

DIALOGUE

News and Perspectives from the ABA Division for Legal Services

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Young Lawyers: A Key to IOLTA's Future

By Michael Pellicciotti

Introduction

Many members of the IOLTA community have fought for equal justice their entire careers. They remember the struggle for the survival of the Legal Services Corporation in the 1980s, the birth of IOLTA and its great growth, and the litigation challenges of the 1990s and beyond. They have been in the trenches throughout these battles. As a result, this community is a tight network, with many experienced and committed leaders.

A new generation of young lawyers is outside this network. They have not been a part of these historic efforts. This is understandable, since for some of the newest attorneys, their own birth and years of personal growth chronicle those of IOLTA's. They are not aware of the importance of IOLTA's role in supporting legal aid funding. A large percentage of these young lawyers unfortunately know IOLTA more for its administrative obligations than the larger value and role it has in securing equal justice.

Recognizing the Need for Outreach

Many IOLTA programs are beginning to recognize the need to reach out to young lawyers. These programs are educating them about the greater purpose of IOLTA—and equally important—calling upon new attorneys to become the champions of the program. They see today's young lawyers as tomorrow's bar presidents, judges, and leaders of IOLTA.

A recent survey by the Joint ABA Commission on IOLTA/National Association of IOLTA Programs Communications Committee revealed that many IOLTA programs around the country are prioritizing young lawyer outreach. Kevin Ruegg, Executive Director of the Arizona Foundation for Legal Services and Education, said that young lawyer engagement is a key to an organization's sustainability. "Getting a young lawyer involved is like lighting a match—once they are struck, their flame continues to burn... they engage their peers as well," said Ruegg.

Leadership Development

The Joint Communications Committee also found that many IOLTA programs were connecting with young lawyer divisions (YLDs) of their respective state

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Young Lawyers

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and local bar associations to ensure representation or liaison involvement from these groups. Some IOLTA programs specifically invite YLD presidents and other leaders to their events and outreach efforts to enable them to become more engaged in the IOLTA community.

The Indiana Bar Foundation goes a step further by making a concerted effort to ensure there is at least one young lawyer representative on its board. "We feel that it is extremely important to involve young lawyers to groom them for leadership and also expose them to our mission and hopefully have them help instill our mission in the larger bar membership over time," said Chuck Dunlap, Indiana Bar Foundation Executive Director.

Educational Efforts

The Arizona Bar Foundation, in particular, has focused efforts on new attorney education. It starts with a welcome letter to all newly-admitted lawyers that contains an IOLTA packet of information explaining the process, encouraging their association with banks that pay IOLTA accounts the highest interest rates and assess the lowest fees and charges, and detailing the impact their IOLTA participation has on promoting equal justice. The foundation also takes part in YLD and law school activities, working to promote with current students and recent alumni the importance of IOLTA in funding their law school's clinical activities.

"When I became a lawyer and learned about the Foundation, I thought it would be a good way to give back to all those programs from which I derived such a great benefit," said Michael Mason, Arizona YLD President-elect and current liaison to the Arizona Foundation.

Focusing on IOLTA's Mission

Those IOLTA programs most successful with outreach have focused on the importance of IOLTA from more than an administrative perspective. For example, the Indiana Bar Foundation contributes to the state's Applied Professionalism CLE course that discusses how new lawyers' future IOLTA accounts fit within the legal community's greater equal justice efforts. Other states use their similar "Bridging the Gap" programs as a way to promote this message and recruit new leaders.

The Indiana Bar Foundation, like a number of other IOLTA programs, has also recognized the stifling student debt challenges facing today's new lawyers by funding a Loan Assistance Repayment Program (LRAP). In this way, attorneys recently out of law school see the direct benefit of IOLTA funds and become invested early in the importance of IOLTA's growth.

Understanding Time Limitations

While many young lawyers have limited time as they are beginning families and struggling with employer pressures, there are always those looking to become involved. Ruegg and Dunlap state the importance of recognizing these time challenges and working within young lawyers' schedules when possible. "We are considerate of when they can volunteer, when they don't have time to volunteer and the amount of debt they have—we try to have programs and avenues so that their time is best used," said Ruegg.

Conclusion

The value of outreach efforts to young lawyers is that a new generation is invited into the network of the IOLTA community. As the importance of IOLTA programs is realized firsthand by these future bar, business,

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From the Chair...

by Jonathan D. Asher

Chair of the ABA Commission on IOLTA

I have had the great pleasure this year of working with members of the Commission on IOLTA who are dedicated to its work and strongly committed to the use of IOLTA dollars to further the cause of access to justice for all. As the 07-08 bar year comes to an end, it is an appropriate time to recognize the substantial contributions made by the five members who will be completing their service to the Commission in August.

As co-chair of the Joint Technical Assistance Committee, Jane Curran worked tirelessly to help programs across the country as they converted to mandatory IOLTA and adopted IOLTA interest rate comparability. Jane's expertise, insights and sound advice assisted programs enormously as they drafted rule revisions, developed polices and addressed novel issues in their quest to enhance IOLTA income. Jane was also a valuable resource for information on a wide range of other topics including grantmaking, audits and strategic planning. In addition, Jane was a member of the Joint Meetings Committee. In that role, she willingly took responsibility for developing innovative sessions and generously shared her expertise as a workshop presenter.

Barbara Johnson has been an active member of the Commission, serving as co-chair of the Joint Resource Development and Banking Committee and as a member of the Joint Meetings Committee.

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Grantee Spotlight: Fighting for the Rights of Montana's Low-Income Consumers

by Peter Bovingdon

Anna's Story

Anna, a young single mom, was excited to buy her first car. Her parents drove her over 80 miles from their home in Lodge Grass on the Crow Indian Reservation to a dealership in Billings, Montana, that had the car she wanted. The car cost \$3,000. Anna put down \$1,200 and the dealer told her she could finance the remaining \$1,800 through a small finance company he used. It was already after closing so the dealer told her to stop in at the finance company, when she could, to sign the contract.

When Anna returned to Billings a week later to sign the contract, the dealer came to the finance company and seized the car. Even though the car's bill of sale contained no mention of their agreement to finance part of the sale, or any time limit to complete financing, the dealer claimed Anna had violated their understanding. He told her he was keeping the car and refused to return any of Anna's money. She was stranded 80 miles from home.

Jonathan's Story

Jonathan, a Crow tribal elder, came to a Billings, Montana car dealership to buy a pickup truck. He put down \$1,500 and was referred to a bank to finance the remaining \$3,500. When Jonathan went to the Bank, he was told he would have to put down an additional \$1,000 to receive financing.

When Jonathan returned to the dealer to get back his down payment and cancel the deal, the dealer took Jonathan's keys and then refused to return his \$1,500 down payment. The dealer told Jonathan he could take the car if he gave the dealership \$1,000 more and financed the smaller remaining amount. Jonathan refused and stated he wasn't leaving until they refunded his money. The dealer threatened to call the police if he didn't leave. Hearing that, Jonathan called the police himself from his cell phone.

When the police had heard both sides of the disagreement, they told the dealer to give Jonathan his money back. While Jonathan arranged for a ride back to his home 60 miles away on the Crow Reservation, the dealer wrote him a check for the amount of his down payment. While Jonathan was on his way back home, the dealer cancelled the check.

Establishing the Montana Legal Services Association's Consumer Law Unit

Like most states, Montana has businesses like these that exploit low-income citizens. Many of those businesses have "errors and omissions" clauses in their insurance policies; therefore, they are often represented by prominent insurance defense firms in the state.

To deal with this imbalance and fight for the rights of Montana's consumers such as Anna and Jonathan, Montana Legal Services Association (MLSA) created the Consumer Law Unit in 2005. A combination of funding sources made this possible. First, the Montana Justice Foundation directed funds to MLSA from a cy pres award (unclaimed damages from a class action lawsuit). In addition, MLSA was

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From the Chair...

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She has consistently shared her ideas and experiences, contributing much to the Commission's discussions and deliberations during its meetings. As a trustee of the Legal Services Trust Fund Program of the State Bar of California, Barbara has provided the Commission with important insights on the issues facing that program, as well as information on the innovative projects being implemented by the Trust Fund.

The Commission has been fortunate to have another IOLTA program trustee, Marjorie O'Reilly of the Massachusetts IOLTA Committee, as a member. Marjorie served with distinction and dedication as co-chair of the Joint Meetings Committee and as a member of the Joint Communications Committee. Her skills as a mediator were obvious and appreciated during the many meetings in which she participated; Marjorie always added a fair, thoughtful and well reasoned approach to the issues that were being addressed.

During his three years of service, Michael Pellicciotti has

provided the Commission with the young lawyer perspective on a number of issues. He has encouraged the Commission to reconsider old assumptions and explore what IOLTA programs are currently doing to involve young lawyers and how those lawyers can be more fully engaged with the work of their IOLTA programs. Mike served as co-chair of the Joint Communications Committee and as a member of the Joint Resource Development and Banking Committee, and we are all grateful for his service.

