

# DIALOGUE

Summer 2010  
VOL. 14, NO. 3

## News and Perspectives from the ABA Division for Legal Services

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The Standing Committee on Pro Bono and Public Service recently sponsored the 2010 Equal Justice Conference in Phoenix, Arizona. [Read more...](#)



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Each year, over a million people contact a bar-sponsored lawyer referral service. Thousands of attorneys – mostly solo and small firm practitioners – rely on LRIS programs to build their practices. [Read more...](#)

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IOLTA Feature

IOLTA

**The History of IOLTA – Lessons for the Future**

The History of IOLTA

*By Linda K. Rexer*

From the Chair

**Introduction**

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News and Notes

The title of this article was also the title of a workshop presented at the Winter 2010 IOLTA Workshops. It is fitting that this workshop was presented in Orlando, Florida because Florida was the first state to adopt IOLTA in 1978, and its leaders have been helping other states build similar IOLTA legacies ever since. It was also appropriate that the workshop panelists included Florida IOLTA pioneers Arthur England and Jane Curran who helped make IOLTA a reality in Florida and, through many subsequent years of leadership, in the nation as well.

Pro Bono

This session could have only been made more remarkable by going back even further in time than Florida's American foray into IOLTA. That was accomplished by the participation of Wayne Robertson from British Columbia, Canada, the site of the first IOLTA program in the western hemisphere. It was from leaders of that program that Arthur England (then Florida Chief Justice Arthur England) brought to the U.S. the concept of enhancing access to justice for those in need by capturing income from short term and nominal client funds held in trust by lawyers. As the last member of that panel, the author of this article had the privilege of moderating the session and asking these long-time IOLTA leaders about how IOLTA began and what lessons in IOLTA history can inform us into the future. This article will try to capture highlights from that discussion.

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## The Canadian Experience

To begin with the Canadian experience, we have to look first to England and Scotland where, prior to 1964, lawyers (solicitors) kept money they were holding on behalf of clients in an account marked "for clients" from which the lawyers kept the interest. The Council of the Law Society of Scotland found the practice of lawyers earning interest on clients' money acceptable, but the tax authorities did not. In the end, the House of Lords in the case of *Brown vs. Inland Revenue Commissioners, 1964 – 3 ALL E. R. 119*, found that the interest did not belong to the lawyer. Common law jurisdictions around the world then looked for ways to comply with this new statement of the law. One proposal, in 1965, was from British Columbia lawyer George Reilly, who wrote an article suggesting that a foundation be formed and that the funds be used to support legal aid.

In 1967, New South Wales, Australia decided to deal with the issue by creating the Law Foundation of New South Wales to receive the interest and use it for legal aid, legal education and legal research purposes. That year, Charles Braizier, QC, of the Vancouver firm of Davis and Company, went to Australia to learn about the Law Foundation. Upon his return, Mr. Braizier, who later became Treasurer (President) of the Law Society in British Columbia, informed his friends Arthur Harper, QC, and Kenneth Meredith, later Justice Meredith, about what New South Wales had done. They decided to recommend to the government that a Law Foundation be formed in British Columbia to collect and distribute the interest on lawyers' trust accounts in that province.

In April 1969, The Law Foundation of British Columbia was formed as the first IOLTA program in North America. After receiving a loan of \$100 from the Law Society to buy supplies and enlisting the administrative support of

the local community foundation, the Law Foundation of British Columbia opened for business. Income in the first year was \$50,031 and grants were made totaling \$5,000; the program grew to more than \$50 million in revenue in 2007.

From 1971 to 1986, law foundations were formed in all other Canadian jurisdictions, all by statute, all with significant support from the legal profession. IOLTA was originally voluntary for lawyers, but soon became mandatory. In 1975, in the case of *McAfee vs. The Law Society of British Columbia, 1975-57-DLR (3rd) 730*, the Law Foundation survived a challenge to its existence. Over \$1 billion has been granted by Canadian law foundations since their inception in their mandated areas of legal aid, legal education, legal research, law reform and law libraries.

### **IOLTA Comes to the United States**

Those readers picturing a world map in which the IOLTA history line had gone from England and Scotland to Australia and then to Canada should draw your next mental line from Vancouver to Tallahassee. The story of how the IOLTA concept came to the United States involves a senior lawyer in Vancouver, Sholto Heberton, QC, of the law firm McCarthy, Tetrault, as well as fate. It happened that in 1961, both Mr. Heberton and Arthur England were associates at the law firm Dewey, Ballantine in New York City. Later that decade, Mr. Heberton returned to Vancouver, and Mr. England moved to Florida. In 1977, on the way back from a Canadian Bar Association meeting in Jamaica, Mr. Heberton stopped in Tallahassee, Florida to visit his friend, Justice England, to whom he described the Law Foundation. Justice England then visited Vancouver to talk with leaders, including Mr. Heberton and Arthur Harper, who were knowledgeable about their lawyer's trust account program.

After Justice England returned, he addressed The Florida Bar at its 1977 meeting, explained British Columbia's program, and recommended adoption of an interest on lawyers trust accounts program in Florida. Some young Florida lawyers, including Russ Carlisle, Don Middlebrooks, Randy Berg and Rod Petrey, took the lead in filing a petition to the Florida Supreme Court to establish an IOLTA program. The interest generated would be used to fund legal services for the poor and to provide grants for improvement in the administration of justice.

In 1978, Justice England authored an opinion<sup>1</sup> for the Florida Supreme Court, which approved the creation of a program to generate interest on lawyers trust accounts and designated The Florida Bar Foundation to administer the program. The opinion provided a road-map for other states with respect to the structure of an interest on trust accounts program, the arguments pro and con for such a program, and the constitutional issues implicated.

### **Moving IOLTA Forward**

The 1978 opinion did not make the program operative in Florida, however. A number of things had to be accomplished before Florida's IOTA<sup>2</sup> program went into effect, including restructuring The Florida Bar Foundation from a small informal entity to one that could implement the IOTA program.<sup>3</sup> There were a number of more complicated steps needed to get IOTA up and running, and to give it national impetus. Someone had to convince the Internal Revenue Service that the income generated on lawyers' trust accounts was not taxable to the attorneys or to the clients under the "assignment of income" doctrine. Washington DC tax lawyer Henry Zapruder accomplished this in obtaining Rev. Ruling 81-209 and Revenue Ruling 87-2. That favorable tax treatment requires that the lawyer or law firm, and not the client or third person, determine whether trust funds are placed in an IOLTA account. That ruling rested in part on an opinion that had been obtained from the Florida Attorney General that the Bar Foundation would hold the entire beneficial interest in the income from IOTA accounts.

There were also a number of things being done on a broader and on-going scale in order to entrench IOLTA into the law on a nation-wide basis. In 1979, Justice England obtained endorsement of the IOLTA concept from the

Conference of Chief Justices, and Russ Carlisle persuaded the National Conference of Bar Foundations to support the idea.

It was also necessary to make sure that the IOTA concept was compliant with federal and state banking law laws. Colorado lawyer Bruce Buell procured an opinion from the Comptroller of the Currency, based on the recent authorization by the U.S. government of payment of interest on NOW accounts -- Negotiable Order of Withdrawal accounts (interest-bearing checking accounts), that NOW accounts could be used for IOLTA.<sup>4</sup> In 1982, David Shear of Tampa obtained an Ethics Opinion from the ABA<sup>5</sup> that clarified the appropriateness of lawyers participating in IOLTA programs.

Before Jane Curran became The Florida Bar Foundation's Executive Director, Randy Berg and Peter Siegel of the Florida Justice Institute in Miami assumed responsibility for implementing IOTA. In the summer of 1983, The Florida Bar Foundation gave its first grants totaling just under \$300,000, based on participation of 17% of Florida's attorneys (the program was voluntary for lawyers at that time). Mr. Berg and Mr. Siegel undertook defending the lawsuits that were brought thereafter challenging the constitutionality of IOLTA.<sup>6</sup> They also worked to spread IOLTA nationally by planning and conducting the National Conference on IOLTA in Tampa in 1983 and by leading the charge to create the National IOLTA Clearinghouse in April 1983 (sponsored by the American Bar Association and others, with initial funding from the Legal Services Corporation).

### **IOLTA Becomes a National Movement**

The ABA Task Force on IOLTA was created in 1981, and in 1986, the ABA established its Commission on IOLTA. Commission members and Justice England traveled the country to meet with state Supreme Court justices, legislators, bar association presidents and members, and bar foundation personnel to explain the IOLTA concept and to assist in getting state programs up and running. Justice England also made speeches to the American Judicature Society, to the National Conference of Bar Presidents, and to other groups promoting the concept of IOLTA. In 1986, the national IOLTA Clearinghouse duties were transferred from the Florida Justice Institute to the ABA Commission on IOLTA.

The National Association of IOLTA Programs (NAIP) was created in 1985; it has partnered with the ABA Commission on IOLTA ever since to assist IOLTA entities and other across the country to establish, manage and enhance IOLTA programs. The national network which had been institutionalized through the ABA Commission on IOLTA and NAIP enabled the centralization of resources and created a strong network of IOLTA programs assisting each other.

### **Mandatory IOLTA**

By the early 1990s almost all states, Washington, DC and the Virgin Islands had IOLTA programs in place.<sup>7</sup> Many IOLTA programs began as voluntary for lawyers, which produced less revenue for charitable purposes than mandatory programs, in which all lawyers are required to participate. Over the years, 43 of the now 52 programs have adopted mandatory IOLTA; seven are (attorney) opt-out and two remain voluntary. The next challenge became revenue enhancement, which is achieved through negotiating with banks to waive fees and raise rates or, most recently, through interest rate comparability provisions.

### **IOLTA Rate Comparability**

In IOLTA's early years, banks competed for deposits and paid as much as 5+% on standard checking accounts. Competition for deposits soon waned, however. That, coupled with the steady decline since then in the Federal Funds Target Rate, a key factor banks use to set checking account interest rates, resulted in IOLTA revenues declining just as steadily. During the same period, banks started to promote cash-management products paying higher interest rates to customers with larger checking balances.

The most common cash-management products are daily bank repurchase

agreements and government money market mutual funds. Both products automatically sweep out IOLTA balances overnight into the repurchase agreement or government money market mutual fund after all transactions clear the checking account and return the funds to the checking account the next morning along with the overnight interest. However, IOLTA balances that would otherwise qualify for the higher rates paid on these products (often average balances over \$100,000) were only earning standard checking account rates because court rules and legislation governing IOLTA programs limited IOLTA-eligible funds to be held only in standard checking accounts.

