

# Montana Legal Services Association

*Provide, protect and enhance access to justice.*



**TO: ABA Commission on the Future of Legal Services**

**FROM: Montana Legal Services Association**

**Date: December 4, 2014**

**RE: Comments on the Commission's Issues Paper on the Future of Legal Services**

Dear Members of the Commission on the Future of Legal Services:

In response to the American Bar Association's Issues Paper on the Future of Legal Services, the Montana Legal Services Association (MLSA) respectfully submits the following comments. MLSA is a nonprofit law firm whose mission is to protect and enhance the civil legal rights of, and promote systemic change for, Montanans living in poverty. Furthermore, MLSA is the only source for free civil legal aid in Montana. In 2013, MLSA received 10,960 requests for services across Montana. With only 13 staff attorneys for every 14,000 Montanans living in poverty, MLSA alone cannot meet this demand. MLSA therefore supports any initiative or innovation which provides greater access to justice for the underserved.

Below are MLSA's responses to the issues raised in the ABA Issues Paper:

**Better service.** MLSA supports initiatives that encourage greater pro bono participation by attorneys, especially in the areas of family and consumer law. MLSA believes that utilizing and expanding pro bono resources is one of the best ways to better serve clients who cannot currently afford an attorney.

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**Most important problems in delivering legal and law-related services.** MLSA believes that one of the most important problems faced in delivering legal services is the lack of funding to support access to justice. There are simply not enough resources being targeted toward providing access to justice to those who cannot afford a lawyer. MLSA suffers from a general lack of resources compounded by the frontier geography of Montana, making on-site services difficult to deliver. MLSA currently has offices in only three cities to provide services across a state spanning over 147,000 square miles. MLSA has addressed its challenges through innovations in technology which make it possible for attorneys to provide limited scope pro bono participation to individuals living across Montana. For example, MLSA is currently developing Montana Online Justice to help bridge this gap in services. Montana Online Justice is a secured web format that gives pro bono attorneys the opportunity to respond to an MLSA client's legal question by providing them with brief legal advice. Montana Online Justice will make it possible for an attorney in Missoula to assist a client in Zortman without needing to travel the 375 mile distance between these two towns. Innovations in technology, such as Montana Online Justice, are cost effective solutions that expand the delivery of legal services by minimizing the impact of geographical distance. with the result that our clients can obtain necessary guidance in solving their own civil legal needs.

**Underserved communities.** Greater access to civil legal services for the underserved can be facilitated by greater support for pro bono participation, technological innovations, and increased funding for civil legal aid

A 2014 report prepared by the Access to Justice Commission of the Montana Supreme Court identified the greatest barrier to accessing legal services as simply an individual's lack of money to pay for legal assistance. In the words of a 73 year old veteran: "Lawyers cost money. This is something I do not have." This report further named six broad categories of underserved communities: survivors of domestic violence, Native Americans, the elderly, persons with disabilities, veterans, and individuals who have trouble communicating in the English language. These categories are rarely mutually exclusive. By far the greatest legal need for underserved communities is in the area of family law, followed by consumer/bankruptcy, housing, and public benefits.

There are six salient strategies for facilitating greater access to legal services for underserved communities. First, additional staff attorneys and funding for legal aid organizations can help to expand the availability of free or reduced-cost legal services. Additional staff attorneys can also enhance and expand pro bono participation by providing training and mentoring to pro bono attorneys. One common barrier preventing attorneys from engaging in pro bono work is their lack of experience in family law. Legal aid staff attorneys can minimize this barrier by sharing their expertise with pro bono volunteers. A second strategy for expanding underserved communities' access to justice is through increasing the availability of on-site services. In particular, on-site services greatly benefit persons with disabilities, survivors of domestic violence, people experiencing homelessness, senior citizens and Native Americans. As one advocate put it: "[t]here's no substitute for a warm body to assist folks." Furthermore, the elderly and Native Americans generally need to have a higher level of trust in legal services providers, and this can only be accomplished through in-person contact. Third, by making legal forms more user-friendly and accessible to the public, the legal community can increase access to legal services for the underserved. This has been done through the Montana Supreme Court's Court Help Program which harnesses the energy of volunteers, AmeriCorps Members, and paid staff to assist pro se litigants with their general questions, provides copies of statutes, and reviews forms for completeness, but does not give legal advice. One attorney noted that even the term "pro se" often intimidates people representing themselves in court. A fourth strategy can be expanding, enhancing, and formalizing collaboration between legal service providers and mental health providers, as well as other service providers. When legal aid organizations work closely with domestic violence shelters, staff attorneys can provide time-sensitive legal advice to advocates and survivors. A fifth strategy includes the expansion of web and telephone services. Often a person needs one or two questions answered in order for them to better solve their legal problem. Finally, greater outreach by legal professionals to the underserved communities provides an essential component to increasing their access to legal services. In short, the Access to Justice Commission of the Montana Supreme Court's 2014 report concludes that while innovation, outreach, and pro bono volunteers can make great strides in facilitating greater access to legal services, "the biggest need is for more resources."

**Policy changes.** No comment.

**Insights from other fields.** No comment.

**Data.** Comparative data on the effectiveness of various modes of legal services would be helpful to MLSA in deciding where to allocate scarce resources. Additionally, while MLSA values and relies on the pro bono services of attorneys across the state to meet the needs of those clients who MLSA cannot directly assist, MLSA believes that the voluntary reporting data does not adequately reflect the need for free civil legal representation across the state. Montana is among many states that rely on self-reporting on pro bono hours to measure the impact of the private bar's pro bono work. However, the definition of pro bono includes all volunteer work and does not limit the reporting to time spent directly assisting low income clients with the resolution of their legal issues. While MLSA applauds the volunteer efforts of all attorneys, this mis-match in reporting means that the reports issued do not accurately reflect the services provided to low income people. The definition of pro bono in this type of reporting model is simply too broad.

**Diversity and Inclusion.** MLSA strongly encourages greater diversity and inclusion within the legal profession.

**Other considerations.** No comment.

Thank you for the opportunity to provide comments. Please contact us directly if you have any questions, or need any additional information.

Respectfully Submitted,



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