Gloria Wilson Shelton joined the Commission in 2006 as a relative newcomer to the IOLTA community, but quickly understood and championed the value of IOLTA and contributed to the two joint committees on which she served: the Joint Communications Committee and the Technical Assistance Committee. Through her leadership role in the Lawyers Conference of the ABA Judicial Division, Gloria provided the Commission with helpful insights into the workings of the ABA sections.

You will have an opportunity to visit with our outgoing members and thank them for their service

at the Summer 2008 IOLTA Workshops, which will be held in New York at the Marriott Marquis Hotel on Thursday and Friday, August 7-8, 2008. A wide range of interesting and informative sessions will be offered including workshops on banking, audits, the intergenerational divide and making the most of IOLTA revenue.

Over the past several years the Commission has paid particular attention to helping programs make the most of IOLTA revenue, given that so many IOLTA programs have worked to increase their revenue through conversion to mandatory IOLTA, adoption of comparability and/or pursuing negotiations with banks. Despite these noteworthy efforts, we are now seeing interest rates and principal balances decline. There is no doubt that planning for the strategic use of IOLTA dollars, whether those dollars are increasing or decreasing, is vital. While I am certain that the discussions in New York will be informative, please do not forget that the Commission and NAIP are willing and well positioned to provide further assistance to programs as we grapple with this new reality.

Montana Consumers

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awarded funds under the John G. Brooks Consumer Law Fellowship Program. Finally, the Montana Justice Foundation granted MLSA significant IOLTA funds with the specific aim of creating a consumer law unit.

Thanks to this funding, an attorney from MLSA's Consumer Law Unit is able to represent Anna and Jonathan. MLSA's Director of Litigation, Mike Eakin, has sued both dealers, claiming the common law tort of conversion for the down payments the dealers

failed to return, and violations of the Montana Unfair Trade Practices and Consumer Protection Act of 1973 regarding sales of the vehicles.¹

Conversion is an intentional tort that may allow for punitive damages.² The Unfair Trade Practices claim permits treble damages.³ Mike is seeking both. In Jonathan's case, Mike will also rely on Montana's bad check statute that allows recovery of the amount of the check the dealer wrote to Jonathan and an additional \$500 penalty.⁴ Mike intends not only to help Anna and Jonathan, but also to send a message to other dealers and finance companies

that this kind of double-dealing is unacceptable in Montana.

The Consumer Law Unit's Team

Mike Eakin is joined in The Consumer Law Unit by attorneys Jennifer Beardsley and Chuck Munson, and AmeriCorps Vista (Volunteer in Service to America) Silke Popp. Mike and Jennifer bring 40 years of combined experience in Consumer and Indian Law to the Unit. Chuck Munson recently joined the Consumer Law Unit after finishing a one-year term as an AmeriCorps Attorney with MLSA.

MLSA Consumer Law Unit

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Montana Consumers

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Attorneys are based in Billings and Helena but they represent low-income clients across the state. Where necessary, they use a court based video conferencing system MLSA was instrumental in creating.

Consumer Law Unit Attorneys practice in Montana State District Courts, Federal District Court, and Tribal Courts. They have won appeals in The United States Supreme Court, the Ninth Circuit Court of Appeals, the Montana Supreme Court, and Tribal Appellate Courts. An important part of the Unit's work is ensuring that businesses dealing with Native Americans on reservation land cannot easily avoid tribal courts where proper jurisdiction often lies.

Since its inception, the Consumer Law Unit has helped 3,109 Montanans, with bankruptcy, collection/repossession/garnishment, and contract/warranty being the most frequent topic areas.

Serving the Native American Population

Consumer Law Unit attorneys have the knowledge and experience to serve Native American clients on Montana's seven Indian Reservations. They keep weekly office hours on the Crow and Northern Cheyenne Indian Reservations, and engage in several forms of community outreach on and off the reservations.

Consumer Law Unit attorneys teach consumer education courses at the Little Big Horn and Chief Dull Knife Tribal colleges. Topics range from understanding mortgages, car buying, wise use of credit cards, budgeting, and consumer rights regarding collections and repossession.

Bankruptcy Clinics

The Consumer Law Unit also presents quarterly bankruptcy clinics to help low-income Montanans struggling with crippling debt. Each clinic is presented from a different town in Montana and broadcast to three other locations via video conferencing. Clinic attendees learn how to fill out bankruptcy

forms and schedules and then review their finished documents with either a Consumer Law Unit or pro bono attorney prior to filing. To date, 307 low income Montanans have attended bankruptcy clinics.

Conclusion

Threats facing Montana's low-income consumers are undoubtedly serious and increasing, while at the same time, funding for low-income legal services has become more scarce and restricted. Thanks to continued IOLTA funding from the Montana Justice Foundation, however, MLSA's Consumer Law Unit is well prepared to carry on fighting for Montana consumers.

Peter Bovingdon is an attorney with Montana Legal Services Association where he represents abused and neglected children and does development work.

Endnotes

- ¹ Mont. Code Ann. §30-14-101 et seq. (2007).
- ² Mont. Code Ann. §27-1-220, (2007).
- ³ Mont. Code Ann. §30-14-133, (2007).
- ⁴ Mont. Code Ann. §27-1-717, (2007).

IOLTA News and Notes

Comparability Update

On April 1, 2008, the Utah Supreme Court approved comparability revisions to its IOLTA rule that became effective immediately. Utah is the 19th state to adopt IOLTA interest rate comparability, which requires lawyers to 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.

Assistance in exploring, drafting and implementing an IOLTA interest rate comparability requirement and other IOLTA revenue enhancement strategies is available through the Commission on IOLTA and National Association of IOLTA Programs Joint Technical Assistance Committee. Contact Commission Counsel, Bev Groudine, at 312/988-5771 or bgroudine@staff.abanet.org for more information.

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Young Lawyers

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and judicial leaders, the legal community's support of these efforts will be sustained for years to come. Furthermore, the successes that many of the current IOLTA leaders have achieved over the years will be passed to a new generation—those who will continue the cause of equal justice.

Michael Pellicciotti is a Deputy Prosecuting Attorney for Seattle-King County. He is a member of the ABA Commission on IOLTA and serves as ABA YLD Membership Director.

Shannon Scruggs, Laura Figueroa, and Jeffrey Fortkamp also contributed to this article.

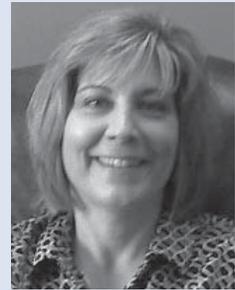
IOLTA News and Notes

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New IOLTA Director in Missouri

Denise Brown joined the Missouri Lawyer Trust Account Foundation as its Executive Director on April 1, 2008. After working in corporate marketing, she became a licensed attorney serving both the public and private sector. Her past positions include Assistant Director of the Missouri Department of Conservation, Staff Attorney for the Missouri Senate, Assistant Attorney General and Executive Director for three different not-for-profit social service agencies.

When asked about her new position, Denise said, "It's an honor to work in a challenging environment that produces such great results for those in need. I look forward to getting to know my peers in the IOLTA community and making the Missouri program a valuable service for all involved."



Pro Bono

Pro Bono Policy News

New Mexico Adopts New Rule of Professional Conduct

In January 2008, the Supreme Court of New Mexico adopted a revised rule of professional conduct regarding pro bono service, setting an aspirational goal for lawyers of 50 hours of pro bono service per year or alternatively, contributing \$500 to a qualifying legal aid organization. The rule is also somewhat innovative as it provides a table of suggested financial contributions depending upon how many pro bono hours a particular lawyer contributes. In addition to the aspirational goal, the rule states that a lawyer must report the number of hours of pro bono or the financial contribution provided as a way of certifying whether the lawyer has provided pro bono services to the poor. For more information, see [http://nmsupremecourt.nmcourts.gov/rules/pdfs/24-108_\(approved_01-22-08\).pdf](http://nmsupremecourt.nmcourts.gov/rules/pdfs/24-108_(approved_01-22-08).pdf)

Idaho Judges and Lawyers Launch Legal Assistance Initiative

A group of Idaho judges and lawyers promulgated a resolution

that establishes a Pro Bono Commission to work with private and governmental lawyers to promote legal assistance for the poor. Specifically, the new Commission will "encourage larger Idaho law firms, corporate law departments, and government law offices to maximize the involvement of attorneys in pro bono services, and explore the development of means and incentives to support attorneys in providing services to those unable to pay for legal services." For more information, contact Mary Hobson, Legal Director of the Idaho Volunteer Lawyers Program, (208) 334-4510.