The Ohio IOLTA program adopted the approach that lawyers must hold IOLTA accounts only in financial institutions that pay those accounts the same rates as accounts of non-IOLTA customers when IOLTA met the same minimum balance or other requirements.<sup>8</sup> In the decade since, 32 additional jurisdictions have adopted rate comparability provisions, in some instances resulting in a three to six-fold increase in IOLTA income.<sup>9</sup>

### Overcoming Challenges

Other issues that have been addressed through the strength of the national IOLTA network working together have include two U.S. Supreme Court cases,<sup>10</sup> which culminated in 2003 with a decision upholding IOLTA's constitutionality. For these cases, the ABA Commission on IOLTA and NAIP worked with pro bono counsel from a number of distinguished law firms and the IOLTA programs in the affected states to bring numerous amici into the cases and assist those handling the litigation. Another example came in the recent economic downturn when some banks were failing; the national IOLTA community worked together to successfully advocate for full federal deposit insurance for IOLTA deposits.

### Conclusion

The history of IOLTA highlighted in this article is the history of dedicated leaders in every state and the support of the organized bar whose efforts have resulted in much needed funding for legal aid for the poor and other charitable endeavors. IOLTA has been the second largest funding source in the country for legal aid, reaching \$230 million in grants to nonprofit agencies providing civil legal aid to the poor in 2008.

Without IOLTA funding, many low-income families would have nowhere to turn for help with civil legal needs. These needs continue and the commitment to meet them continues. As Arthur England noted at the conclusion of the workshop, "IOLTA was an idea whose time had come. It was able to spread like wild-fire throughout the United States only because many people fanned its flames with enthusiasm and with dedication. It is more needed that ever because the need for legal aid has not decreased. The torch has now passed to new leaders who, I hope, will persevere and take inspiration from IOLTA pioneers and past leaders."

In 1989, Justice England gave a similar message at the end of a paper he authored entitled *Modern Day Alchemy: Interest on Lawyer's Trust Accounts*: "IOLTA is the product of the happy confluence of changed banking laws in the 1980s and a national cadre of public-spirited and imaginative judges and lawyers. Whether and for how long IOLTA programs will flourish will depend on the continued vigor and watchfulness of its supporters. Given the breadth and depth of commitment which has been manifest in the last eight years, I have little doubt that IOLTA will remain a potent force for equal justice well into the 1990s and beyond." The imaginative judges, lawyers and others who will guide IOLTA into the future can find no better model for their efforts than the leaders and history shared at the IOLTA workshop in Orlando in February 2010 and highlighted in this article.

*Linda Rexer has been Executive Director of the Michigan State Bar Foundation since 1987 before which she was a Managing Attorney for a legal aid program. She is a past President of NAIP, past Trustee of NCBF and currently serves on the ABA Commission on IOLTA and as Co-Chair of the ABA-NAIP Joint Technical Assistance Committee. Ms. Rexer gratefully*

acknowledges that much of the content for this article was compiled by three other panelists: Arthur England, Jane Curran and Wayne Robertson.

**Arthur England** is a Shareholder and Co-Chair of the appellate department at Greenberg Traurig. He was a Justice and Chief Justice of the Florida Supreme Court and is recognized as the original proponent of establishing IOLTA in Florida, the first IOLTA program in the United States.

**Jane Curran** has been Executive Director of The Florida Bar Foundation since 1982. She is presently Chair of the Florida Philanthropic Network and Co-Chair of the ABA Commission on IOLTA-NAIP Joint Technical Assistance Committee.

**Wayne Robertson** is the Executive Director of the Law Foundation of British Columbia - the first IOLTA program in North America.

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[1](#) *In re Interest on Trust Accounts*, 356 So.2d 799 (FL 1978). The program became operational in 1981 when federal tax aspects were resolved, *In the Matter of Interest on Trust Accounts*, 402 So.2nd 389 (FL 1981).

[2](#) Florida's program is called "Interest on Trust Accounts" or IOTA. Most other states use the name "Interest on Lawyers Trust Accounts" or IOLTA.

[3](#) In 1978, The Florida Bar Foundation was a small operation composed of senior members of The Florida Bar who made personal contributions for a scholarship fund, and it met once a year for a formal dinner in conjunction with the annual meeting of The Florida Bar.

[4](#) In Florida, John Edward Smith with the Steel Hector and Davis law firm in Miami obtained similar approval from the Comptroller of Florida. He also obtained the Attorney General opinion referenced herein.

[5](#) ABA Formal Opinion 348 (1982).

[6](#) These included *Cone v. The Florida Bar*, 66 F. Supp. 132 (M.D. Fla. 1985) and *Cone v. The Florida Bar*, 819 F.2d 1002 (11th Cir. 1987). They also prepared an amicus brief before the California Court of Appeal in *Carroll v. State Bar of California*, 166 Cal App3rd 1193 (4th Dist. 1985) and an amicus brief in U.S. Supreme Court in *Chapman v. State Bar of California*, Cert. Denied, *Chapman v. State Bar of California*, 474 U.S. 848 (U.S. Cal. Oct 07, 1985) (NO. 85-169), on behalf of 37 state bar associations and foundations.

[7](#) IOLTA was not adopted in the last state, Indiana, until 1998.

[8](#) Although Florida's IOLTA program enacted their "interest rate comparability" rule first, it was modeled on Ohio's pioneering concept.

[9](#) For more details on interest rate comparability, which is based on concepts of fairness that banks treat IOLTA customers comparably to their other non-IOLTA customers and which authorizes the use of these higher paying cash management products for IOLTA, [click here](#).

[10](#) See *Phillips vs Washington Legal Foundation*, 524 U.S. 156 (1998) and *Brown vs. Legal Foundation of Washington*, 538 U.S. 216 (2003).

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## From the Chair...

*By Lora Livingston*

### Commission on Interest on Lawyers' Trust Accounts

There is no doubt that these are challenging times for IOLTA: interest rates are at historic lows, principal balances have declined and the demand for legal services by our most vulnerable populations is growing. But challenges have never stopped our community in the past and the same is true today, as evidenced by the number of jurisdictions seeking and obtaining IOLTA rule revisions to increase IOLTA income.

During the past twelve months, eight jurisdictions have adopted IOLTA rate comparability revisions: Delaware, the District of Columbia, Kentucky, North Carolina, South Carolina, Tennessee, Washington and Wisconsin. With the addition of these eight jurisdictions, there are now 33 in which rate comparability is in effect. This revenue enhancement strategy requires that lawyers place their IOLTA accounts only in financial institutions that pay those accounts the highest interest rate available at the institution to other customers when the IOLTA account meets the same minimum balance or other requirements.

When interest rates were much higher several years ago, the adoption of comparability led to between three- and six-fold increases in IOLTA income in one year for the first five IOLTA programs that implemented it. While in the current rate environment such increases are not possible, I am confident that once interest rates rise, so too will the income generated as a result of comparability revisions.

Of the eight jurisdictions that moved forward with rate comparability, four – Delaware, the District of Columbia, Kentucky and Tennessee - also sought and obtained rule revisions that converted their opt-out IOLTA programs to mandatory ones. Since 1988, the American Bar Association has urged jurisdictions to implement mandatory IOLTA and today, 43 of the 52 jurisdictions with IOLTA programs are mandatory. And, conversion to mandatory IOLTA is under consideration by the supreme courts in two additional states.

Two years after [Brown vs. Legal Foundation of Washington](#) upheld the constitutionality of IOLTA, two of the programs that converted to mandatory IOLTA in 2005 reported one-year increases in IOLTA income of over fifty percent. It is interesting that while some of the jurisdictions that converted shortly after the *Brown* decision already had high rates of lawyer IOLTA participation prior to conversion, they still saw substantial increases in IOLTA income after conversion. Part of the explanation for this phenomenon in at least one state was that prior to conversion (and unknown to the IOLTA program) there were lawyers who placed some of their IOLTA-eligible clients' funds in their IOLTA accounts, but also held large amounts of IOLTA-eligible clients' funds in non-interest bearing accounts. Once IOLTA participation was mandated, all client funds held by lawyers that could not generate net interest for clients were moved to IOLTA accounts, thereby substantially increasing principal balances.

The decision to seek conversion to mandatory IOLTA or IOLTA rate comparability is one that is best made by the IOLTA program after careful consideration and research. For some programs, comparability may not produce increased income due to the small number of IOLTA accounts with

large principal balances. In others, political considerations may make pursuing mandatory IOLTA challenging. Nevertheless, given the increased income that has occurred in many jurisdictions and that is anticipated in others, I urge IOLTA programs in all jurisdictions that have not moved forward with these strategies to give each serious consideration.

The Commission on IOLTA and National Association of IOLTA Program's Joint Technical Assistance Committee remains ready, willing and able to assist any IOLTA program that is interested in considering or pursuing mandatory IOLTA or IOLTA rate comparability. Please contact Bev Groudine, Counsel to the Commission on IOLTA, at [bgroudine@staff.abanet.org](mailto:bgroudine@staff.abanet.org) or 312/988-5771, if you are interested to obtaining the joint committee's assistance. For more information on IOLTA and IOLTA rate comparability, visit the ABA Commission on IOLTA website at [www.abalegalservices.org/iolta](http://www.abalegalservices.org/iolta).

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## Grantee Spotlight: Mississippi Center for Justice's *Pro Bono* Foreclosure Prevention Campaign

*By Bonnie Allen*

Consumer protection has been a top advocacy priority for the Mississippi Center for Justice (MCJ) since it was founded in 2003. When the economic disaster and housing crisis began sweeping Mississippi and the nation in 2008, MCJ stepped up its advocacy efforts to prevent home foreclosures through a "community lawyering" approach that combines traditional legal strategies with community education, policy advocacy, media advocacy, and coalition building.

Early on, MCJ recognizing that its limited staff resources could not begin to handle the overwhelming demand for legal services, and in 2009, it sought and received an IOLTA grant to launch a statewide *pro bono* foreclosure campaign. At the time, Mississippi had the highest rate of subprime mortgage lending in the nation, as well as the highest rate of delinquencies. In addition, foreclosures on the Mississippi Gulf Coast continued to rise in the aftermath of Hurricane Katrina. These statistics operated in a policy environment where outdated foreclosure laws and regulations lacked the safeguards that exist in many other states.

While Mississippi is the poorest state in the country, it has an unusually high percentage of homeownership (over 70%). MCJ and its partners knew that losing this cornerstone asset would be devastating to individual families, as well as to Mississippi's overall economy. At the family level, home foreclosures would create homelessness, spikes in domestic violence and disruptions in children's education. At the community level, home foreclosures would create deteriorating conditions in entire neighborhoods, resulting in lower home values and sharp increases in abandoned property, drugs and crime.

### MJC's Strong Track Record

Recognizing the high-stake consequences of massive home foreclosures, the Mississippi Access to Justice Commission and the Mississippi Bar turned to MCJ to spearhead a legal response through a statewide *pro bono* foreclosure prevention campaign. MCJ had established a strong track record in managing a *pro bono* delivery system in the aftermath of Hurricane Katrina. MCJ is a statewide, non-profit public interest legal and policy organization that advances racial and economic justice by changing systems, structures and individual lives. Headquartered in Jackson, MCJ opened a second office in Biloxi shortly after Hurricane Katrina devastated the Mississippi Gulf Coast to respond to the overwhelming legal needs of disaster survivors.

