

# Kentucky Equal Justice Center

## Board Minutes

July 16, 2015

**Board Members Present:** Jamie Abrams, Robert Brown, Chris Frost, John Rosenberg (Community Members); Jeff Been, Josh Crabtree, Scott Crocker, Robert Johns (Program Directors); Loree Stark (Staff Representative).

**KEJC Staff:** Miranda Brown, McKenzie Cantrell, Amanda Hitt, Guion Johnstone, Anne Marie Regan, Rich Seckel, Cara Stewart, Daniel Welsh.

**Guests:** Rebecca DiLoreto (Children's Law Center), Nan Hanley (Access to Justice Foundation).

### Welcome and Introductions

Chair Chris Frost welcomed board members, staff and guests and invited people to introduce themselves.

### Highlights of Recent Activity

Chris invited Director Rich Seckel to share highlights of recent activity. Rich said that he often reported first to give more time for a quorum to gather, but that a quorum was already present. Chris called the meeting order. Rich highlighted five things, as follows, and indicated that staff would report in more detail on several of them:

**Eric Conn Fiasco and SNAP:** Rich said the June 10 meeting of the statewide Welfare and Health Task Force was a great example of statewide task force meetings, one of KEJC's long time functions. It featured:

- an update on the "Eric Conn fiasco" litigation to protect SSA and SSI disability recipients from hasty and unwarranted re-hearings on their eligibility for benefits
- training on SNAP basics and Intentional Program Violation cases from long-time friend and national expert David Super

At the task force meeting, three members of the legal team for disability benefits recipients had reported: KEJC Senior Staff Attorney Anne Marie Regan, KEJC board member John Rosenberg and private co-counsel Ned Pillersdorf.

**"Bob likes it:"** Rich said that grant officer Bob Shull had called for a conference call with him and McKenzie. Bob was in charge of KEJC's multi-year workers' rights grant through Public Welfare Foundation (PWF). Rich said he was concerned that Bob might ask for changes in direction or forewarn about the need for sustainability of the project

without PWF funds. Instead, Bob said PWF wanted to put more support behind state-based efforts. He said the work KEJC had done to build a network of task force participants and advocacy allies fit right in. Rich said it turned out to be exactly the kind of collaborative discussion one would want with a grant officer.

**Harvard Law on Line One:** Rich said it was great fun to exchange emails with the Harvard Public Interest Fellowship program. He had done it several evenings to complete the paperwork to launch Sarah Adkins Fellowship year at Maxwell Street. With Sarah’s Fellowship, he said, Maxwell Street Legal Clinic would have two full-time attorneys for the first time.

**Legal Impact Network:** Rich said that KEJC had been invited to join a newly formed national Legal Impact Network (LIN) organized by John Bowman and staff at the Shriver Center in Chicago. Rich said that unrestricted, non-federally funded programs around the country were being invited to join, with KEJC in the second cohort. Rich said he had gone to a LIN meeting in Chicago. He said it was great to interact on substantive issues with roomful of dynamic advocates. He said earlier meetings had established three priority areas: employability, payday loans and impact on states of the federal budget.

**Vice Mayor Kay and the minimum wage:** Rich said he had been present at the Lexington City Council when long-time friend—and now Vice Mayor—Steve Kay called for a motion to move the proposal for a local minimum wage hike out of the committee where it had stalled. The motion passed. Rich said McKenzie had testified earlier on the city’s power to act on the wage. He said the next step was a “Committee of the Whole” Council discussion. Meanwhile, Louisville’s new minimum wage had gone into effect—at the time a first in the South—though the city’s power to act on the matter now had been challenged in court.

### **Approval of Minutes**

Chris next invited a motion on the minutes of the previous meeting:

- Motion:** John Rosenberg moved to approve the minutes of the April 21, 2015 board meeting.
- Second:** Jeff Been
- Action:** Approved unanimously

Rich said that he had written detailed minutes and staff report summaries. He asked whether “mini-minutes” focused on essential board matters and motions were enough. He said that staff submitted written reports at each meeting which he could post on the web rather than recap.

Chris commented that motions were the essential matters of record. Rich said he appreciated the flexibility to report in less detail and board’s willingness to receive meeting materials by email. He said it had saved him time assembling the mailing.

## **Administration: Financial Report through the Second Quarter**

At Chris' invitation, Rich gave a financial report for the year through June 30, as follows:

**Profit and Loss Budget Overview:** budget for the year anticipated a gain of \$5,003.

**Profit and Loss Budget vs. Actual through June 30:** showed a gain of \$101,262 compared to the expected gain of \$53,431—a positive variance of \$47,831.