Ohio Creates Local Pro Bono Committees

Over the past year, The Ohio State Bar Association formed a 31-member Pro Bono Committee Task Force that is in the process of implementing a statewide network of local committees to promote and create opportunities for pro bono. A pro bono committee will be based in each of Ohio's judicial appellate districts to meet the local

needs of particular communities. For more information, see <http://www.ohiobar.org/pubs/insideosba/?articleid=1025>

Illinois Amends Rules to Permit Retired, Inactive and In-house Attorneys to Do Pro Bono

On March 28, 2008, the Illinois Supreme Court adopted amendments to Rules 716 and 756 that will give in-house, retired and inactive attorneys the opportunity to do pro bono work. Specifically, the amendments allow retired, inactive and in-house attorneys to do pro bono work for individuals of limited means or charitable, civic, community or other similar groups. The attorneys who provide the pro bono services must also be under the guidance of a sponsoring entity such as a not-for-profit legal services organization, governmental entity, law school clinical program or a bar association providing pro bono services. For more information about the requirements of the rules, see <http://www.state.il.us/COURT/SupremeCourt/Rules/Amend/2008/032608.pdf>



From the Chair...

by Mark I. Schickman

Chair of the ABA Standing Committee on Pro Bono and Public Service

All the News That's Fit To Blog

We work hard to keep the issue of pro bono in the public eye, but, unfortunately it often takes a disaster to make that happen. I've received many media inquiries about lawyers' pro bono contributions toward the Rita/Katrina relief effort, the legal community's response to the sub-prime mortgage crisis, and the hundreds of pro bono lawyers representing the interests of children and parents of the polygamist community whose lives have been disrupted by prosecutions in West Texas. The calls came from a wide variety of publications, from legal media, to the Wall Street Journal and even Glamour Magazine. In all these instances, I have been able to make the point that if we are committed as a society to justice for all, having pro bono lawyers available to take on the tough cases is essential to that commitment.

And the Award Goes To...

The ABA's institutional recognition of pro bono efforts lies in the Pro Bono Publico Award, which will be given to five recipients at the ABA Annual Meeting's Pro Bono Luncheon, on Monday, August 11, 2008. Elsewhere in this publication we feature each of those award winners. While they were chosen because of their particular noteworthy accomplishments, this year's recipients also stand as

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Enhancing the Representation of Children in Private Custody Cases: Resources and Lessons Learned from the ABA Child Custody and Adoption Pro Bono Project 2001-2008

by Genie Miller Gillespie and Linda Rio Reichmann

The American Bar Association Child Custody and Adoption Pro Bono Project operated from January 2001 to June 2008. The Project's mission was to enhance and expand the delivery of legal services to children involved in divorce, adoption, guardianship, unmarried parent, and civil protective order matters. The Project's focus was to design, implement, enhance and support programs and policies fostering children's well-being in custody cases, and to provide children meaningful participation in the process. The Project served and will continue to serve as a critical national resource in the important area of child custody.

This article summarizes the work of the Project during its seven-and-a-half years. Although the Project no longer exists as a separate staffed entity, its legacy and benefits will continue through resources available at the American Bar Association and other entities committed to ensuring critical representation for children in private custody cases.

I. History of the Project

In 1998, Ann Liechty, a dedicated child law advocate, received the ABA Pro Bono Publico Award. Only thirteen months later, in September 1999, Ann's life was cut short by cancer. In late 2000, Ms. Liechty's aunt and uncle, Melita and Bill Grunow, made a generous donation of over \$1,000,000 to the American Bar Association Fund for Justice and Education. The ABA formed a planning committee to run the Project, which included Steve Scudder, Greg McConnell, Krista Kauper and Judy Williams. Glenda Sharp and members of the Family Law Section were soon added to the committee. The committee established a structure for the Project, which would be co-sponsored by the Standing Committee on Pro Bono and Public Service and the Family Law Section, and housed in the ABA Center for Pro Bono. The planning committee also set up an operating budget to run through August 31, 2005. The remaining funds were set aside in an endowment, their use to be determined further into the Project's life. It was later decided by Project staff and the Advisory Committee to use the endowed funds, as well as additional funds raised by the Project, to award grants to local programs, and to continue the Project through June 2008.

The Project's founding director, Linda Rio Reichmann, started in 2001. She and the planning committee soon established an Advisory Committee. After meeting with key constituents and experts from around the country, the staff and Advisory Committee set forth the Mission and Goals for the ABA Child Custody and Adoption Pro Bono Project, and the Director and Advisory Committee prepared a Project Plan and began to implement its action items.

II. Project mission and goals

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From the Chair...

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proxies for all of the law schools, law departments, government offices, law firms and private lawyers—numbering in the hundreds of thousands—who have their own stories about helping those who would otherwise have no place to which to turn.

However, as hard as we try, outside of the legal community it is difficult to aim public attention on pro bono. The deafening onslaught of data bombarding us on the information superhighway has a tendency to drown out less flashy, but more important news, such as the profiles of those who have incorporated major pro bono service into their lives.

Moreover, as important as it is to spotlight those individual lawyers and organizations who perform pro bono work, it is equally critical to illuminate the role that pro bono plays in our justice system. Until and unless states are willing to institute a civil right to counsel doctrine, providing lawyers to those who need them in civil actions

affecting basic human needs, pro bono lawyers are one of the only hopes that most people have. This fact is lost upon our most natural political allies—those who advocate vigorously for better benefits and support for the indigent, but who do not understand that those benefits are often a mirage absent legal help to obtain them.

Celebrate Pro Bono, October 2009

A broadly constituted legal coalition will take aim at that issue, and seek to recognize pro bono volunteers across the nation, by instituting a Pro Bono Celebration in October, 2009. Law schools, law firms, bar leaders, legal services programs, among others, are joining together in a network of local celebrations to help make this happen.

At a minimum, this will be important as a legal community wide celebration of pro bono. Through lectures, clinics, luncheons, and in some communities, even a “Run for Pro Bono”, we can use this opportunity to recruit more pro bono lawyers, recognize the efforts of long-term pro bono volunteers,

and remind our community of the importance of the issue. It will be exciting to be part of the birth of our national Pro Bono Celebration, and to witness its growth over the coming years.

Because “justice for all” must be more than just a slogan, the Pro Bono Celebration must move beyond the legal community. As part of your pro bono celebration, I hope that you will pursue programming with the broader community. By working with groups like CPA associations, medical societies, the Red Cross, and others, we can add their voices to ours as we advocate for holistic assistance for the poor. Look to the libraries, schools and places of worship as partners to bring the community together. If you know a Kiwanis or an Elk, ask them to coordinate with you on speaking opportunities.

A year or so ago, Jay Leno’s Tonight Show asked passersby the meaning of “Pro Bono”. Even among the answers that would pass *Dialogue’s* editorial staff, none gave that noble concept its due. As we celebrate pro bono in October 2009, with all of our civic neighbors, let’s try to remedy that lack of knowledge.

Child Custody

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Mission: The mission of the Project was to enhance and expand the delivery of legal services to children involved in divorce, adoption, guardianship, unmarried parent, and civil protective order matters; to design, implement, enhance, and support programs and policies fostering children’s well-being in custody cases; to provide children meaningful participation in the process; and to continue to serve as a critical national resource in the important area of child custody.

Goals:

I. A demonstrable increase

in the number of pro bono child custody projects and opportunities, and a corresponding increase in the number of pro bono attorneys and children served.

II. Higher quality representation to children in child custody matters.

III. Implementation of innovative delivery strategies designed to expand legal services access for children involved in child custody matters.

IV. Children and parents who are better educated and informed about custody proceedings, results and impacts.

V. Heightened judicial sensitivity

and knowledge in making decisions regarding children’s custody.

VI. Improved relationships between pro bono child custody attorneys and non-lawyer children’s advocates, including doctors, psychologists, social workers and teachers.

VII. Greater support and participation in legislation impacting child custody matters.

VIII. Improved coordination and communication among groups working at a national level on the complex issues involved in child custody.

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Child Custody

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III. Project Accomplishments

The Child Custody and Adoption Pro Bono Project's activities have increased both the quantity and quality of representation for children in private custody cases. The following are the Project's major accomplishments:

Training Series

The Project developed a multi-disciplinary training series for staff and pro bono attorneys representing children in custody cases. The series covers the following topics: Introduction; Case Development; Cultural Competence; Ethical Considerations; Child Development; Alternative Dispute Resolution; Hearing the Child's Voice; Mental Health Experts, Tests and Services; Child Abuse and Child Sexual Abuse; and Domestic Violence. An extensive manual accompanies a videotape and DVD on each topic. The training series video is almost eight hours in length. Courts, programs, and bar associations have used the training in whole or in part to train new and experienced children's attorneys.

Having completed production of the training series, the Project then launched an intense effort to widely implement the training program throughout the country. During the course of two years, the training series was distributed to 146 persons, programs, courts, and other entities. The entire series is now available on the Project's website.