MCJ first established its *pro bono* delivery model in the spirit of saying "yes" to the myriad offers from law firms and law schools across the country following Katrina. MCJ conducted legal intake through community legal clinics focused on Katrina-related housing and consumer related matters. *Pro bono* attorneys participated in these clinics and then handled client matters through extended representation. Since Katrina, MCJ and its *pro bono* partners have served thousands of Katrina survivors in FEMA appeals, insurance disputes, state development authority grant applications, contractor fraud, landlord-tenant cases, and mortgage foreclosures.

Between 2006 and early 2010, MCJ leveraged the resources of over 600 *pro bono* attorneys who contributed 60,000 hours of free legal services, equivalent to \$16 million of in-kind services.

### **A Call to Action**

In December 2008, then Mississippi Bar President Rodger Wilder sent an e-mail letter to all members of the Mississippi Bar requesting them to maintain a caseload of two active *pro bono* foreclosure cases over the next two years. The letter directed Mississippi attorneys to MCJ as the facilitator of this emergency *pro bono* project. One hundred and forty-three Mississippi attorneys responded to President Wilder's letter. Shortly after the letter went out, MCJ expanded its primarily Gulf Coast-based *pro bono* operations by developing an infrastructure to support *pro bono* efforts statewide, including the new foreclosure prevention campaign. Consumer protection staff attorney Paheadra Robinson stepped up to lead the campaign, even though she already had a full workload focused on reducing payday lending, and MCJ had no dedicated funding at the time to support this initiative. In February 2009, MCJ conducted a two-day training of 43 Mississippi *pro bono* attorneys in collaboration with the National Consumer Law Center. Shortly after the training, MCJ conducted a small media campaign that included an article in the Jackson Clarion-Ledger newspaper, an interview with a Jackson television reporter that went statewide, and an appearance on public radio. Within a two-week span, MCJ received over 400 calls from Mississippians across the state seeking legal assistance in foreclosure prevention. Working in partnership with the Mississippi Bar, Mississippi Home Corporation and a statewide network of housing counselors, MCJ referred 245 delinquent mortgage cases to housing counselors and 139 cases to *pro bono* attorneys between February and August 2009.

### **IOLTA Steps In**

When MCJ received an IOLTA grant in the summer of 2009, it provided critical support for a much-needed legal and administrative capacity to sustain the *pro bono* foreclosure campaign. This capacity enabled MCJ to conduct monthly community-based legal clinics, field constant phone calls from frightened homeowners seeking advice, recruit additional volunteers, and manage case referrals to *pro bono* attorneys and housing counselors. In August 2009, MCJ hired an Equal Justice Works AmeriCorps Fellow to work full-time on foreclosure prevention. Since then, MCJ has conducted intake for hundreds more low-income clients with foreclosure problems, and referred them to *pro bono* attorneys and housing counselors. The most heartening story of volunteer participation involved a group of University of Maryland law students that traveled to MCJ's Jackson office over winter break 2010. When they learned that a terminally ill MCJ foreclosure client was just \$600 short in saving his house, the students went back to Baltimore and held a fundraising event. A few weeks later, MCJ received a check from the Maryland law students that enabled the client to remain in his home.

### **One Grant Leads to Another and to Expansion of Services**

In December 2009, MCJ secured a substantial multi-year grant from The Atlantic Philanthropies to significantly broaden its consumer protection advocacy capacity. This grant demonstrates the importance of IOLTA support (even when it is a relatively small investment) and the leveraging of *pro bono* lawyers in attracting other resources. Even with limited staffing at the time, the fact that MCJ had a campaign "up and running," had procured IOLTA funding through the state bar foundation, and had leveraged the resources of the private bar made it a highly credible grant seeker when it approached The Atlantic Philanthropies. In just two years, MCJ was able to increase its consumer protection "staff of one" to a high-powered team that now includes a Project Director, an Equal Justice Works AmeriCorps Fellow, a Skadden Fellow, a community organizer, and an administrator.

The Atlantic Philanthropies grant supports MCJ's *Campaign to Advance Economic Security for Elders*, a broad-scale effort to protect the income and assets of elders from a wide range of predatory and wealth-depleting consumer financial products and practices, including payday loans and predatory mortgages. This campaign engages scores of national and

regional partners, along with elders themselves, in a multi-strategy approach that includes direct legal services, impact litigation, policy advocacy, community organizing and education, communications, and media outreach.

Through an explicit partnership with the National Consumer Law Center, as well as support from the Center for Responsible Lending and Consumer Federation of America, MCJ is identifying best practices and legislation from other states, and revitalizing a broad-based state Coalition for Fair Lending that includes banks, the Attorney General's Office, universities and law schools, faith based groups, and numerous advocacy organizations. The goal is to mobilize consumers in ways that will create "ground up" support for significant state policy reform, and thereby curb the most egregious abuses of elderly consumers and other vulnerable populations in our nation's poorest state.

***Bonnie Allen** is Director of Training and Foundation Development at the Mississippi Center for Justice. She also is an adjunct clinical law instructor at the University of Maryland School of Law, where she teaches a Katrina Summer Clinic on the Mississippi Gulf Coast. Ms. Allen previously held staff leadership positions at the American Bar Association Center for Pro Bono, National Legal Aid and Defender Association, and Center for Law and Renewal.*

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### News and Notes

#### Revenue Enhancement

On June 10, 2010, the Delaware Supreme Court issued an order adopting mandatory IOLTA and IOLTA rate comparability, effective November 1, 2010. Rate comparability requires that lawyers place their IOLTA accounts only in a financial institution that pays those accounts the highest interest rate or dividend generally available at the institution to other customers when IOLTA accounts meet the same minimum balance or other qualifications.

Once these rule revisions become effective, there will be a total of 43 mandatory IOLTA jurisdictions and a total of 33 jurisdictions with interest rate comparability in place.

Assistance in exploring, drafting, and implementing an IOLTA interest rate comparability requirement is available through the Commission on IOLTA and National Association of IOLTA Programs Joint Technical Assistance Committee. Contact Commission Counsel, [Bev Groudine](#) or call 312/988-5771 for more information.

#### FDIC Insurance Update

On June 22, 2010, the Board of Directors of the FDIC approved a final rule extending the Transaction Account Guarantee (TAG) Program, which was scheduled to end on June 30th, to December 31, 2010. The final rule also gives the Board the discretion to extend the program to the end of 2011 without additional rule making if it determines that economic conditions warrant such an extension. Participating institutions had the option to opt out of the TAG Program, effective July 1, 2010, but if they do not, they are required to remain in the program until it ends.

Under the TAG Program, funds held in IOLTA accounts will continue to be fully guaranteed by the FDIC, without limit, for participating financial institutions. IOLTA funds held in institutions that opt out of the extended TAG program (or that previously opted out of the TAG program) will be insured up to \$250,000 per owner (i.e. client) until December 31, 2013. Institutions are required to display their status as either participating or not participating. For further information, visit the FDIC website at [www.fdic.gov](http://www.fdic.gov).

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*By Jamie Hochman-Herz, Assistant Committee Counsel,  
ABA Standing Committee on Pro Bono and Public Service*

On August 9, 2010, the five recipients of the ABA Pro Bono Publico Award were honored at the Pro Bono Publico Awards Assembly Luncheon held during the ABA Annual Meeting in San Francisco. In this issue, we highlight how the individual recipients became involved in pro bono and the contributions they have made to serve the poor throughout their professional lives.



## Lan Nguyen

After immigrating to this country as a refugee from Vietnam in 1975, and enduring many hardships in that transition, including time in refugee camps and separation from her father who was imprisoned for 10 years in a re-education camp, Lan Nguyen attended college and then obtained both a JD and MBA from University of Houston. Since her admission to the Bar in Texas in 1984, she has made enormous contributions to the legal needs of low-income individuals and families in the Houston area.

Nguyen donates hundreds of hours as a pro bono attorney each year, despite also maintaining a legal practice with her husband. She has been a driving force of the Houston Bar Association's outreach to the Asian American community and a committed volunteer through its Volunteer Lawyers Program. She mentors less experienced lawyers to help make them better able to assist their pro bono clients. She also set up a Legalline program specifically for Vietnamese residents, co-founded an annual Asian Will-a-thon to provide estate-planning documents to indigent Vietnamese, and coordinated a monthly Vietnamese radio talk show to assist the community with their legal problems. She has translated legal handbooks into Vietnamese, set up legal clinics for the poor in the Asian community, and represented many individuals pro bono in their legal cases.

Nguyen has also done pro bono legal work through the Houston Area Women's Center and through AdvoCourt for Kids, a grant recipient of the ABA Child Custody Pro Bono Project, in which she acts as a children's advocate in divorce and custody proceedings. She has also served as a resource for its volunteer lawyers and for its board of directors.

Nguyen has been the recipient of many awards recognizing her unique pro bono contributions, including the 2007 Houston Bar Award for Outstanding Contribution to Houston Volunteer Lawyers Program by an Individual and the 2007 State of Texas Pro Bono and Legal Services Award. She has established a reputation for never turning down a pro bono case when asked to provide assistance.



## David Reiser

David Reiser's commitment to ensuring equal and meaningful access to justice is manifested throughout his legal career. After graduating *summa cum laude* from Yale College, Reiser combined his study of law at Yale

Law School with volunteer and leadership activities, including as Chair of the Jerome N. Frank Legal Services Organization and Director of the Danbury Prison Project.

Reiser has consistently shared his gifted legal mind to teach and mentor law students and young lawyers. In private practice and as a legal aid volunteer, Reiser continues to mentor young lawyers and assist volunteer lawyers in briefing and arguing appeals, by conducting moot courts and providing his expert guidance on the legal and human aspects of the issues in contention.

In 2004, Reiser was one of the founders of the Barbara McDowell Appellate Advocacy Project, a partnership between his law firm, Zuckerman Spaeder, and the D.C. Legal Aid Society. The Project's goal is to provide high quality appellate representation to indigent civil litigants principally in family, housing, consumer and public benefit cases. The effort has helped to shape the decisional law in the District of Columbia on issues of concern to poor communities, and has had far-reaching effects on the ability of the poor to obtain access to justice and fair legal outcomes. Reiser has devoted over 1000 hours to the Appellate Project himself, and has been involved in reviewing nearly every brief and preparing nearly every oral argument. Some of the cases include advocating for a woman who was convicted of parental kidnapping after she fled domestic violence and arguing in an en banc case for the right of tenants to use the fair housing laws as a defense to eviction.

Reiser's commitment to justice is evident throughout the course of his legal career, and he has received acknowledgment from the Bar and his peers for his efforts. In 2006 Reiser was awarded the Servant of Justice Award from the D.C. Legal Aid Society, for his dedication to and achievements in ensuring equal and meaningful access to justice, and his efforts to ensure the success of the Appellate Advocacy Project.