**Balance Sheet as of June 30:** showed Total Current Assets of \$371,785, up from \$251,851 on March 31 and up 49.3% percent from \$249,017 on June 30, 2014.

**Income and Expense Charts:** 81.98% of spending was payroll. 69% of income was grants.

Rich said that the main driver behind the positive variance of \$47,831 in Profit and Loss was the Harvard Public Interest Fellowship award of \$45,000 for salary for Sarah's Fellowship at Maxwell Street. Continuing through the handout, Rich:

- predicted carryover of \$299,475 into the coming year
- estimated unrestricted reserves of \$75,221 as of June 30, 2015

Rich said that for the first time in several years, KEJC had unrestricted reserve funds in excess of the 10 percent of budget—now about \$55,000—that was his target for adequate reserves. He passed around a handout summarizing possible uses of the excess and possible risks of spending it.

Rich said the excess reserves amounted to about \$20,000. He suggested three uses, in order of priority: \$1,560 to keep Legal Assistant Amanda Hitt at 20 hours per week after the end of the CHIPRA grant; \$5,000 toward KEJC's required match for the Harvard Fellowship; and \$10,000 for new communications and development assistance, leaving net reserves of an estimated \$58,440.

Rich said that there was risk in the plan and in the budget. He said that if KEJC were to (a) fall short on its \$30,000 "new grants" estimate for the year by \$25,000 and (b) fail to raise funds toward fringe benefits for the Fellowship by \$10,000, the new expenditures could drive reserves to \$23,440—less than half the \$55,000 baseline.

Rich suggested that he proceed with the three-part plan, with the knowledge and consent of the board, keeping in touch with the Chair and Treasurer as needed. Following discussion, there being no objection, he said he would proceed according to the plan.

### **Administration: Audit and 990**

Rich said that he would soon contact auditor Vickie Richardson to begin the audit process and preparation of the 990 for 2014. Looking back to the previous year's 990, Rich said he must have written a good letter to the IRS, which withdrew a penalty for late filing. The details:

- Once the 2014 audit bid process was complete, Rich had asked Vickie by email to file a request for extension of the filing deadline from August 15 to November 15.
- Vickie had replied that she would file the request. However, Rich checked with her several days after the deadline and learned that she had not filed it.
- Rich immediately filed the request himself, but a few weeks later got a letter from the IRS saying the extension request was late and the extension was denied.
- Rich then worked with Vickie to file the 990 as quickly as possible, but after it was filed, the IRS later sent a letter charging a penalty of \$20 for each day after August 15.

Rich said that he paid the penalty—and that Vickie agreed to split it—but that he also wrote a letter of appeal explaining the reason for the delay. He said he was pleased that the IRS reversed and refunded the penalty, with a small amount of interest.

### **Administration: Development Update**

Rich turned to the handout “KEJC Recent Fundraising Effort.” The handout showed what KEJC had sought in funding and what it had received, as follows:

- In 2014, KEJC had received \$315,772 while seeking \$290,411 through grants and fundraising campaigns, or 109 percent of what it sought.
- Since 2011, KEJC had received \$1,163,388 of \$1,509,139 sought, or 77 percent of what it sought.
- So far in 2015, KEJC had received \$200,978 of \$360,754 sought, or 56 percent of what it sought.

Rich said that several grants were renewed as expected, including Foundation for a Healthy Kentucky grants for “Boots on the Ground” outreach and the Health Law Fellowship; the Public Welfare Foundation grant for the employment law project and United Way’s support of Maxwell Street Legal Clinic.

Rich said he was disappointed that the Kentucky Bar Foundation had chosen not to fund a proposal to focus on Special Immigrant Juvenile Status cases through Maxwell Street, but pleased to receive KEJC’s first grant from the Louisville Bar Foundation, \$3664 to launch at monthly wage claim clinic in Louisville. Rich thanked Guion and McKenzie for working with him on the bar foundation grants.

Rich noted that the biggest figure in the “sought” column was a \$150,000 partnership grant developed with Kentucky Center for Economic Policy, Kentucky Voices for Health and

Kentucky Youth Advocates. The three other groups had designated KEJC as the lead. The RFP had been put forward by Center for Law and Social Policy, with 16 states invited to apply for up to five grants. The topic: linking and streamlining SNAP and Medicaid application and recertification processes.

Rich said that if the CLASP grant were factored out, KEJC had raised 96 percent of what it sought. He said the figure rose to over 100 percent if the Harvard Fellowship salary contribution was added to the total.