State and International Laws—Research, Recommendations and Publications

The Project undertook three major research initiatives, all of which culminated in published original articles. The first was a 51-jurisdiction analysis of all laws governing appointment of representatives in

divorce and unmarried parent cases. The resulting article was *Representing Children in Custody Cases: Where We Are and Where We Should Be Going*, published in the Children's Legal Rights Journal. The second effort looked at the laws in the 50 states, the District of Columbia, and the U.S. Territories on representing children in civil cases involving domestic violence and the relevance of domestic violence to decisions impacting children within custody cases. *Representing Children in Civil Cases Involving Domestic Violence* was published in 39 Fam. L. Q. 197 (2005). The last research endeavor looked at how children are advocated for and heard from in adoption and guardianship proceedings, and what courts and advocates should do differently. This article titled *Hearing Children's Voices and Interests in Adoption and Guardianship Proceedings* was published in 41 Fam. L.Q. 365 (2007). Additionally, the Project had an article published in the April/May 2008 issue of GPSolo, the magazine of the ABA General Practice, Solo & Small Firm Division titled *Impacting the Lives of Children through Pro Bono*.

Mini-grants

From 2002-2004, the Project awarded \$86,500 in mini-grants to 14 programs. \$40,000 was awarded in 2002, \$38,500 in 2003, and \$8,000 total in mentor grants.

Grant Advocate Program

After the success of the mini-grants program, in 2004 the ABA Child Custody and Adoption Pro Bono Project launched a new campaign to establish a four-year grant program. The grants for each of these four years had a directed topic, as follows:

- 2005: Bringing Mental Health and Social Services into Child Advocacy Efforts
- 2006: Implementing Standards and Trainings for Children's Lawyers
- 2007: Lawyers and Law School Clinics Partnering to Serve Children

- 2008: Starting a Dialogue: Bringing People Together to Develop Pro Bono Child Representation Programs in Private Custody Cases

From 2005 through 2008, the Project awarded \$200,000 in grants throughout the country. The programs which received grants continue to do great work in this area and have provided recommendations for other programs interested in doing similar work.

Resource/Technical Assistance

The Project provided direct technical assistance to over 300 persons or entities. The forms of assistance included helping set up new programs, helping design and implement trainings, working with local courts, linking programs to other areas of expertise, drafting legislation and court rules, identifying funding resources, developing standards and providing legal or policy research to help with reform efforts.

Child Custody Library

The Project collected, abstracted, catalogued and placed over 300 documents in the Child Custody Resource Library. All of these documents are summarized and catalogued in an online database, easily accessible from the Project's web site.

Standards of Practice for Children's Representatives in Custody Cases

The Project worked with the ABA Family Law Section to prepare and receive approval of Standards of Practice for Lawyers Representing Children in Custody Cases. These Standards were passed by the Family Law Section in May 2003 and adopted as official ABA policy in August 2003. The Standards have been widely circulated and many programs or jurisdictions are considering implementing all or parts of the Standards.

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Child Custody

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The Project's Director also served as an official Observer to the National Conference of Commissioners on Uniform State Laws (NCCUSL) in its drafting of the Uniform Representation of Children in Abuse, Neglect, and Custody Proceedings Act. The Uniform Law Commission approved this Uniform Act in August 2007. The ABA Family Law Section voted to support the Act in March 2008. The Act will be considered by the American Bar Association Board of Governors at its meeting in August 2008. It can be viewed at www.law.upenn.edu/bll/archives/ulc/rarccda/2007_final.htm

Ann Liechty Child Custody Pro Bono Award

The Project worked with the Standing Committee on Pro Bono and Public Service to obtain ABA approval to establish an annual Ann Liechty Child Custody Pro Bono Award. There have been six awards presented by the Project:

- 2002: Rebecca Rundgren, Denver, CO
- 2003: Jacqueline Valdespino, Miami, FL
- 2004: Toby Hollander, Portland, ME
- 2005: Deborah Ebel, Atlanta, GA
- 2006: Winston & Strawn, Chicago, IL
- 2007: Patricia Yoedicke, Minneapolis, MN

Presentations

Project staff and consultants have made over 30 presentations about the Project and its recommendations, and have conducted 16 substantive workshops. Some of the workshop topics were: Representing Children in Private Custody Cases; Working with Child Clients; Representing Children in Civil Cases Involving Domestic Violence; the Family Lawyer as

Problem Solver; Standards for Lawyers Representing Children; and Interdisciplinary Training regarding Representing Children in Custody Cases. The Project also produced a program that is available free of charge at www.abanet.org as an ABA Audio CLE program titled Representing Children in Civil Domestic Violence Cases.

Child Custody Project LISTSERV

The Project established and ran a list service open to anyone involved in child custody cases, particularly advocates for children. There were 175 subscribers to the list service. The Project posted, on average, two items per week, and responded to inquiries from other subscribers. The list became an excellent mechanism for child advocates to exchange information, network, and enhance their own programs.

Child Custody Pro Bono Project Report and Directory

In 2003 the Project completed a survey of all known programs representing children in private custody cases. The results were turned into a report and directory, which is posted on the Project's web site. Many programs have used the directory as a resource to network with other programs, and volunteers have used the directory to find pro bono programs at which to volunteer.

Project's Web Site

The Project's web site, located at www.abachildcustodyproject.org, provides information about the Project as well as the results of research about laws and programs. Several of the Project's resources and materials, including the training series, are available as free downloads from the website.

Networking and Creating a Culture around Representing Children in Private Custody Cases

One of the Project's major accomplishments was to help create understanding and support for the need for advocacy for children in private custody cases. Project staff and consultants have encouraged conversations throughout the country through the above activities, as well as through attendance at many meetings, conferences, symposiums and conference calls.

IV. Conclusion

The important work of the ABA Child Custody and Adoption Pro Bono Project enhanced the quantity and quality of representation of children in private custody cases. Although the seven-and-a-half year work of the Project came to an end in June 2008, its legacy and benefits will continue through resources available at the American Bar Association and other entities committed to ensuring critical representation for children in child custody cases.

The Project is extremely grateful to Bill and Melita Grunow, and to Dale and Valerie Liechty, for their substantial financial support, as well as their input and guidance throughout the Project, and their sharing of the passion that inspired Ann Liechty to dedicate much of her volunteer efforts to helping children. The legacy of the Project really belongs to Ann Liechty, as none of this work would have happened without the inspiration she provided to those who wanted to honor her work and her memory. On behalf of all of the children, attorneys, judges, and others who have benefited from this Project, we thank Ann and her family.

For further information about this Project, including contact information, please visit www.abachildcustodyproject.org

Linda Rio Reichmann and Genie Miller Gillespie are the former and current directors of the ABA Pro Bono Child Custody and Adoption Project.

2008 ABA Pro Bono Publico Award Recipients

The ABA Standing Committee on Pro Bono and Public Service has recognized five individual lawyers, law schools and law firms that have demonstrated outstanding commitment to volunteer legal services for the poor and disadvantaged. The recipients of the 2008 ABA Pro Bono Publico Award will be honored on August 11 at the Pro Bono Publico Awards Assembly Luncheon during the ABA Annual Meeting in New York City.

The award honors individual lawyers, law firms, law schools, government attorney offices, corporate law departments, and other institutions in the legal profession that have enhanced the human dignity of others by improving or delivering volunteer legal services to the poor.

The Pro Bono Committee received 26 nominations for the 2008 Award. After a very thorough review the committee selected the following lawyers and law firms as recipients of the 2008 Award:



Craig D. Cannon

Craig D. Cannon has been actively involved in pro bono efforts throughout his career. Cannon's

nomination was submitted and supported by representatives of the Legal Services Corporation, the Federal Emergency Management Agency, the United States Department of Veterans Affairs, Southeast Louisiana Legal Services and Womble Carlyle Sandridge & Rice, PLLC.

Since 2006, Cannon has served as the National Coordinator of the American Bar Association's Disaster Legal Services Program, a program managed pursuant to a Memorandum of Understanding

between the American Bar Association and the Federal Emergency Management Agency. The Disaster Legal Services Program provides pro bono legal assistance to disaster victims across the country. In the fall of 2007, Cannon served as the lead drafter of a new Memorandum of Understanding between the American Bar Association and the Federal Emergency Management Agency that has resulted in a new partnership between the American Bar Association and the Legal Services Corporation and the improved delivery of legal assistance to disaster victims. During his tenure as National Coordinator, more than 75,000 disaster victims have received assistance through the Disaster Legal Services Program.

Since 2005, Cannon has helped to plan and implement a series of pro bono clinics for military veterans. These clinics, titled "When Duty Calls", are designed to assist military veterans in obtaining service related disability benefits from the United States Department of Veterans Affairs. During the past two years, "When Duty Calls" clinics have provided pro bono assistance to more than one thousand military veterans. During the same timeframe, hundreds of attorneys have received instruction on how to effectively assist military veterans in filing disability claims with the United States Department of Veterans Affairs.