**Sylvia Wambolt**

From her first days as a young associate at the Carlton Fields law firm until the present, Sylvia Wambolt has made pro bono a key component of her legal practice. Her pro bono work has ranged from assisting Florida prisoners attempting to prove their innocence through DNA testing, to advocating for prisoners who were subject to poor conditions of confinement in Florida's "Close Management" system, to helping a group of U.S. Holocaust survivors win a settlement against a Swiss Bank. Wambolt has also represented individuals in habeas proceedings and civil rights organizations to defend federal civil rights laws. The depth and breadth of her work is well known to the Florida justice community – so much so that she is frequently called upon by the United States Eleventh Circuit and the Florida Supreme Court in assisting with pro bono matters. Wambolt provides hundreds of hours of pro bono service per year.

In addition to her direct pro bono involvement, Wambolt is involved in organizations whose mission is to ensure equal access to justice and promote pro bono participation. She has chaired the American College of Trial Lawyers' Access to Justice Committee, in which she served as the catalyst within the College to implement a program encouraging experienced trial lawyers to take pro bono cases of public importance. She is also the former chair of the College's Florida Access to Justice and Legal Services Committee.

Wambolt has worked tirelessly to preserve funding for legal services programs in Florida. She has also been a strong advocate of pro bono within her firm, serving as the first chair of the firm's Pro Bono Committee. She mentors young lawyers about pro bono and urges every practice group to

find opportunities to participate in pro bono activities.

For her 45 years of pro bono service, Wambolt has received numerous service awards including the 2009 Medal of Honor Award by The Florida Bar Foundation, the 2009 St. Petersburg Bar Foundation Heroes Among Us Service Award, and the 2008 Tobias Simon Pro Bono Service Award—an award given annually by the Chief Justice of the Florida Supreme Court to the one attorney in Florida who has given the most outstanding service in the area of pro bono.

## MINTZ LEVIN

Mintz Levin Cohn Ferris Glovsky and Popeo PC

**Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C.**

On February 9, 2010, Massachusetts Governor Deval Patrick signed into law SB 2212, *An Act Relative to Harassment Prevention Orders*, a seminal legislative accomplishment extending the reach of restraining orders to protect victims of stalking, harassment and sexual assault from perpetrators beyond family members and romantic partners. SB 2212 likely would not have become law if not for the perseverance and expertise of the attorneys of Mintz Levin and the firm's pioneering and pre-eminent Domestic Violence Project, who dedicated hundreds of hours drafting legislation, negotiating with stakeholders and working diligently behind the scenes with the legislature to ensure passage.

The firm has a longstanding and broad-based commitment to pro bono. Notably, in 1990 Mintz Levin established its Domestic Violence Project, conceived though the initiative of two first-year associates, as the cornerstone and focal point of its firm-wide pro bono efforts. Over the past two decades, the Domestic Violence Project has grown into an important national resource in serving the needs of victims, advocates and communities across the broad scope of domestic and sexual violence issues. It has become an essential part of the fabric and identity of the firm, with broad participation in each of its offices, from Boston, to New York and Washington DC and to San Diego.

Mintz Levin's domestic violence work takes many forms. The firm has represented over 750 individual victims of domestic and sexual violence; helped form and served as trusted counsel and advisor to a number of national and local advocacy groups, including the National Network to End Domestic Violence (NNEDV) and Employers Against Domestic Violence; and provided training and technical assistance on domestic violence pro bono cases to in-house counsel and other attorneys. The firm has authored many amicus and other appellate briefs filed with the U.S. Supreme Court and other federal and state appellate courts advocating for the rights of domestic violence victims, including recent amicus briefs filed on behalf of NNEDV in *District of Columbia v. Heller* and *U.S. v. Hayes*. The firm has also provided invaluable assistance and expertise in seeking passage of groundbreaking federal and state legislation, including the federal *Violence Against Women Act* and the aforementioned Massachusetts Act earlier this year.

Mintz Levin's extraordinary Domestic Violence Project is now well established, but it continues to develop and create means to address and eradicate domestic and sexual violence. As such, it is the model for what a signature pro bono project can accomplish and can strive to become.



### **Bryan Cave LLP**

Bryan Cave attorneys are dedicated to providing pro bono service and ensuring that access to justice is a priority. The firm has a long history of commitment to pro bono efforts. Attorneys in the firm's U.S. offices spent nearly 47,000 hours in 2009 performing pro bono legal services. Bryan Cave provides pro bono legal services across a varied range of areas and approaches this work using creative strategies and teamwork. The firm has recently focused much of its pro bono efforts helping families and communities overcome considerable hardships and legal obstacles. Bryan Cave has handled cases that reunited families, revitalized neighborhoods

and kept families in their homes.

Bryan Cave has also formed a unique pro bono relationship with Family Equality Council, a national nonprofit organization working to ensure equality for lesbian, gay, bisexual and transgender (LGBT) families. The firm's LGBT lawyers' affinity group chose to work with Family Equality Council after a year-long vetting process - trying to find an organization that is LGBT focused, non-partisan, humanitarian, has a national footprint and is need of pro bono legal services. The firm and the organization have partnered to undertake a comprehensive research survey of current federal laws affecting LGBT families. In addition, the Family Equality Council's public policy department will leverage the extraordinary gift of Bryan Cave's legal expertise and analysis to pursue opportunities for federal policy reform in this area.

Bryan Cave's pro bono policy is a model for firms nationwide. Initiated in 2006, the policy encourages attorney employees to build on the firm's tradition of *pro bono* work and community service. Bryan Cave gives full billable credit to attorneys for all *pro bono* hours, and has established a committee of partners and a group of local pro bono coordinators who are dedicated to developing new opportunities for *pro bono* work.

The local efforts to select important pro bono work have led to the firm's lawyers being involved in both routine and complicated cases. A recent example of the latter was the firm's success in securing the release of Joshua Charles Kezer, a prisoner who spent nearly half his life in jail for a murder he did not commit. Bryan Cave attorneys spent thousands of hours discovering new evidence and ultimately proving the man's innocence. Through the diligent efforts of Bryan Cave attorneys, Kezer's conviction was thrown out and he is able to restart his life as a free man.

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## From the Chair...

By *A. Michael Pratt*

**Standing Committee on Pro Bono and Public Service**

The Standing Committee on Pro Bono and Public Service recently sponsored the 2010 Equal Justice Conference in Phoenix, Arizona. In light of the recent, controversial immigration law passed in Arizona, the issue of immigration policy and implementation was very much present at the conference. The ABA was able to provide an amazing and invaluable opportunity for attendees to learn about the immigration problem we have in America and about the litigation and policy advocacy opportunities that are available to help fix a system that is so obviously broken.

We were supported in our immigration programming efforts at the conference by the ABA's Commission on Immigration. Karen Grisez, the Commission's Chair, was particularly helpful in helping to develop immigration-related programming and in presenting during the closing plenary session. Through the work of the Commission, there are multiple opportunities for lawyers to engage in pro bono work to help address many of the legal issues faced by immigrants in our country. I encourage you to visit the Commission's website at [www.abanet.org/immigration](http://www.abanet.org/immigration) to learn more about their work. With immigration issues so much in the news, I want to highlight some of the existing volunteer opportunities for those interested in working in this critical area of legal need.

The South Texas Pro Bono Asylum Representation Project (ProBAR) is a national effort to provide pro bono legal services to asylum seekers detained in South Texas by the United States government. The project, started 20 years ago, recruits, trains and coordinates the activities of volunteer attorneys, law students and legal assistants. ProBAR is a joint project of the American Bar Association, the State Bar of Texas and the American Immigration Lawyers Association.

Every year, hundreds of asylum seekers are detained by the Immigration and Customs Enforcement in South Texas. They have fled civil war, ethnic fighting and religious and political persecution. Most have little, if any, money by the time they arrive in the United States and are not able to hire counsel or post the substantial immigration bonds required for release.

Having language barriers, little understanding of U.S. law and court procedures, and few financial resources, they face almost insurmountable obstacles to proving their asylum claims. As a result, many risk being deported back to places where they may face persecution and even death based upon their race, religion, nationality, political opinion, or membership in a particular social group. The responsibility has fallen on the private bar to offer legal assistance to these individuals. ProBAR provides the means by which the legal community can respond.

ProBAR is directed by an attorney coordinator located in Harlingen, Texas. The project works closely with local community based programs, the immigration court, and the organized bar to identify detained asylum seekers who have strong claims to asylum or other relief under U.S. law but, owing to indigence, cannot afford to hire private counsel.

The ProBAR coordinator matches asylum applicants requesting counsel with

attorney volunteers who are available to travel to Harlingen to represent them. The coordinator discusses each case with the volunteer and provides support and guidance throughout the progress of the case. To the extent available, each attorney also is assisted by a volunteer law student, interpreter or legal assistant.

In early 2008, the ABA launched the Immigration Justice Project of San Diego (IJP) as a pro bono immigration pilot project pursuant to a seed grant from the ABA Enterprise Fund. The mission of the IJP is to promote due process and access to justice at all levels of the immigration and appellate court system, through the provision of high-quality pro bono legal services for those in immigration proceedings in San Diego. Partnering in the project are several ABA entities (Commission on Immigration, Standing Committee on Federal Judicial Improvements, Section of Litigation, Standing Committee on Pro Bono and Public Service, Judicial Division), the Executive Office for Immigration Review (EOIR), the federal courts, Georgetown University Law Center's Institute for the Study of International Migration (ISIM), the American Immigration Lawyers Association, and the private bar. The IJP serves both detained and non-detained individuals, and recruits, trains, and mentors volunteer attorneys and law students representing clients.

With no right to government-funded counsel and a high indigency rate, many appear in immigration proceedings pro se. The lack of representation has dramatic consequences, particularly for those fleeing persecution abroad or facing separation from family in the United States. The IJP aims not only to increase access to counsel for immigrants, but to benefit the judicial system as a whole; legal representation results in higher appearance rates, and more fair, efficient, accurate, and consistent decision-making. The number of immigration appeals has skyrocketed in recent years, and the lack of representation places a great strain on the federal courts. In addition, "notarios", claiming to be immigration lawyers or specialists who prey upon unsuspecting individuals, are increasingly prevalent in the San Diego area. The IJP aims to expand the scope and quality of representation for those who might otherwise become their victims.

And, the Volunteer Advocates for Immigrant Justice (VAIJ) is a pro bono legal representation project in the Seattle area that offers free legal assistance to detained immigrants seeking asylum or other forms of relief before the immigration courts. VAIJ, a joint initiative of the ABA Commission on Immigration and the Microsoft Corporation is the first formal pro bono legal aid project sponsored by Microsoft.

The Department of Homeland Security's Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service, detains over 180,000 immigrants, refugees, and newcomers each year. Some of these immigrants have fled persecution, civil war, ethnic conflict, and religious and political persecution. Upon arriving in the United States, they are placed in detention while their cases are brought before the immigration court. Other detainees include long-time residents of the United States, some of whom have committed minor immigration violations and are being held in detention while their cases proceed through the immigration courts.