### **Big Picture: CHIPRA**

Access to Justice Foundation Director Nan Hanley reported on the two-year statewide CHIPRA grant that had begun in July 2013. At the last meeting, it had appeared an extension beyond July 15, 2015, might be possible, but Nan said “It’s over.” The reason: the federal grant officials would only grant extensions in full six months increments. Nan said there were unspent funds in the transportation pool, but not enough to get to six months. She asked programs to submit their final budget reconciliation reports on the grant.

### **Big Picture: Eric Conn Fiasco**

AppalRed Director Robert Johns said that his program was recruiting pro bono attorneys to help over 1,500 people affected by the Social Security Administration’s decision to require new hearings on their SSA or SSI disability benefits. Robert said that about 1,200 of the people affected lived in Eastern Kentucky and that more than 400 had filled out AppalRed’s intake screening sheets.

Robert said that a few hearing notices were already going out. He said the Kentucky Bar Association had recruited 85 attorneys to help with the hearings. He said that the National Organization of Social Security Claimants Representatives (NOSSCR) members in Kentucky and West Virginia would help. Otherwise, he said, most volunteers hadn’t handled similar cases in the past. As a result, Appalred would offer training for attorney volunteers, perhaps with help from NOSSCR or NLADA.

Robert said AppalRed would handle a number of cases in-house. He said overall it was “a real challenge for Appalred.” He thanked John Rosenberg for his help with recruitment of volunteer attorneys.

John noted that the Kentucky Bar Association website had a “Help Appalred” link posted prominently on its website. He said that Administrative Law Judges (ALJs) in SSA cases most often conducted hearings by video, so that attorneys could help long distance. John said “a lot will depend on scheduling.”

Chris Frost asked whether an initiative was possible around gathering medical records, through outreach to providers. KEJC Senior Staff Attorney Anne Marie Regan noted that the issue in the cases is original rather than current disability, so that records would have to

prove a condition in the past. Regarding current disability, John noted that “there’s nothing to lose for reapplying.”

Anne Marie said that many of the claimants had been subject to Continuing Disability Reviews (CDRs) after their initial determination. She questioned why they should have to undergo the new reviews. She said that the legal team for claimants had filed a federal class action at the end of April, followed by a motion for preliminary injunction. Anne Marie said that Rep. Hal Rogers soon thereafter had intervened and won temporary delay of the hearings.

Anne Marie said the lawsuit focused on due process, the lack of time to prepare for hearings and the fact that many claims already had gone through CDRs. Anne Marie said that SSA hadn’t responded yet. She said there would be a hearing on the plaintiff’s motion for preliminary injunction on August 14.

John suggested looking at Ned Pillersdorf’s Facebook page to keep up with events and with information going out to community members. He said that the AARP national litigation unit might come on board to help. John said that attorneys’ fees were limited in disability re-hearings, since the process was structured to recover fees from an initial award.

In additional discussion, Cara Stewart pointed out the FBI was investigating Eric Conn’s original handling of the cases. Jeff Been asked how Legal Aid Society could help. Robert replied that Jeff’s area might be able to provide trainers or office space for volunteer attorneys. Josh Crabtree said that Legal Aid of the Bluegrass had seen a manageable volume of cases, “just a handful in Ashland.” He said Stephanie Langguth would be the point person for his program. John suggested that expert practitioner Al Wax could offer training by webinar. Scott said that former KLA staffer Joel Stoner could help.

Scott asked about electronic filing of case documents. Loree Stark said that there was an application process for approval to use electronic filing and that “you can’t sign up until you have a case.” Josh suggested seeking a waiver of that rule through Representative Rogers or NLADA.

John point out that Ned Pillersdorf had filed an action in state court to freeze the Conn firm’s assets. The action was part of a wrongful death claim for the family of a benefits recipient who had committed suicide. Bob Brown, participating by phone, suggested that the process of involuntary bankruptcy might help protect assets. Anne Marie offered to talk with Bob further.

### **Big Picture: Legal Services Funding**

Scott Crocker reported on the Congressional funding dynamic for legal services. He predicted that “nothing’s going to happen” except a Continuing Resolution at some level, with an increase unlikely. Scott said that at the state level, the program directors would

work to protect or increase the General Fund appropriation for civil legal aid. Regarding filing fees, he said there was consensus among the directors that “this year is not the time.”

### **Strategic Plan: Development, Capacity, Sustainability**

Rich said that in the past year, the Board had revisited portions of KEJC’s strategic plan, starting with advocacy and moving on to communications. Each session had included a “four points” discussion addressing:

- What's the most important one thing that got done?
- What's the most important one thing that didn't get done yet?
- What one thing would you strike from the plan entirely?
- What one thing would you add?