Cannon has also personally provided pro bono legal assistance to numerous charitable institutions and spent four weeks in New Orleans during the summer of 2006 providing pro bono assistance to Hurricane Katrina and Rita victims.

Fordham University School of Law (Public Interest Resource Center)

Founded at Fordham University School of Law in 1992, the

Public Interest Resource Center (PIRC), guided by the remarkable leadership of Tom Schoenherr (currently the Assistant Dean for Public Interest and Director of PIRC) and John Ferrick (currently the Norris Chair of Law to Public Service), among others, and driven by succeeding classes of highly motivated public interest law students, has established itself as a nationally heralded and emulated law school pro bono program and public interest center that is a model for law schools, not only throughout greater New York, but throughout the country.

Nearly 500 Fordham Law students each year participate in some form of pro bono or public service through PIRC, which is staffed by four full-time professionals and administers eighteen separate student-run volunteer programs. Last year, the class of 2007 contributed over 100,000 hours of pro bono or public services through PIRC organizations, internships, externships, clinics and independent projects.

Some of PIRC's programs include: (1) the Domestic Violence Awareness Center, through which students accompany domestic violence victims to court and participate in the Uncontested Divorce Project; (2) the Death Penalty Defense Project, including pro bono legal assistance to death row inmates and public comment on capital crimes rule-making; (3) the Housing Advocacy Project, through which students defend clients at administrative hearings and provide support to a local affordable housing legal services program fighting against evictions in housing court; and (4) the Immigration Advocacy Project, enabling students to work with legal services providers to assist immigrant women who are victims of domestic violence to apply for green cards under the Violence

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Publico Awards

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Against Women Act.

Other programs address such issues as prisoner rights, the environment, hurricane assistance, unemployment, human trafficking, homelessness and youth at risk. In addition, PIRC sponsors student internships with non-profit organizations and government agencies throughout the country and awards Stein Scholarships to twenty students in each class year to develop public interest careers.

Fordham University School of Law and its remarkable Public Interest Resource Center supports, trains, and educates law students to become lawyers dedicated to the public good. In doing so, they are not only models for other law schools, they are models for us all.



Sarah Michael Singleton
Sarah Michael Singleton's nomination was submitted by the President of the State Bar of New

Mexico, with the support of the Board of Bar Commissioners, and the endorsement of no fewer than sixteen of the past Presidents of the New Mexico Bar. She also received letters of support from six separate legal services providers who spoke of the unique role Singleton has played in leading the movement to provide Access to Justice and legal services to New Mexico's poor.

As President of the New Mexico State Bar in 1995-1996, Singleton convened the state's symposium on strategies for expanding Access to Justice. She served on the Board of Bar Commissioners from 1989-1997, and throughout that time her primary mission was to educate, motivate and initiate greater

understanding of the need for legal services for the poor. She created the Lawyers Care Program, a New Mexico State Bar program developed to refer pro bono cases to the private bar in the face of federal spending cuts to New Mexico's legal aid programs.

Following her term as State Bar President, Singleton served as co-chair of the State Bar's Legal Services and Programs Committee, responsible for addressing access to justice issues. She fought for and helped persuade the State Legislature to provide funding for legal services, resulting in \$2.5 million in annual funding. She served as the State Bar's appointee to the Civil Legal Services Commission, responsible for distributing those state funds to organizations serving the legal needs of the poor. Singleton has been the Co-Chair of New Mexico's Commission on Access to Justice since its inception in 2004.

Singleton has been active in the cause of Access to Justice and provision of legal services to the poor beyond the borders of New Mexico. She served two three year terms as a member of the ABA Standing Committee on Legal Aid and Indigent Defense (1996-1999 and 2001-2004), and four years as a member of the ABA Committee on State Justice Initiatives. Finally, in 2006, Singleton was appointed by the President and confirmed by the United States Senate to serve as a member of the Board of Legal Services Corporation.



David A. Kutik

David A. Kutik of Jones Day in Cleveland, Ohio has been actively involved in pro bono efforts throughout

his 28 year legal career. As a bar leader, a leader in his law firm and an active practitioner, David has advanced the cause of providing legal services to those most in need

but least able to afford them.

Kutik served as President of the Cleveland Bar Association in 2004-2005, and one of his primary objectives was to encourage and foster the growth of pro bono commitment from the law firms and law departments throughout the greater Cleveland area. His initiative, titled, Our Commitment to Our Community, resulted in pledges of more than 60,000 hours of pro bono service in its first year in existence. In that year alone, 2,000 lawyers from 28 law firms and three law departments actually delivered over 70,000 hours of pro bono service. Kutik continues to be very active in fostering pro bono commitment and creating opportunities for lawyers to participate. In his role as Vice President of the Legal Aid Society in Cleveland, he chairs its Pro Bono Committee. Working with the Legal Aid Society, Kutik established a Volunteer Lawyers Program, which has in turn established a number of clinics providing free legal assistance to those in need. In addition, he currently chairs the Ohio State Bar Association Pro Bono Task Force. In that position, he has helped involve the judiciary in pro bono programs as well.

Finally, Kutik practices what he preaches. He actively participates in the Legal Aid Society's Brief Advice and Referral Clinics, taking on family law matters at these Saturday morning clinics in neighborhoods throughout Legal Aid's service area.

DLA Piper

DLA Piper's pro bono program is widely considered one of the most robust and innovative models among large law firms today. According to The American Lawyer's pro bono survey last year, more than 95% of DLA Piper lawyers in the U.S. worked 20 hours or more on pro bono projects, making the firm #1 for pro bono participation in the AmLaw 200. Lawyers at the firm worked an average of 89 hours of pro bono in 2006. DLA

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2008 Equal Justice Conference

The 2008 ABA/NLADA Equal Justice Conference brought over 1,000 attendees to Minneapolis in May. This year's theme "Pursuing Justice: Balancing Challenges and Opportunities" was woven throughout a range of innovative and dynamic programming. New networking opportunities such as speed networking, "want-ads", and a poster session provided several opportunities for conference attendees to interact and to learn about various projects. By providing more than 100



Congressman Keith Ellison inspires a lunchtime audience about the economic challenges facing all Americans today.

different programs, the conference created a forum for members of the legal services and pro bono communities, private bar, law school leaders, corporate counsel, judges, and other stakeholders in the civil legal services delivery system to share ideas and learn about new and unique ideas for serving the legal needs of the poor. Jointly sponsored by the ABA Standing Committee on Pro Bono and Public Service



An interactive panel in the EJC closing plenary session discusses how three generations of professionals can work together to advance fairness, dignity, and equal justice for low income Americans and communities.



Conference attendees discuss the wide array of programs offered at the EJC.

and the National Legal Aid and Defender Association, the Equal Justice Conference is the largest conference in the country focused on the civil legal needs of the poor. The 2008 conference featured keynote speakers Professor Peter Edelman, Congressman Keith Ellison, and ABA President William H. Neukom. Planning is already underway for a 2009 conference that will even exceed the 2008 event. Mark your calendars now for the 2009 Equal Justice Conference, to be held May 13 through 16, 2009 in Orlando.



Professor Peter Edelman gives opening keynote address about access to justice in America, challenging people to seek out a range of solutions to the problem of individuals who cannot afford legal representation.

Publico Awards

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Piper has developed innovative strategic projects in partnership with nonprofit organizations, academic institutions, foundations, and corporate clients. These projects aim to aggregate and focus legal expertise to develop creative solutions to challenging social problems and provide world class legal services to the most vulnerable and underserved members of the global community. Some of DLA

Piper's signature projects include Access to Education, The Fight Against Hunger, and Serving Those Who Serve Our Country.

One project that deserves special recognition is Chicago's Signature Project in Juvenile Justice—the largest pro bono project undertaken by DLA Piper to date. This project grew out of the firm's desire to enhance the impact of its pro bono work by concentrating significant resources in a particular area of law. In all, the firm donated over 23,000 lawyer hours, worth nearly \$6.5

million, to representing young people in conflict with the law and to examining particular laws and public policies that impede these young people's abilities to turn their lives around.

Over the past three years, DLA Piper lawyers have zealously represented scores of children in legal proceedings; undertaken a major policy initiative aimed at helping court-involved children return to school; and drafted and introduced legislation in the Illinois legislature that will positively affect thousands of young people's lives.



From the Chair...

by M.
*Catherine
Richardson*

Chair of the ABA Standing Committee on the Delivery of Legal Services

Are the policies that govern the delivery of legal services over the Internet sound? To what extent do they enable people to get better access to legal services? To what extent do policies protect people against misrepresentations, fraud or the unauthorized practice of law? These are some of the questions the Standing Committee on the Delivery of Legal Service is looking at as it conducts a series of hearings on the use of technology to provide legal services.

Throughout the last decade, the Committee has watched as technology has emerged to provide legal services with relatively little corresponding policy to govern those developments. Last year the Committee decided it would hold hearings designed to assess whether policies have struck the proper balance between expanding access to legal services and protecting people from abuses stemming from online communications.