Immigrant detainees typically have little if any opportunity or resources to secure representation and, as a result, as many as 90% appear pro se in their immigration legal proceedings. The hurdles are insurmountable to many as they attempt to present their asylum claims or request relief to prevent being removed from the United States. Detainees must present their cases, often despite language barriers and without understanding the laws or procedures that apply to their cases. Should they lose, some will be removed to a country where they may face persecution, even death, or where they may be separated from their U.S. citizen families and homes and be removed to countries where they have not resided in years.

VAIJ matches attorneys in the Seattle area with detained immigrants who have claims for relief, ensuring that detainees receive much-needed representation. VAIJ also gives attorneys the opportunity to learn about immigration law and become involved in the advocacy community.

Those of you who have not seen the issue of immigration as critical to your



work should reconsider. In every community throughout the country, there are individuals who are confronted with the challenges of navigating the incredibly complex immigration adjudication system. Your volunteers can make a difference for these individuals and their families by participating in programs like those described here. Add immigration pro bono to the menu of opportunities you make available to the pro bono lawyers in your community.

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## A Prescription for Better Health: Medical-Legal Partnerships

*By Kelly Scott, Staff Attorney, ABA Center for Pro Bono Medical-Legal Partnerships Pro Bono Support Project*

Medical-legal partnerships (MLPs) address the social determinants of health that create hardships for vulnerable populations through the integration of free legal services in the healthcare setting. MLPs currently serve patients at nearly 200 hospitals and health centers across the country providing direct legal services to patients, training and education for the healthcare team, and a platform for systemic advocacy. Although MLP models can vary from site to site, all MLPs provide a range of benefits to patients and their families in order to improve their health and well-being.

Members of healthcare team - including doctors, medical residents, nurses, and social workers - are uniquely situated to catch legal issues before a point of crisis. MLPs train healthcare staff to screen and triage potential legal issues that have a negative impact on health such as substandard housing conditions that lead to chronic asthma. After a potential legal problem has been identified, the healthcare provider refers the patient to the MLP lawyer at the hospital or health clinic just as a patient would be referred to a cardiologist for a heart problem. The lawyers can be either a MLP staff attorney or a pro bono attorney. Depending on the MLP and the patient's legal needs, the services can range from advice and brief service at a monthly legal clinic to full representation on one or more legal issues including housing, access to utilities, immigration, education, public benefits, education, guardianship, wills and family law.

### The MLP Community

The combination of medical providers and lawyers is the ideal team to help low-income families who face legal problems related to their basic needs such as housing and income. Partners from the health and legal communities include civil legal aid agencies, law schools, pro bono law firms and attorneys, hospitals, health centers, and medical schools. In 2007, the American Bar Association (ABA) passed a resolution in support of MLP. The resolution encourages members of the legal profession to work with the healthcare community and social service organizations to identify and resolve legal issues that have a detrimental effect on health and well-being. After the adoption of the resolution, the ABA created the Medical-Legal Partnerships Pro Bono Support Project (ABA MLP Project).

The primary goal of the ABA MLP Project is to increase the capacity of healthcare institutions to address health-harming legal issues by increasing the availability of volunteer attorneys. Additionally, the Project works with national medical and legal organizations to promote the MLP model through policy and initiatives. Recent efforts of the Project, along with the assistance from the National Center for Medical-Legal Partnership, resulted in the adoption of policy in support of the MLP model by the American Medical Association (AMA). The AMA resolution encourages physicians to work with lawyers, social workers and nurses to improve the health of their patients. The AMA resolution further states that the AMA should work with physician groups and other stakeholder organizations to educate physicians on MLP and the impact of unmet legal needs on the health of their patients. The passage of the AMA resolution along with the ABA resolution unites the medical and legal professions on their missions to help diminish the obstacles that low-income individuals and families face on a daily basis.

## MLP & Pro Bono Partners

Pro bono attorney and law firm involvement has been substantial in the MLP community. According to the MLP Site Survey conducted in January 2010, MLP pro bono partners provided nearly \$13 million in in-kind services. To support the growing involvement of MLP pro bono partners, the ABA MLP Project provides information on MLP pro bono model development and implementation through consultations with law firms and MLP sites, conference programming and the Project's website [www.medlegalprobono.org](http://www.medlegalprobono.org).

MLP pro bono law firms and attorneys provide a range of free services to MLP sites in addition to taking cases upon referral including special technical assistance projects, on-site legal clinics, research projects, trainings, education materials and site coordination. For example, McDermott, Will & Emery LLP recently launched a national project to provide technical assistance on ethics and confidentiality to MLP sites across the network in addition to handling individual special education, immigration and social security cases; Ropes & Gray LLP devoted 6,000 hours to the health clinic at the Dorchester House Multi-Service Center last year and created a unique infrastructure of leadership groups in five areas of law; and Holland & Knight LLP has led the expansion of services at Northeast Florida Medical-Legal Partnership to act as a model for other programs by facilitating the formation of a steering committee to educate the community, foster collaborations and set goals. The valuable services provided by these and other pro bono partners enables MLP sites to increase their capacity to serve patients and contribute to larger efforts to change policy.

## Systemic Advocacy and MLP

The powerful combination of the medical and legal professions can have an enormous impact on health care policies and practices. By working as a team, MLPs can engage health care providers in systemic advocacy efforts. For example, utility access has been a significant area for systemic advocacy and MLP. When households are faced with utility shut off, too often parents have to decide to "heat or eat." Children who live in households without heat or light have higher rates of hospitalization, poor general health and developmental delays. Additionally, children in these households have higher incidents of burn injuries stemming from the use of candles for light and boiled water to heat bath water. These children also have higher rates of carbon monoxide exposure. MLP sites in Hartford, CT and Boston, MA have worked with their partner medical institutions to educate doctors about utility protection and change policy to help patients.

Doctors and staff at Connecticut Children's Hospital grew concerned with the growing number of families with young children facing utility termination. The pediatric primary care clinic, the pediatric pulmonary clinic and the neonatal intensive care unit turned to the *Medical- Legal Partnership Project for Children* (MLPP) at the hospital to confront the medical dilemma of releasing a sick infant into a housing environment without heat or lights. Through the work of MLPP, the issue of utility termination of families with children less than 24 months old has been brought to the attention of the Connecticut legislature. The medical and legal communities have rallied around the issue and formed a strong coalition to introduce a bill during the next legislative session to protect households with children under 24 months old. The effort has also served an educational function for the medical community. As a result of the publicity around the bill, a number of medical providers have asked for training regarding the complexities of utility law and how it affects their patients. Additionally, in evaluating their protocol, the clinic at children's hospital is in the process of re-evaluating their policy for signing the "Medical Protection" form. As a result, the clinic has determined that the physicians will sign a medical protection form for any household with a child under 24 months.

The *Medical-Legal Partnership | Boston* began an intensive training initiative to raise awareness about access to utilities in the Department of Pediatrics of Boston Medical Center (BMC). The goal of the training was to increase the identification of patients by doctors that are at risk for utility shut-off

and refer the patient to MLP | Boston. The initiative was successful, and MLP | Boston created an “energy clinic” in order to provide consultations to staff and patients. However, Massachusetts required frequent documentation from the doctor of the patients’ eligibility, and the process became an administrative burden for the hospital. In response, MLP | Boston assisted the hospital to create a method using electronic medical records to recertify the patients in an efficient manner. Furthermore, when the Massachusetts Department of Public Utilities (MDPU) began to reevaluate its regulations regarding utilities shut-off protection, MLP | Boston along with community and national partners documented the negative effects of utility shut-off on health, and proposed strategies based on their experience with BMC. MDPU revised their regulations to include extended protection to households with infants, relaxed the recertification requirements, and authorized nurse practitioners and physician assistants to sign the certification letter.

### **Conclusion**

The benefits provided by MLPs are invaluable. With the help of their lawyer, individuals and families can obtain health benefits, improve housing conditions, and secure other necessary services to help meet their basic needs. Furthermore, communities benefit from the alliances formed by national medical and legal organizations, community partners, and pro bono lawyers. These partnerships provide patients and communities with solutions to the legal issues that burden their health. The result is ability to live a healthier life.

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## Policy News

### Colorado Adopts Rule on Judicial Conduct and Pro Bono

Colorado has amended Rule 3.7(a) of the Colorado Code of Judicial Conduct, effective July 1, 2010. According to Colorado's new rule, a judge may participate in activities sponsored by organizations or government entities concerned with the law, the legal system, or the administration of justice including assisting an organization in planning related to fundraising, soliciting organizational membership, and making recommendations about planning. In addition, under Colorado's rule 3.7(b), a judge may encourage lawyers to provide pro bono legal services. For more information, see:

[http://www.courts.state.co.us/userfiles/file/Court\\_Probation/Supreme\\_Court/Rule\\_Changes/2010/2010\(09\)%20clean%20-%20original%20repealed.pdf](http://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2010/2010(09)%20clean%20-%20original%20repealed.pdf).

### Hawaii Adopts Rule on Judicial Conduct and Pro Bono

Hawaii has amended Rule 3.7(a) of the Hawaii Revised Code of Judicial Conduct, effective July 1, 2010. According to Hawaii's [new rule](#), a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice including participating in pro bono activities to improve the law, the legal system or the legal profession. Comment 6 to the rule provides examples of such pro bono activity. In addition, under Hawaii's rule 3.7(b), a judge may encourage lawyers to provide pro bono publico legal services. For more information, see

[http://www.state.hi.us/jud/ctrules/rcjc.htm#Rule\\_3.7](http://www.state.hi.us/jud/ctrules/rcjc.htm#Rule_3.7).

### Organizations Issue Reports on Deferred Associates and Public Service

Several recent reports reveal positive findings concerning how well the deferred associates' public service placements are faring. These reports include the City Bar Justice Center's [Deferred Associate Law Extern Support Project](#), NALP's [Perspectives on Fall 2009 Law Student Recruiting](#), and the Pro Bono Institute's [Law Firm Deferred Associates and Public Interest Placements: Survey Report and Preliminary Assessment](#). Findings indicate that host organizations are pleased with the associates' substantive contributions; law firm managers value the pro bono collaborations that have emerged; and associates are reaping benefits in skills, development and exposure to public interest practice. For more information on deferred associates, contact [Steve Grumm](#), Director of Public Service Initiatives, NALP, or call 202/835-1001

### Tennessee Supreme Court to Host Pro Bono Summit

On June 22, 2010, The Tennessee Supreme Court unveiled plans to host a statewide pro bono summit as a part of the Court's effort to address access to justice in Tennessee. The pro bono summit was just one of several action items outlined by the Court, as it announced the adoption of four overarching goals to guide its Access to Justice Initiative in the coming years. The pro bono summit, which will be held in Nashville on January 20, 2011, will bring together members the legal community to discuss pro bono issues, preview available technology, and seek input on the development of a statewide pro bono referral system. For additional information about the initiative and to download a copy of Chief Justice Holder's remarks, please visit: <http://www.tncourts.gov/geninfo/Programs/A2J/A2J.htm>

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LAMP Feature

IOLTA

**Servicemembers Civil Relief Act Pro Bono Panel Program: Attorneys in San Diego Serving Those Who Serve Our Country**

Pro Bono

LAMP

*By Heather L. Rosing, Esq.*

SCRA  
Pro Bono  
Panel  
Program

*"In the final measure, nothing speaks like deeds."  
- General John A. Wickham, Jr.*

From the Chair

Thousands of men and women in uniform are a constant feature of life in San Diego County, and these servicemembers are highly valued members of the local community. When they ship out to war zones or other deployed environments, the San Diego bar is committed to helping protect and preserve their legal rights back home.

