. Marceline: In terms of taking a step forward, are there some folks who would like to try a smaller group discussion about where should we be looking at the data for the hotline?
- Sarah is happy to participate, Reena's idea on infrastructure is good as it's a tech investment.
  - Helene is happy to get involved
- XII. Phillip: asking about the data (the DHCD collected all 2008 funding going forward and tracked outcomes.)
- Joseline Peña-Melnyk: the DHCD is going to reach out to Marceline. And I would volunteer my staff to reach out the library to get some of that data.
- XIII. Marceline: we are going to get the smaller group and figure out the right questions and reach out to Phillip offline. Joseline Peña-Melnyk will help with the data; I will reach out to DHCD as well; I will also ask about the cause in the past and preparation for the HOPE hotline.
- XIV. Steve: are there particular things people want to address in the next meeting.
- Helene: after the wave of delinquency and debt collection usually the second wave usually would be bankruptcy, this could be the second wave before the end of the year.
  - Steve: Amy, are you seeing more heading toward bankruptcy these days?
    - Amy: yes, we have had a number of folks dealing with bankruptcy. In our office, we are trying to figure out if somebody is going to face foreclosure and also need to file bankruptcy, and what potential order. We are contemplating if we need to make some adjustments. We also help operate the debt system program in the federal courthouse, and in general, the requests in bankruptcy are up
    - Anthony: we have seen lots of inquiry in bankruptcy, the only good thing about this pandemic is that people have time as courts are on hold. our

office does both chapter 7 and chapter 13 bankruptcy to forestall repossessions and foreclosures.) it has to do with the job situation, loss of income, clients that would normally go to chapter 13 bankruptcy, it is not an option. Question is what you do to help with that person and what you do when the moratoria is lifted. We have lots of referrals for these cases, waiting for the right time to file in the future and the future seems to be now.

- David: for the bankruptcy, filings are really down, without evictions foreclosures, cars, nobody is pressuring you to go bankrupt, but you will see that number go up tremendously.
- Steve: lots of undocumented immigrants are not eligible for that payment, so they are in that situation now
  - Amy: bankruptcy is certainly an option for undocumented ones. However, if it ever works becoming the cases where they can transition from being undocumented to documented, having gone to the bankruptcy process can be held against them.
  - Steve: so we want to deal with bankruptcy next week?
- Reena: setting up a mediation would require funding, it would be better to have that conversation earlier in line with for the funding request.
- Phillip: in my opinion, there is no need for the new infrastructure for bankruptcy, it should go to an existing program.
- Steve: Reena is suggesting we could recommend some mediation that may also require funding to ask. We can have that discussion next week.
  - Amy: as the alternative process to mediation, I propose something like a checklist that would potentially not be for a mediator but to help either an attorney or non-attorney on consumer-related issues. One of our law clerks is doing that right now.

XV. Steve and Marceline thanked everyone for their time and helpful ideas.

XVI. The meeting was adjourned at 4:43 pm.