The first hearing was held immediately after the ABA/NLADA Equal Justice Conference in Minneapolis in May. This allowed us to gain input from many of those who have been in the forefront of developing technology to enhance the delivery of legal services to the poor. Fifteen people, representing a variety of perspectives, appeared at this hearing. Richard Zorza, from the Self-Represented

Litigants Network; I. V. Ashton, from PS Technologies, Inc.; and LaVern Pritchard, from LawMoose.com, presented theoretical foundations for the use of technology and the needs for enhanced delivery. Lisa Coploys, from Illinois Legal Aid Online; Cynthia Vaughn, from Ohio Legal Assistance Foundation; and Katrina Zabinski, from Minnesota Statewide Self-Help Services, shared state perspectives. A. J. Tavares and Bill Tanner, from Orange County Legal Aid; Ken Penokie, from Legal Services of Northern Michigan; and John Freeman, from Minnesota Legal Services Corporation, provided issues focused on local legal aid programs. Sarah Galligan and Charlie Dyer represented the interests of law librarians, while Kathleen Brockel, from the National Technology Assistance Project; Mark O'Brien, from ProBono.net; and Glenn Rawdon, from the Legal Services Corporation, provided national perspectives.

This hearing reaffirmed the Committee's assumption that there are many policy issues in need of closer examination. We heard about the benefits of online intake and the need to foster that within legal services. We learned about the need for collaboration at all levels, from coordinating disaster relief to creating plain

language instructions and uniform court forms. We were told about the harm from cyberpiracy, when legal aid web sites are hijacked. We began to hear about issues of unauthorized practice of law, the creation of the lawyer-client relationship in cyberspace, and questions about the application of ethics rules to the delivery of legal services over the Internet. Those who are interested can listen to the presentations by going to the hearing web site, www.abalegalservices.org/delivery/techhearings.html

We know the first hearing only scratched the surface and concentrated on low income delivery issues. The Committee wants to expand that perspective and hear about how technology is being used to deliver legal services in its broadest sense. We want input from the organized bar, individual practitioners and others providing legal services in cyberspace. Ultimately, the Committee hopes to hear from the full range of legal service providers so that no one is left out of the process. The next hearing is set for August 8th, at the 2008 ABA Annual Meeting. The Committee also plans to have at least one online hearing to accommodate those who cannot attend the Annual Meeting. Following the hearings, the Committee will consider all of the information and prepare a report identifying issues that need attention. It then plans to collaborate with various stakeholders in an effort to reach solutions and advance policies that ultimately will strike the balance between access to legal services and consumer protection.

Those who are interested in testifying, submitting information to the Committee, or simply getting more information should go to the hearings web site at www.abalegalservices.org/delivery/techhearings.html

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html](http://www.abalegalservices.org/delivery/techhearings.html)**



From the Chair...

by Ron Abernethy

Chair of the ABA Standing Committee on Lawyer Referral and Information Service

Dialogue provides a consistent forum for the discussion of LRIS issues and concerns and has been instrumental in fostering relationships between LRIS and the greater bar association world. Along with the annual ABA LRIS workshop (mark your calendars for Disneyland and Anaheim, California October 15-18) and the ABA LRIS LISTSERV, this publication has introduced and discussed the ideas and concepts that have shaped lawyer referral for the past quarter century. As I write my last column as Chair of the Standing Committee, I want to express my appreciation for *Dialogue* and the role it plays in the LRIS world. I find myself reminiscing with random LRIS thoughts and ideas picked up during a lifetime in the LRIS world. What follows are a few of those random thoughts.

A prospective client calls the local bar association LRIS and says "I'm looking for a lawyer. I don't know where to begin, it's all too confusing. I was thinking of closing my eyes, stabbing the attorney section in the yellow pages with an ice pick and then calling whatever name I happened to hit. A friend of mine said 'that's stupid, call the bar association; I'm sure they can get you a good lawyer', so I'm calling you. I need a referral to a lawyer who is qualified and capable of handling my case. Can you do that for me?" While any lawyer referral service can

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Knowing Your Audience: Identify Trends to Market Strategically in a Changing Economy

by Julie A. Amos and Tricia M. Lilley

"Know your audience" is a cardinal rule of marketing. In the current economic downturn, adherence to that admonition can mean the difference between stagnation and success.

To ensure sound financial performance in tough times, Lawyer Referral and Information Services must recognize that their audience and its needs change with the economy, and they need to demonstrate the flexibility to navigate a changed market.

Certainly, a tight economy has its downside in the LRIS arena: Decreased call numbers; lower referral rates; and reduced revenue from referral fees and membership dues. But for those up to the challenge, the economic downturn can also present opportunities as need for certain areas of the law increases.

When the economy shifts, referral services can take a page from their large-firm counterparts and focus on growing business in those areas that are hot. Currently, big firms are beefing up their practices in bankruptcy, reorganization and restructuring, lender liability and employment law. Likewise, lawyer referral services can focus on those same areas—albeit from the consumer or plaintiffs' end rather than the defense side.

The financial pressures brought on by a recession manifest in a number of ways in the marketplace. To identify growth areas within the market, think about the ramifications of trends such as corporate cost-cutting and downsizing or predatory lending. Consumers impacted by these market trends will be seeking legal advice in areas such as employment law, bankruptcy, mortgage foreclosure, landlord-tenant disputes and creditor-debtor issues.

For instance, a lay-off in a great economy hardly fazes the affected the person whose job has been eliminated, as a new position can be secured easily. In a tight economy, however, that individual is far less likely to find a new job and thus much more likely to pursue legal action related to the loss of the job.

In keeping with "knowing your audience," be sure to recognize that general societal trends will always impact your potential client base—regardless of economic conditions. For instance, as the baby boomer generation ages, the market for legal services related to Social Security, estate planning, elder law, guardianships and pension issues is expanding. Disability claims are also on the rise. A dramatic increase in immigration over the past decade—and an accompanying drastic change in related law and oversight—have created yet another area that proffers great potential for referral services. Demand for some types of services, such as legal services for domestic relations issues, is consistently strong.

So how do you translate your identification of market trends—be they in a strong or a weak economy or due to general societal changes—into referrals and revenue for your lawyer referral service? For general tips on low cost advertising methods, see Charles Klitsch's companion article in this issue. To target growth areas in the current recession, read on.

Now that you "know your audience," think about where you can find it and the best vehicles to penetrate those places. Smaller and special-interest newspapers, community/recreation centers and even larger local employers are good places to start. Essentially, your objective should be to

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From the Chair...

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provide a referral, the caller is really asking whether the lawyer referral service can guarantee a better fit than that provided by stabbing an ice pick in the yellow page advertisements.

A referral service operating in compliance with the ABA Model Rules will answer that question with a resounding yes; we can guarantee a better fit. Referral services that comply with ABA standards have objectively determinable criteria for panel membership and all participating lawyers must carry malpractice insurance. Both requirements provide protection for the client and act as a form of quality control. When a client calls an ABA standards-compliant service, they do make "The Right Call for the Right Lawyer."

A niece of a local LRIS board of governors member has a legal problem. The niece calls her aunt, the LRIS board member, and asks for advice on how to get a lawyer. Will the aunt feel comfortable telling her niece to call the local LRIS and take the next name on the rotational list? There are many fine lawyers participating in LRIS programs across the country, including services that do not currently meet ABA standards. The question here is not whether the niece can find a good lawyer through LRIS; instead it's whether she will receive a qualified lawyer regardless of whose name tops the rotational list.

If the aunt is a board member

in an ABA standards-compliant program she can refer her niece, knowing that whatever name the niece receives will be that of a lawyer who has met objectively determinable participation criteria and is qualified to handle the referral. Sometimes the realization by LRIS board members that they wouldn't use their own service is the wake up call for change that leads to seeking ABA approval. Board members of services that meet ABA standards have confidence in their own programs.

I was introduced to LRIS 30 years ago by Adelle Barrette, the Executive Director of the San Joaquin County Bar Association. Under Adelle's tutelage I came to understand several things about lawyer referral. First, LRIS is the public face of the sponsoring bar association. Public opinion of the bar association is profoundly shaped by what the public thinks of the LRIS. Second, and perhaps more surprising, the local attorney's opinion of the bar association is similarly shaped by their opinion of the association's LRIS. Third, the stronger the LRIS, the more likely it is that local lawyers will refer good cases to the service. Fourth, LRIS is a business and business success requires viewing LRIS operations from the consumer's perspective. Convenience to the lawyer in the referral process may be nice but if the result of meeting the lawyers' needs inconveniences the clients, they will go elsewhere. Fifth, if the LRIS is able to give people seeking legal assistance a reason to call the LRIS when they need

a lawyer, they will tout that the LRIS is a public service of the bar association and has been found to comply with ABA standards. Promote subject matter panels and malpractice insurance and people will seek you out. Listening to the needs and concerns of the lawyers is important, but it must be recognized and understood that the needs of the customers must be met if an LRIS is to thrive.