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Through the new Servicemembers Civil Relief Act (SCRA) Pro Bono Panel Program, volunteer attorneys in the San Diego community support our servicemembers by providing pro bono representation in civil and family court matters. Since the Program's official roll-out in November 2009, it has assisted military personnel in more than 60 cases. The impetus for forming the pro bono panel came in early 2008, when the San Diego County Bar Association (SDCBA) learned that the San Diego Superior Court did not have a ready supply of volunteer lawyers to appoint to represent servicemember-defendants in SCRA cases. Such appointments are called for in sections 521 (if the servicemember has not entered an appearance) and 522 (if a request for an additional stay of proceedings on behalf of the absent servicemember has been denied) of the SCRA. 50 U.S.C. Appendix §§ 521-22. The statutory protection exists so that a servicemember serving our country, such as a Marine from San Diego stationed in Baghdad, has a local lawyer appointed to represent his or her legal interests, when sued in a San Diego civil court.

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A working committee was formed to explore the best way to structure both an attorney panel and a staffed program to assist the servicemembers who may be entitled to SCRA protections. Ultimately, the Program was a collaborative effort of the SDCBA, the San Diego Superior Court, the Bar association of Northern San Diego County (BANSDC), the Navy Legal Service Office Southwest, and the Marine Corps, with dozens of volunteers working for over a year and a half to turn a vision into reality. The Program is believed to be one of the first of its kind in the nation.

Having observed the Program for its first eight months, San Diego Superior Court Presiding Judge Kevin Enright is impressed with its progress. "This was a herculean job and the San Diego Superior Court is pleased to be a part of this combined effort to make sure the men and women who serve our country have their legal rights protected while they are deployed," Enright said.

The initial mission of the committee and Program was to convene a panel of qualified, volunteer-minded attorneys to represent eligible servicemembers, pursuant to the provisions of the SCRA. The Program was designed so that the Court could spot a potential SCRA issue, make a referral to the Program, and then rely on either SDCBA or BANSDC to select a pre-screened and insured pro bono panel attorney to provide representation to the servicemember. The attorney would then locate the servicemember client, ascertain if the client was eligible for a stay and wanted a stay, and then appear at the next hearing 90-120 days later to apply for the stay, if

appropriate. The main goal of the Program, as well as the federal statute that governs its cases, is to protect servicemembers from default judgments while sometimes stationed far away from home on active duty, and allow them to concentrate on defending our country.

As the Supervising Judge of the Civil Division, Judge Jeffrey Barton, has observed the Program's evolution, from a mere idea to functioning enterprise. "The leadership and members of the San Diego County Bar rose to the occasion and spent countless hours designing and implementing this Pro Bono program. The task was complex and involved developing a unique program from scratch," he commented.

In the course of developing the Program, the committee focused on designing comprehensive guidelines and training materials, so that the volunteer attorneys had a level of comfort in offering their services. The Program also established a hotline and an online e-community for the benefit of the panel attorneys.

Judge Barton also complimented the committee on its work in addressing the many issues that are implicated by SCRA matters. "Numerous issues including the scope of representation, membership on the panel, proposed orders, and finally co-ordination with several branches of the military were necessary to bring this program into reality. As a result of these efforts, active duty servicemembers have a procedure in place to insure their rights under the SCRA are protected," he stated.

Perhaps most critically, the Navy and Marine Corps actively participated in the committee and Program development, lending their support to the effort and their resources to helping contact the servicemember clients, who may be deployed overseas. Navy lawyers also participate as pro bono attorneys, appearing in court to advocate for the rights of their fellow military personnel.

Kim Staron, an attorney volunteer who has been available on an informal basis to help out in SCRA situations for 15 years, has observed the difference the Program has made. Ms. Staron remarked, "This Program has helped our servicemembers in the way that contact between court-appointed counsel and the servicemember is made. The participation of the military has been invaluable in accessing the servicemember and obtaining the information needed to protect their rights and interests."

The Program has also presented a unique opportunity to inform the local attorneys, the judiciary, and the public at large about the SCRA and its protections. "The SCRA is a widely misunderstood area of law. We are grateful for this program because it gives us an opportunity to educate the legal community and our clients about this important federal protection for servicemembers," said Lieutenant Junior Grade Gabriel Bradley, Naval Legal Service Office Southwest.

Even though it has only be in operation a short while, the Program has seen quite a few successes, with numerous stays secured. Although some of the servicemembers do not ultimately want their cases stayed, they are grateful to have a volunteer advocate explain their rights, offer them options, and attend the next court hearing with them. One satisfied servicemember recently commented, "Thank you for what you have done for me. God bless you." As the SCRA Pro Bono Panel Programs nears the completion of its first year in operation, the committee hopes to continue to expand, provide further training and education to its volunteer attorneys, and serve as a model for other metropolitan bar associations looking to create similar programs. For more information, please contact Heather Rosing at 619-239-8131.

*Heather Rosing is SCRA Program Committee Chair*

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## From the Chair...

By Donald J. Guter, *RADM JAGC USN (Ret.)*

### Standing Committee on Legal Assistance for Military Personnel

Military legal assistance done well can make all the difference in the life of a client and the performance of a fighting force. Client populations are best served when legal service commands and individual lawyers take up the challenge of getting beyond routine thinking and routine effort in the design and delivery of legal services. The ABA LAMP Committee understands that exceptional effort and extraordinary innovation in the legal service arena must be recognized and honored if legal service standards are to be elevated across services. Ultimately, that is the LAMP mission.

We on the Committee find few activities as meaningful and gratifying as the selection process leading to the announcement of the annual LAMP Distinguished Service Award recipients. The group and individual recipients have risen to meet extraordinary challenges by delivering outstanding service in a time when the need for effective legal assistance services is extreme.

Here is a summary description of the recipients of the 2009 LAMP Distinguished Service Awards. We salute them all for their exceptional performance.

#### Group Recipients

*Coast Guard Legal Assistance Field Response Team for Lost CG-1705 Aircraft, Alameda, CA*

The Coast Guard legal assistance response to the loss of seven members in a mid-air collision off San Diego was immediate, comprehensive, compassionate and extraordinary. The legal team was rapidly assembled when a Coast Guard C-130 and a Marine helicopter tragically collided off-shore on October 29, 2009. A legal assistance attorney was quickly assigned to the family members of each of the lost Coast Guard crew members. The Coast Guard committed to a robust legal assistance response to the incident, identifying and pursuing all administrative and legal issues on behalf of the crew members and their survivors, and closely advising Coast Guard Casualty Assistance Calls Officers on the array of benefits offered to family members. Over the course of a week, the team members spent 16 hours a day counseling, consoling and delivering appropriate legal support solutions for family members. The families dispersed after the Coast Guard's official memorial service in Sacramento, but the work of the legal assistance response team continued, with attorneys doing what was needed to legally support the families in the ensuing weeks and months. As one example, one attorney sought and secured special permission to appear in a distant court to pursue a petition to assign temporary guardianship of a lost crew member's infant daughter to her stepfather. The response effort, while straining Coast Guard legal assistance resources, was a superb effort in the greatest cause before any legal assistance service: Assisting the families of our fallen heroes.

*Legal Assistance Division, Office of the Staff Judge Advocate, Maneuver Center for Excellence, Fort Benning, GA.*

The legal assistance team demonstrated extraordinary resilience and capacity to adapt to adversity while keeping pace with a high operational tempo after the entire base legal office center was destroyed by arson in February 2009. The team was faced with responding to complete loss of historic files, client files, computer systems and servers, with no respite from the usual heavy demand for services. The team devoted two months of non-stop effort to recreating briefing materials and other preventive law materials as well as client files, while re-establishing routine practices and procedures. Office personnel continued to support soldier readiness programming for the CONUS Replacement Center and a 3d Brigade/3d Infantry Division deployment to Iraq, while team members traveled to Dahlenega, GA, to provide legal support at the Ranger Camp there.

The Fort Benning Maneuver Center for Excellence legal assistance team's refusal to let a devastating event become an excuse for less than outstanding service was exemplary, capturing the spirit of a fully engaged installation that never stops working for its soldiers.

*3d Infantry Division and Fort Stewart Office of the Staff Judge Advocate Legal Assistance Team, GA*

The Fort Stewart team is a beacon for any legal assistance program looking for a model of excellent service in an extremely challenging operational environment. The legal assistance office has delivered high-caliber support during the deployment of division headquarters to Iraq, as well as the deployment of every brigade to Iraq or Afghanistan. For deploying soldiers, the Fort Stewart team met the challenge of briefing all brigade units and family readiness groups, conducting on-site legal briefings, and preparing wills and on-site powers of attorneys, while performing re-integration briefings for returning soldiers. It should be noted that provision of ordinary legal assistance services becomes extraordinary when demand is relentless, stakes are high, and wars approach a decade in duration. On top of conventional legal assistance, the Fort Stewart has gone to extraordinary lengths in reaching out to families of soldiers killed and wounded in Iraq and Afghanistan, to address their probate and other legal interests in a thorough and compassionate manner. In 2009, The Fort Stewart, 3d Infantry Division team also expanded its SAFE (Soldier and Family Emergency) program, an exemplary collaboration of base, local law enforcement and judicial authorities and child welfare agencies designed to ensure that the dependent children of all Fort Stewart servicemembers are accounted for and cared for in the event that a parent is incapacitated and the other parent cannot be located or is unavailable to the child. Operation SAFE demonstrates the breadth and depth of the Fort Stewart team's commitment to soldiers and their families. It should also be noted that nearly 30 Fort Stewart Judge advocates and military paralegals accompanied troops wherever they deployed, coordinating with legal personnel in the Rear Detachment to ensure quality representation for soldiers in harm's way. The indefatigable Fort Stewart and 3d Infantry Division team's work is exceptional and worthy of emulation.

*Consolidated Legal Service Office, Camp LeJeune, NC*

The Camp LeJeune team has delivered innovative and exemplary legal assistance services in an unrelenting "high op tempo" environment. The team excelled in 2009 in delivering legal assistance to active duty personnel, dependents and reservists assigned to Marine Corps Installations – East, II Marine Expeditionary Force, 2nd Marine Division, 2nd Marine Logistics Group, U.S. Naval Hospital, and all other commands aboard Marine Corps Base Camp LeJeune, as well as a large retired community. In addition to the full range of conventional legal assistance services, the Camp LeJeune team is to be commended for its highly innovative work in the immigration law arena, in close coordination with the U.S. Citizenship and Immigration Service. Importantly, in 2009 the team also went the extra mile to serve the complex and intensive legal needs of Marine wounded warriors who are no longer active-duty. For its consistently extraordinary work in demanding war-time circumstances, the Fort LeJeune team has earned LAMP recognition for distinguished service.