To prime the pump for the development discussion, Rich posed quiz questions designed to identify milestones in KEJC funding, with answers as follows:

- In 2000, KEJC income was \$60,000 in program contributions and \$37.50 in jury pay.
- In 2004, KEJC launched the Equal Justice Works Fellowship at Maxwell Street with multiple sponsors.
- In 2005, Anne Marie won \$100,700 in fees in the *Kerr* long term care case, giving KEJC stability for several years.
- In 2010 KEJC’s Around the World event plus donations reached \$35,909.
- In 2013, KEJC placed 3<sup>rd</sup> of 155 nonprofits in the number of young Good Giving donors.

Rich next reviewed the “Implementation Support Strategy 2: Development” table from the past strategic plan, highlighting key things that had been done or hadn’t been.

Rich said things that got done included acquisition of cloud-based donor management and broadcast email software, the Around the World fundraising events, entry into new contracts for KEJC to provide services to clients of other nonprofits and successful participation in the Good Giving Challenge.

Among things undone, Rich said, were the publication of an annual report and of regular email news on KEJC activities and achievements. Rich said his take on the four points was:

<b>Best thing:</b>	establishing KEJC as a brand through Good Giving
<b>Left undone:</b>	regular email news
<b>Good to add:</b>	staffing for communications and development
<b>Forget:</b>	fundraising events, or at least complex ones

Rich said KEJC in 2014 had received its first major gift: \$50,000 from the closure of the Mason Foundation and the decision of its trustees to transfer remaining funds to Maxwell

Street Legal Clinic. Rich said the Mason Foundation funds were still in KEJC's savings account, a safe place but one with low returns. He said he would like to find new ways to invest major gifts or endowments.

To elicit ideas for next steps, Rich passed around a "Capacity Building Matrix." He asked members and staff to rank a number of strategies on a scale from "No value" to "Must Do." Strategies included "make an annual plan," "engage a consultant," "add part-time staff," "go for online volume" and more.

The sheet also asked members and staff to indicate how much they would be willing to invest in different strategies, from \$5,000 to \$50,000. Finally, it invited members to indicate the three best ideas they heard during the discussion and one "Forget about it."

The exercise elicited a lively discussion, including the following points:

- Chris said he had found most major law firms were sympathetic and supportive but already had a list of preferred charities. He said "me calling around doesn't get us on that list." He suggested a program of making visits with the intention of getting on the list. He said "you need a coordinator" for the project of making visits.
- Josh Crabtree agreed that visits were important to building an annual campaign, noting that Jeff Been and the Legal Aid Society now raised over \$300,000 each year through a campaign that had been built over many years. Jeff Been added that "you gotta have a champion on the inside."
- Bob Brown suggested approaching thriving practice groups within firms, including health care.
- Jamie Abrams suggested that KEJC have a version of the "give or get" approach that some boards took to Board member contributions, perhaps including in-kind giving.
- Several members suggested growing the Board to include more members with fundraising clout or capacity, or spinning off an advisory board to bring more young professionals into the mix.
- Josh said that communications and development went hand in hand today and that he was creating a new position for LABG with a communications emphasis. He recommended that Rich attend the M-I-E fundraising event coming up in August.
- Jamie said that people like to look at the donor lists in annual reports. She said that segmenting lists by levels of giving encourages people to move up to higher levels.

Rich later tabulated seven input sheets that had been turned in, with results as follows:

**Staff it:** The idea of adding part-time staff for communications, development or administrative assistance scored highest, with “engaging the board” and “building an in house team” next. Proposals for contractors scored slightly lower.

**Where the big money was:** When it came to voting with dollars, part-time staff drew the most willingness to invest—with votes totaling \$100,000 and averaging \$20,000.

**Best idea?** Suggestions were varied enough in nature and “win, place or show” ranking that it was hard to find a pattern. Staffing up, engaging the board and engaging young professionals all got significant attention.

### **Next Meeting Date**

Several members commented that the proposed meeting date of September 25 was problematic. Rich agreed to poll the membership via Meeting Wizard to find a new date.

### **Adjournment**

KEJC staff and Rebecca DiLoreto of Children’s Law Center reported on activities, issues, projects and successes. Because no board action was required in response, the details are not reported here. The written staff reports are posted on the KEJC board web page: [www.kyequaljustice.org/Board+Meetings](http://www.kyequaljustice.org/Board+Meetings).

The agenda having been completed, Chair Chris Frost declared the meeting adjourned.

### **Reported by:**

Richard J. Seckel, Director  
October 4, 2015