Adelle taught me that a formalized structure is essential to a well managed LRIS. There must be rules governing the conduct of panel members, admission to the service, removal from the service and reporting requirements. Adelle also taught me that "you don't get what you expect, you get what you inspect." Follow-up with clients and panel members is key to a well-managed LRIS.

Finally, my journey through the world of LRIS has been dotted with people dedicated to lawyer referral. Sheree Swetin and Jane Nobsch from the ABA have taught me more about LRIS and life than I can appropriately acknowledge. Jane, Paul Haskins and the other staff of the ABA are an unmatched resource for all things lawyer referral. Much of what I know about LRIS I owe to them.

I look forward to seeing you in Anaheim in October 2008 for the annual National Lawyer Referral Workshop. There, the LRIS community will map out strategies to successfully serve the public and our sponsoring bar associations, and in the process successfully compete in the legal world of the 21st century.



SAVE THE DATE

2008 NATIONAL LAWYER REFERRAL WORKSHOP

OCTOBER 15 - 18 ANAHEIM, CALIFORNIA

FOR MORE INFORMATION PLEASE VISIT www.abalegalservices.org/lris/

Your Audience

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reach as large a targeted audience as possible for as little monetary investment as possible. Often, this will entail some investment of time on the part of the referral service but it can pay strong dividends.

Moreover, while referral services must carry the challenge of working with limited budgets, marketing is a case where being part of the public sector can have its benefits. Community newspapers, for instance, have small staffs and are often in need of editorial content. If you are willing to make a small investment of time in preparing some basic materials—frequently asked questions, for instance—on legal topics that are in the news because of the recession, such as bankruptcy, mortgage lending, consumer fraud or unemployment—local print media will often publish them along with contact information for the referral service. Local media are more likely to accept “advertorial” types of submissions from non-profits than from corporate law firms.

As non-profits, referral services are also generally viewed as desirable sources for stories on various legal and economic trends. Take note of what you’re seeing and hearing at your referral service and pitch a story on “the uptick in calls regarding bankruptcy” or “local impact of the subprime credit crisis” in your region. (If AAA can get coverage of the numbers of folks running out of gas being on the rise, you too can get coverage for these types of issues!) Offer your more seasoned panel attorneys to local cable stations and newspapers as “talking heads” on topical legal issues. Get your name in the paper and your number on the TV screen!

Leverage the effort you put into drafting FAQs for several “hot” areas of practice by letting

them do double-duty. Turn them into marketing pieces that you can “brand” with your referral service name, logo and contact information so there is a uniform feel to them. Use the marketing handouts to target the audiences you want to reach.

Hoping to secure additional calls and referrals on immigration law? Ask cultural centers, English-as-a-second-language program providers and immigration resource organizations to display your handout. Want to boost the number of calls you receive for child support, custody and other domestic relations issues? See if local daycare providers will allow you to post your family law handout.

Large employers, social service organizations, libraries and senior centers are venues that would welcome a speaker to talk with baby boomers about the issues important to them—health care, insurance, estate planning and pension law. Offer to have a panel attorney or two give a 30-minute presentation. Prepare a specially tailored LRIS brochure featuring these areas of the law to give to attendees.

Beyond these free or low cost options for promoting services to the right audiences for your referral service is the more traditional activity of advertising. While ethics guidelines do impact attorney advertising, obviously, they do not dictate that ads need to be dull or general. If there are particular areas that you are seeking to promote, identify those with a strong message in the ads that you place. Enlist a local college’s graphic arts program to run an ad-designing contest to see what they deliver! This is particularly helpful when you are trying to reach growing immigrant or non-English speaking communities, as you can draw on diversity within the college classroom to achieve a higher level of communication with these communities.

Be creative in how you approach the positioning of your referral service! Keep in mind that advertising in ethnic newspapers

can be far less expensive than placing your piece in a major metropolitan daily and will reach a more diverse audience.

When investing in search engine optimization or pay-per-click advertising campaigns for your website, pay particular attention to those word searches that are related to the legal needs of clients in troubled economic times.

Don’t let your focus on the external audience you are targeting eliminate the need for some “internal” marketing. After all, attorneys themselves are not immune to the effects of a recession. With a tighter economy, small firms and sole practitioners are faced with financial pressures and determining the best value for their marketing dollars. To ensure that your panel membership rolls stay buoyed up, communicate often with your panel attorneys (via e-mail blasts, preferably, as they don’t take stamps!). Make a strong case for the return on investment and benefits of panel membership. Let them know that the collective impact of an LRIS program will likely bring in more clients for them than hundreds of solo attorneys and small firms going to market in separate efforts.

By knowing your audiences—external and internal—and being creative in how and where you get your messages to them, you can meet the challenge of marketing your lawyer referral service in a down economy. While tailoring your marketing more specifically to particular populations or areas of the law may take more effort than general marketing, strategic promotion should boost your calls numbers, referrals and income during this downturn.

Julie A. Amos is the chief marketing officer for 350-lawyer WolfBlock LLP.

Tricia M. Lilley is the marketing manager for the Trial, Health Care and Business Reorganization and Financial Restructuring practices at 650-lawyer Duane Morris LLP.

The Frugal Lawyer Referral and Information Service Director

In 2008, Lawyer Referral and Information Service (LRIS) directors are looking cautiously at the bottom line. How can LRIS directors keep the phones ringing and maintain cash flow in turbulent economic times? In this series, we will examine free and low cost ideas to promote LRIS and ways to ensure that LRIS remains relevant to the changing needs of the community.

Part II: Using Advertising Dollars Effectively

by Charles J. Klitsch

A bookcase in my home office is crammed with every issue of a popular cooking magazine from the past twenty-four years. Scanning the shelves, I can track the ups and downs of the U.S. economy during that time period by noting the thickness of the magazines. In good times, the magazines are bulky. In lean times, the magazines shrink, reflecting hesitation on the part of business owners to spend money on expensive advertising campaigns.

LRIS programs, being in “the business of public service,” are affected by the same shifts in the economy. In the current economic climate, LRIS directors, oversight committees and bar leaders may be looking for places to trim or hold the line on expenses.

Advertising is often viewed as discretionary spending and is one of the first areas to face cuts. How can LRIS programs advertise effectively in the current economic climate?

For tips on how to do strategic marketing for those areas of the law that are growing despite the current recession, be sure to read the companion article by Julie Amos and Tricia Lilley in this issue. This article will look at nine simple and inexpensive ways that LRIS programs have used over the years to reach customers without breaking the bank.

1. Brochures

A well-designed brochure will immediately inform the reader about the service you provide and present that service as a desirable product. The brochure’s cover

should grab the reader’s attention and encourage the potential client to open the brochure for more information.

With a bar association as the sponsor of your LRIS, you already have the benefit of a trusted brand. Use it. Display the bar association name prominently on the face of the brochure. If you are an ABA logo certified program, you have the further advantage of being able to use the slogan: “The right call for the right lawyer.”

A brochure can be an effective marketing tool if it is made available in the right locations. Despite the rise of the internet, many people still visit their local libraries when they are searching for help. Be sure your local libraries are well stocked with LRIS brochures. Other places where brochures will reach the hands of your target audience include: court-filing offices, workers compensation hearing centers, Social Security claims centers, Equal Employment Opportunity Commission (EEOC) and human relations commission offices, debt counseling agencies, senior centers, community centers and town halls.

2. Bar publications

Lawyers are among the best sources of referral to LRIS programs. Marketing to your sponsoring bar association’s membership can be done in creative ways.

Articles profiling LRIS panel attorneys appear as a regular feature in both *The Atlanta Lawyer* and *San Francisco Attorney* magazines.

Carla Brown, LRIS director at the Atlanta Bar Association, stresses the dual purpose of the profile articles. “I see them as a recruiting tool for panel attorneys and as a way to put LRIS in the minds of our bar members,” Brown says. “When Atlanta attorneys are unable to serve the legal needs of clients, we want them to send these clients to LRIS, knowing they will be referred to qualified attorneys on our panels.”

3. Client follow-up

Clients who have a good experience using LRIS will return or refer their friends and family to you, if encouraged to do so. Provide that encouragement by enclosing with your client survey an inexpensive lightweight item that will not add to your postage costs and that the client will keep and use. Examples include an LRIS bookmark, a guide to emergency services in your community or a brochure.

4. Internet search engine optimization

Search engine optimization is the process of manipulating elements of your website so that your pages are indexed as favorably as possible by search engines like Yahoo! and Google.