*86th Airlift Wing, Ramstein Air Base, Germany*

The Ramstein legal assistance team has developed creative and effective legal services in a unique multi-national, multi-legal-system, multi-lingual environment while serving the largest population of U.S. citizens outside the United States. The Ramstein team is particularly to be commended for its legal assistance support of wounded warriors transitioning through the adjacent Landstuhl Regional Medical Center, and on-target provision of German legal assistance, for base personnel dependents and retired servicemembers with issues arising under the German legal system. The Ramstein team's highly effective use of a German attorney and German-law specialists has helped de-mystify German legal issues for base personnel and families residing in a foreign legal culture and efficiently resolve legal matters in areas such as landlord tenant law, consumer and contract law and family law. Ramstein has also done exemplary work in delivering preventive law services with a German law focus to the base community. The Ramstein legal team is to be commended for providing exceptional services in a highly demanding and diverse legal environment.

*LT Garrett S. Snow, JAGC, USN, Naval Legal Service Office Pacific, Yokosuka, Japan.*

Lieutenant Snow made an indelible mark on the officers and clients of NLSO Pacific through the scope, quality and impact of his legal services delivery and leadership, and his numerous program innovations for the benefit of soldiers and their families. In addition to training junior attorneys and legalmen and personally assisting hundreds of clients himself, LT Snow harnessed the media by working with the Armed Forces Network to develop a guide on how to secure an Individual Tax Identification Number, a key resource for non-citizen spouses of American sailors. The guide has been made widely available on television and radio and in newspapers throughout the office's area of responsibility. Significantly, Lieutenant Snow led the challenging effort to persuade top officials at Yokosuka City Hall to resolve a bottleneck in the issuance of local marriage certificates. Those negotiations resulted in an agreement that the local government would streamline the marriage certificate process and develop a user-friendly checklist to assist applicants. The resultant agreement, a product of LT Snow's powers of persuasion in a foreign legal setting, will continue to benefit the base community going forward. During a three-week deployment aboard the USS George Washington, LT Snow produced public service announcements with legal information that continue to benefit sailors via the ship's television channel. In addition to a formidable workload, he dedicated 20 hours or more per month to volunteer activities, including support of the Boy Scouts, career counseling work at a high school, and clearing hiking trails in the vicinity of Navy housing. LT Snow exemplifies outstanding legal assistance, both in the quality of his work and in his deep dedication to helping others, and is to be commended.

*LtCol Adam E. Torem, USAFR, 11th Air Force, Elmendorf Air Force Base, AK.*

Lieutenant Colonel Torem performed exceptional and ground-breaking service in the cause of military legal assistance. As Chair of the Legal Assistance to Military Personnel Section of the Washington State Bar Association, LtCol Torem shepherded ground-breaking legislation through the Washington legislature to protect the rights of military parents who deploy; led his bar section's continued dynamic support of a community-based effort to deliver extended legal assistance to deployed national guardsmen and their families; maintained the vitality of the conditional state bar admission program for JAGs stationed in Washington state; and drafted legislation to strengthen the state's version of the Servicemembers Civil Relief Act. On both the program and policy side, LtCol was an innovative force for enhanced military legal assistance.

The Committee thanks and commends all of the recipients of the 2009 LAMP Distinguished Service Awards, who are most deserving. For more information on the LAMP Distinguished Service Award and to view past award recipients, please visit [www.abalegalservices.org/lamp/distinguishedserviceaward.html](http://www.abalegalservices.org/lamp/distinguishedserviceaward.html).

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LRIS Feature

IOLTA

**The Brief Advice Panel: A Method to Expand Community Service and LRIS Business**

Pro Bono

*By Elisha Hoffman Abrams, Esq.*

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**The Value of Advice**

**The Brief Advice Panel**

When I first opened my law practice, I applied to become a panel member of the Philadelphia Bar Association Lawyer Referral and Information Service (LRIS). As a newly minted attorney, LRIS provided me with an invaluable referral base, which has followed me throughout my career.

**From the Chair**

**ABA LRIS Committee Serving the LRS Community**

In addition to having served as a panel member, I also have had the privilege to work as an intake attorney for LRIS. The Referral component of LRIS is an invaluable service that in many cases benefits both the client and the attorney. However, there is a real and unaddressed need, which currently is not utilized by most LRIS programs, and that is a brief legal advice panel.

**2010 LRIS Workshop**

Serving as both a panel member and as an intake attorney for LRIS has provided me with a unique bird's eye perspective of the issues and needs facing the clients who call LRIS. I have been struck by the multitude of people who are faced with a finite problem, and who need guidance that as a practical matter does not warrant the expense, time, and emotional cost that would ensue for both the client and the attorney if they were to take formal legal action.

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### **Additional Resources**

- » The [ABA LRIS Committee Clearinghouse](#) contains information on how two LRIS programs established brief advice services in connection with a traditional LRIS referral model.
- » The ["Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information."](#) adopted by the American Bar Association, August 2001 describes the ethical issues involved with establishing a brief advice line.

In these instances, what is really needed is a brief advice line that the LRIS client can call to speak with an attorney who can help the client approach their particular problem. The price for this service should be set at a low rate that is attractive to the consumer.

Thus, an advice line is an ideal way to handle a situation when an individual has a question, is seeking advice, or wants to know their rights, but does not want to make a "federal case" out of their issue.

### **Communication Gap Frustration**

It is quite frustrating and disheartening for both me and the client when I receive a call from a client who has a problem that is very real to them, but whose fact pattern does not make it worthwhile to undertake legal representation. Many clients will call me with an issue that is monetarily not worth a lot, but for them is personally and emotionally important. Often they reason, "it is not the money, it is the principle of the matter."

It is very difficult to argue against the client's desire to right a wrong. However, I also cannot in good conscience act as counsel if I believe the client would spend more on legal fees than they would ever hope to recover. As a panel member, this places me in an awkward situation, which could be circumvented if there was a legal advice line that captured the LRIS client that was just in need of brief legal advice, as opposed to formal legal representation.

The reality is, most attorneys cannot afford to spend time consulting with a client if they believe that there is not sufficient monetary recompense in the case. Many clients will say, "I cannot get a single question answered unless I am prepared to plunk down a couple hundred bucks at the outset."

The client may just want to know their rights and how to approach a matter, and that is the extent of their inquiry. Unfortunately, there are few outlets for the individual who just has some questions that they want answered about their rights and their options. If they do not qualify for pro bono or modest means legal representation, many people do not know where to turn, or where to find the resources that may be available to them.

### **Advice Line Scope**

Oftentimes, people are faced with a problem that is legal in scope, but is more quotidian in nature, and could best be resolved without the formal engagement of an attorney. There are many day-to-day issues that arise that demand resolution, and people just do not know how to approach the problem, and this is where the advice line becomes a very viable option.

Examples of the issues that the advice line could handle include:

- What rights do I have as a consumer if a service provider does not do what they promised?
- What should I do if the item that I recently purchased is defective?
- What are my rights if a creditor claims that I have a debt that I do not owe?
- What are my rights as a tenant or a landlord?
- What do I do if there are mistakes on my credit report?
- How do I wage a complaint against a particular business or utility?
- What do I do if my medical or financial privacy has been compromised?
- What do I do if I am the victim of identity theft?
- What alternative resources are there that I can explore to address my problem?

As can be seen, the list of topics that the advice line can effectively address is extensive, and this kind of service is desperately needed.

### **Methodology**

LRIS programs could operate brief advice panels in much the same fashion as they currently run LRIS referral panels. Brief advice panels would be established in those areas of the law that the LRIS intake staff identifies as particularly strong areas of need. As the brief advice topics generally parallel existing LRIS panels, programs could recruit from existing referral panels. This new program could also serve to bring in new attorneys who are interested in providing this type of community service.

If desired, a separate telephone number for the brief advice line could be established and advertised as a service of the Lawyer Referral and Information Service. That number could be answered by LRIS staff.

The LRIS intake person would identify a caller as being appropriate for a referral to an attorney who is a member of a brief advice panel, no matter which number the potential client called. Inevitably, there will be people who call in on the brief advice line telephone number who need a referral to an attorney for representation and others who call in on the LRIS number

who only need brief advice. Clearly, the LRIS intake person is in the best position to direct the caller.

Cost, of course, would be a selling point for this new service. There are many options for pricing. The cost could be a set amount for up to a particular length of the attorney's time. With this pricing option, LRIS could obtain payment up front before transferring the caller to the appropriate attorney.

Another pricing option would be to break down the time into increments as small as five minutes. In these cases, it would become the panel attorney's responsibility to keep track of the time expended, and to charge the client appropriately.

Either way, a decision will have to be made regarding who keeps the fees paid by clients who use the brief advice line. A percentage fee sharing arrangement is an option. However, this option may differ from the percentage fee schedule that attorneys are expected to pay LRIS programs for regular referrals.

When a referral is made to an attorney for brief advice, the attorney should be able to make the final decision whether brief advice is appropriate. If the brief advice panel attorney feels that the client's issue would be better served with a more traditional, extended legal representation, the attorney can send the client back to LRIS for a referral attorney. Accordingly, if a referral attorney feels that the client's inquiry can be best addressed by the brief advice line service, the attorney can refer the client back to LRIS to be connected to a member of the brief advice panel.

This dual method approach will enable LRIS to provide more comprehensive and practical legal assistance. Without this brief legal advice component, I believe that LRIS loses a significant amount of paying clients that are in need of legal assistance. I also believe that LRIS, from a public relations vantage point, loses the confidence of potential clients who are turned away by the referral attorney who cannot address their problem. Clients who have minor concerns today may have major cases tomorrow, and a good experience when a caller only needs brief advice will encourage that person to contact LRIS again and again.

### **Expand Legal Communication Channels**

The implementation of a legal advice line is an inexpensive, but valuable method to bridge the information gap that currently exists between the client and the legal professional. A brief advice line can open up exciting alternative legal channels of communication that have not been tapped effectively. This supplemental approach to address the legal needs of the LRIS client has the potential to not only provide a vital and comprehensive service to the community, but it also has the potential to be a profitable and worthwhile endeavor for all involved.

*Elisha Hoffman Abrams* is a solo practitioner in Philadelphia and is the author of a legal blog at <http://legallyinformed.wordpress.com>.

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## From the Chair...

By Sheldon Warren

### Standing Committee on Lawyer Referral and Information Service

I was recently reminded (as I am regularly) what a valuable resource the ABA's LRIS list service is. LRIS staff counsel Jane Nosbisch distributed an article that had appeared in *Advisor Today*, the online publication of the National Association of Insurance and Financial Advisors (NAIFA), and suggested that the article might be of value to the LRIS community. The article, by author Maggie Leyes, discussed a presentation that had been made by Robert Cialdini, Ph.D., to an annual meeting of the Million Dollar Round Table. This presentation related to what Dr. Cialdini, a retired Professor of Psychology and Marketing at Arizona State University and one of the nation's leading authors and lecturers on the subject of persuasion, refers to as the six "weapons of persuasion." While both Dr. Cialdini's presentation and Ms. Leyes' article related to the marketing of insurance and financial planning services, I was struck (as Jane obviously was) by how easily the same "weapons of persuasion" could be utilized by state and local lawyer referral services to effectively market the services they offer to both the public *and* potential panel members.

First, **reciprocity**. Dr. Cialdini summarized this concept in his presentation: "I'm obligated to give back to you what you first give to me." He has also described it as "People tend to return a favor", which he says accounts for the broad use of free samples in consumer marketing. It is easy to envision this concept in action with regard to the recruitment and retention of panel members, who may be recruited by way of a reduced fee offer to join the LRIS panel, then retained as career long panel members by providing them with good, screened referrals. With regard to consumers, the "favor" which they may want to return (by telling their family and friends about the LRIS) is the simple act of referring them to counsel experienced in their area of legal need. Or, it might be the simple act of listening to their problem when they don't need a lawyer but are best served by a referral to some alternate social service agency. Either way, they are going to want to "give back" something to the LRIS in the future.

Next, **commitment and consistency**. People who commit to something (such as promptly calling the attorney to whom they have been referred and ensuring that the attorney knows they are an LRIS referral), are more likely to honor that commitment, particularly if that commitment is in writing. While getting a commitment "in writing" may seem impossible on a telephone referral, I have heard many LRIS referral counselors who effectively utilize scripts that say things such as: "Do you have a pen? Good. OK, write this name and number down. [The name of the panel attorney, which is then slowly spelled out, and the telephone number, read twice, are then given.] Do you have that now? Good. Can you read it back for me? That's great, you have it." You have given them something, and they have committed to following up on what you have given them. I could see the concept also working with a web referral, where the consumer "commits" by way of an e-mail, which both acknowledges the referral and the importance of promptly following up with the panel attorney.

Third, **consensus or social proof**. Ms. Leyes quotes Dr. Cialdini as saying: "We decide what we should do by looking at what others like us do in that

situation." Elsewhere Dr. Cialdini has used the following experiment to illustrate his point. One individual stands on the street looking up in the sky, only to eventually be surrounded by uninvolved bystanders looking up into the sky to see what the first person was looking at. In the case of LRIS, it has always seemed to me that one of the most powerful – and effective – means of marketing are testimonials provided by satisfied “customers” of the LRIS, be they consumers or panel attorneys. Such testimonials should be used in your marketing to both of these groups. In the case of the panel attorneys, the positive “buzz” that a single attorney who is a member of a vibrant, well managed LRIS can create among his or her friends and professional colleagues is immeasurable. If they see the panel attorney receiving solid fee paying referrals from the LRIS, they are going to want to join so they can do exactly the same thing.

Space considerations require that I put off discussing the rest of Dr. Cialdini’s “weapons of persuasion” until my next column. However, before I close I wanted to comment on a recent series of posts on the LRIS list service involving the monumental stress encountered by those of you in the LRIS community who deal with difficult callers on a daily basis. There was an *immediate* and overwhelming response to the original post that asked others how they dealt with this stress. These posts offered not only alternative methods of effectively managing and releasing the stress of dealing with callers whose immediate problems make them difficult if not impossible to communicate with, but also offers of support and “an ear” if the telephone counselor needed someone to whom they could talk and simply “vent.” It is exactly this type of camaraderie that makes those of you involved in LRIS what you are – a *community*. A community with a shared *noble* purpose and the knowledge that, in a world where so much seems trivial, what you do actually matters.

Don’t forget – the annual [ABA LRIS Workshop](#) in Portland, Oregon is just around the corner. The Workshop runs from October 27 through 30, and we have a great program planned. I hope to see you there.

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## ABA LRIS Committee Serves Lawyer Referral Programs, Lawyers and the Public

*By Charles J. Klitsch*

Each year, over a million people contact a bar-sponsored lawyer referral service. Thousands of attorneys – mostly solo and small firm practitioners – rely on LRIS programs to build their practices.

Most of us in the LRIS community already know at least some of the work done by the ABA LRIS Committee on behalf of LRIS programs, the public and lawyers nationwide. Indeed, we are a community largely because of the work of this Committee and ABA staff dedicated to it.

The ABA Standing Committee on Lawyer Referral and Information Service is required to submit an annual report to the ABA House of Delegates on the function, activities and goals of the Committee. The following is the 2010 report submitted by Committee Chair Sheldon Warren.

### AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON LAWYER REFERRAL AND INFORMATION SERVICE INFORMATIONAL REPORT TO THE HOUSE OF DELEGATES

The Standing Committee on Lawyer Referral and Information Service has jurisdiction over matters relating to consumer access to legal information and the legal system through more than 280 lawyer referral and information service (LRIS) programs across the country. The Committee assists lawyer referral programs in making affordable legal services provided by competent counsel more readily available to the public by working to improve existing services and developing new programs in areas not covered by existing programs. The Committee develops and encourages the implementation of standards and guidelines, publishes information and forms geared toward the enhanced operation of lawyer referral programs, and provides consultation and assistance to state or local bar associations and other interested organizations. The Committee also promotes an information component in every public service lawyer referral program.

The Committee's current strategic planning goals include: increasing the awareness of LRIS within the legal community and the general public through an ongoing communication plan; increasing the awareness of the marketing value of public service LRIS to a younger and more culturally diverse population of potential attorney panel members; encouraging an environment that supports innovative referral models that are responsive to changing consumer and panel members' needs; and expanding outreach to non-English speaking consumers.

The Committee is developing a mentor program that will be a web-based platform available on the ABA LRIS website. The unique feature of the ABA LRIS mentor-mentee program is that it will be housed in the local LRIS program operations. The mentor effort will include the following components: protocols for matching a mentor and mentee; contract forms for the mentor-mentee relationship; a PowerPoint presentation describing the program; podcasts on law practice management issues; and a "how-to" guide for operating a mentor-mentee program. It is anticipated that this new feature will be particularly valuable to the large number of "suddenly solo" attorneys entering the legal profession.

The Committee sponsors the annual National Lawyer Referral Workshop, which provides leadership and training on issues relevant to the daily operation of a lawyer referral service. It is the country's only national conference for lawyer referral staff, volunteer committee members and interested senior bar leaders. The 2009 Workshop was held in Baltimore, MD on October 28 – 31, 2009 and included a full-day Nuts-and-Bolts training for new LRIS program managers including sessions on call-center techniques, building an internet presence, and daily operational issues for LRIS programs. The regular conference featured, among other things, sessions on internet presence, modest means programs, ethical dilemmas encountered in program operation, dealing with ADA compliance, marketing techniques, and retaining the optimum panel size.

The Committee's field assistance program, the Program of Assistance and Review (PAR), provides individualized technical assistance and support to state and local bar-sponsored lawyer referral programs. National experts volunteer their time free of charge, providing analysis and recommendations in finance, intake and referral, record keeping, office technology, staff training, marketing, the relationship between lawyer referral and pro bono, interaction between staff, committee and board, and consumer follow up. Currently in its 24th year, the PAR program has made over 414 consultative visits to state and local bar LRISs and has an annual goal of working with 12 bar associations to provide on-site or in-depth distance consultations.

Seventy-two public service lawyer referral programs have been approved or are undergoing the approval process for use of the ABA Lawyer Referral logo and slogan. These lawyer referral programs meet the standards adopted by the ABA House of Delegates for the quality operation of a public service lawyer referral and information service. The Committee is currently reviewing all of its logo and slogan approval process and materials to ensure that it is maintaining the highest level of standards for compliance with the ABA's Model Supreme Court Rules Governing Lawyer Referral Services, and use of the ABA logo and slogan. The Committee has suspended acceptance of any new applications during this period of review.

The Committee's national awareness and outreach campaign seeks placement of news articles concerning issues related to lawyer referral. The purpose of the campaign is to create and disseminate public relations materials at the national level that will foster an awareness of LRIS as a portal for moderate-income consumers to access legal services and information. These materials are then often re-released to local and state bar association LRIS programs for further customization and distribution. In this way, state and local programs that may not have the budgetary support to undertake such efforts individually may take advantage of the various models and methods the ABA can produce on a more cost-effective basis. The Committee works with the ABA's Media Relations and Public Affairs Departments to coordinate these activities. This year the Committee also provided input into a Bar Services Division Bar Leader Toolkit on lawyer referral service. The Committee also developed a banner ad campaign with Bill McDonough of ABA Book Publishing. The banner ad campaign, containing four messages that are targeted to consumers and to attorneys, as of this writing has appeared for six weeks on all ABA web pages.

The Committee continues to provide programmatic support to the NABE LRIS Forum. The committee also runs a listserv for LRIS staff and volunteer members nationwide. Currently, more than 230 individuals participate in the listserv. The listserv is a tool for LRIS program managers to discuss issues such as software selection, fee collection matters, and ethical concerns.

The Committee disseminates information through various publications, including its portion of the quarterly newsmagazine, *Dialogue*, which informs the lawyer referral community of issues affecting the delivery of legal services by lawyer referral programs. The Committee also maintains a clearinghouse of information and forms in both print and electronic formats relating to the operation and development of lawyer referral programs, and responds to ethics and policy questions from state and local lawyer referral directors and volunteers. The Committee also publishes, twice annually, a state-by-state listing of lawyer referral programs and directors and maintains an abbreviated Internet version of this directory.



Respectfully submitted,

Sheldon J. Warren, Chair  
February 2010

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## SAVE THE DATES!

**Please join us for the 2010 National Lawyer Referral Workshop at the Hilton Portland and Executive Tower in Portland, Oregon October 27-30.**

This is the only national Workshop designed for public-service Lawyer Referral managers and bar leaders.

### **Our Nuts and Bolts Is a Must-Attend!**

Enjoy our pre-conference Nuts and Bolts program. Jam-packed with best practices, tips for growing your lawyer referral, and practical advice on call-centers and Internet visibility.

### **One-on-One Consults and Networking**

#### **Mini-Program of Assistance and Review (PAR) Visits**

Need a few questions answered? Meet with a PAR consultant to discuss your program's issues and receive some "quick and helpful" assistance.

#### **Consults with a Web Designer**

Want to get a quick assessment of what you can do to make your web site more user-friendly? Get an overview of ways enhance the user-friendliness and appeal of your web site.

#### **Networking Sessions**

Meet with your peers from comparable size programs and discuss shared issues and concerns. This is the best opportunity to have an extended dialogue focused on the operation of your program.

#### **FOR INFORMATION, PLEASE VISIT**

[www.abalegalservices.org/lris/workshop.html](http://www.abalegalservices.org/lris/workshop.html)



Yaquina Head Lighthouse

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