Ken Matejka, a member of the ABA Standing Committee on LRIS and managing partner of LegalPPC, a Google advertising firm for lawyers and legal associations, says that you should only attempt to optimize a page for 2 or 3 search phrases, and that keyword density, descriptive title

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Frugal LRIS Director

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tags, and internal links containing your target search phrases are important factors in improving how your LRIS website is indexed by search engines. “Clear, relevant text in your website’s content, page titles and headers containing your keywords, and your domain name and page file names should all help improve the position of your site’s pages in the search engines’ indices,” says Matejka. “Also, increasing the number of properly worded in-bound links from other websites should help raise the position of your LRIS website in search results.”

Your IT person or web consultant should be able to assist you. If you cannot afford such services, perhaps a local college would provide an intern or take the matter on as a class project, given the access to justice aspect of your program and website.

5. Lunch and Learn

Your local chamber of commerce can provide you with a list of the top ten or twenty employers in your area. Contact each employer’s human relations department to see if they would be willing to hold a lunch and learn program for their employees. Explain that you will supply the speaker and the topic. The employer just needs to provide a space where employees can have a brown bag lunch and hear your speaker. Carefully choose topics that an employer would view as being of benefit to an employee’s well being, such as purchasing a home or planning an estate. Such topics are easier to “sell” to a human relations director.

Panel attorneys gladly volunteer for these presentations, as it gets their name as well as your LRIS in front of an audience. Be sure to have LRIS promotional materials on hand—brochures, refrigerator magnets, pens, etc.—that attendees can take with them.

The ABA Commission on Law and Aging produced a Spanish version of its brochure, “Health and Financial Decisions: Legal Tools for Preserving Your Personal Autonomy”, encouraging seniors to use legal planning tools. A Spanish-subtitled video on the topic is also available. These are great tools for attorneys and advocates who work with Spanish-speaking individuals. To request copies of these *free* tools please email: abaaging@abanet.org

6. Event sponsorships and giveaways

Community charitable events, such as fun runs, walks, golf tournaments and festivals are perfect places to put LRIS in front of the public. These events draw participants who are willing and able to pay for an attorney’s services. Purchase an ad in a sponsorship guide. Place the name and contact information for your LRIS on the event T-shirt.

“We have used magnets, pens and post-it notes,” says Connie R. Pruitt, executive director of the Hillsborough County (Florida) Bar Association. “We focus on events attended by the general public, including community fairs where we set up a booth.”

7. Telephone legal advice programs

Your bar association’s young lawyers are enthusiastic and anxious to contribute. Harness that energy with a monthly evening call-in legal advice program, sponsored by LRIS.

Send a news release about the event two weeks in advance to all local media outlets. To keep the releases fresh, choose themes for the call-in programs that will generate interest from the media and the public. Examples of popular themes are mortgage foreclosure, domestic violence and a tax night prior to April 15th.

Be sure to use your LRIS telephone number for the monthly call-in program to capture potential clients who saw or heard the publicity, and are reaching out for legal help between programs.

8. “Ask a Lawyer” newspaper columns

Daily newspapers, as well as

community and neighborhood weeklies, are always looking for reliable content to fill the white spaces between the ads. A weekly or monthly column with changing legal topics sponsored by LRIS can be a great advertising tool.

Elizabeth O’Neil, Director of Community and Public Services at the Massachusetts Bar Association, reports that their LRIS program sponsors a monthly legal column in a local newspaper. Each column features several legal questions, with answers provided by attorneys who practice in the appropriate areas of law. At the end of the column are both a disclaimer and a box with information about LRIS. Many callers cite the column as their source for finding out about LRIS, according to Ms. O’Neil.

9. Public outreach programs

Reach your customers where they gather. Senior citizen centers, libraries, town halls and recreation centers are always looking for programs that would be of interest to the community.

Recruit panel attorneys to give LRIS sponsored presentations on popular legal topics. The venue will do the advertising for you. Be sure that your speaker adds a few words at the beginning and end of the presentation about LRIS and has plenty of brochures on hand.

A diminished advertising budget does not have to mean fewer contacts and referrals. Knowing your community and following the above tips can keep your phones ringing and income flowing through the lean times.

Charles Klitsch is director of public and legal service of the Philadelphia Bar Association.

Wounded Warrior Update

by Major John Frost

The Global War on Terrorism, like other armed conflicts in our nation's history, has prompted a reexamination of the way the country cares for those who have "borne the battle" and suffered injuries in the service of their country. News reports in early 2007 about decrepit conditions at Walter Reed Army Medical Center directed public scrutiny at a reintegration process that turned out to be comprised of several processes, many of them involving aspects of legal assistance.

More than a year has passed since Congress and the executive branch focused efforts on reforming Wounded Warrior transition, acting on the extensive recommendations of several study groups, most notably the Dole-Shalala Commission, but also study teams formed within the Departments of Defense (DoD) and the Department for Veterans Affairs (DVA). Congress adopted a number of the recommended reforms through the National Defense Authorization Act (NDAA) of 2008, and DoD took steps internally to rectify certain systemic problems.

Reforms aimed at better services for Wounded Warriors have had a direct impact on military legal assistance, engaging legal assistance attorneys and specially trained Soldiers Counsel to become proficient in a complex area of disability law, in order to more comprehensively serve their injured servicemember clients, as explained below.

A New Command Structure Addressing Wounded Warrior Needs

Some of the new policies adopted to support Wounded Warriors reflect basic principles of leadership. Servicemembers recovering from injuries or

illnesses sometimes found themselves in a state of flux, depending on the extent of their impairment or disability. A few noted that they felt they had essentially been lost in the "med hold" system, languishing between medical appointments, and not knowing whether they would return to duty or be medically discharged. Both the Army and the Marine Corps created separate command structures at larger installations—Wounded Warrior Battalions—on the theory that a separate chain of command could better account for the servicemember's well-being.

The reforms also brought new recognition that the existing system had difficulty addressing two particular strains of injury: Post-Traumatic Stress Disorder and Traumatic Brain Injury. Improvements in modern medicine have allowed physicians to save the lives of so many more servicemembers than in past conflicts, and the widespread deployment of Improvised Explosive Devices by hostile forces has led to far more concussive injuries than in the past. Yet the disability system was not equipped to recognize and address these conditions sufficiently.

New congressional funding has enabled the services to better treat these conditions medically. Disability compensation continues to evolve, however, under the services' Physical Disability Evaluation System (PDES). Moreover, critics note a continuing disparity in the quality of care and access to care between DoD and DVA medical systems, especially in terms of system capabilities across different geographic areas.

New Challenges for Legal Assistance

DoD and DVA have sought to

ameliorate these problems through a series of agreements aimed at ensuring continuity across departments and regions. The most challenging problem had arisen in the way that disabilities that render an individual unfit were rated and compensated, and here is where legal assistance attorneys are most directly involved in Wounded Warrior care. Servicemembers are subject to a very complex rating system that results in a finding of fitness or unfitness for continued service. If a servicemember is found to be unfit, the PDES board must determine whether the "unfitting" condition is compensable, what percentage of disability rating is appropriate, and whether the unfitting condition is due to combat. The level of rating, importantly, determines whether a medically discharged servicemember is entitled to separation pay or medical retirement with all of the commensurate benefits of military retirement. After discharge by the DoD, the individual may be eligible for further benefits through the Veterans Administration.

Specialized Assistance within the System

All legal assistance attorneys must be conversant in this very complex system, so they can support servicemembers on the particular issues facing them as they navigate the PDES. Where warranted, the legal assistance attorneys will refer the injured servicemembers to specialized attorneys, known as Soldiers Counsel.

The services have markedly increased their emphasis on legal assistance training with specialized knowledge of and expertise in the workings of the

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From the Chair...

by General Earl E. Anderson, USMC (Ret.)

Chair of the ABA Standing Committee on Legal Assistance for Military Personnel

In early August, I will complete a wonderful and eventful three-year term as Chair of the Standing Committee on Legal Assistance for Military Personnel and pass the gavel to a most worthy successor, Donald Guter, the Dean of the Duquesne University School of Law and former Judge Advocate General of the United States Navy.

I am pleased that a lawyer and educator with a record as distinguished and relevant to LAMP's mission as Admiral Guter's is taking the Committee's helm. The Committee and its constituents—military legal assistance lawyers and the servicemembers they represent—will benefit greatly from Don's depth on legal assistance issues, his independent judgment (as recently demonstrated by his leadership among retired JAGs on treatment of detainees), and his firm commitment, in the best LAMP tradition, to the civil-law needs of servicemembers.

I will be joined in my departure from LAMP by an exceptionally skilled and selfless LAMP member whose term also is expiring: Patricia Apy. While the Committee's ranks will remain filled with highly accomplished members committed to the LAMP cause, we all would agree that Ms. Apy has proven herself to be in a league of her own. One of the pre-eminent national experts on family law in the military legal assistance realm, Tricia has tolled tens of thousands of miles

and countless volunteer hours for the good of military legal assistance clients. She has led by example in numerous volunteer capacities, including: (i) teaching family law to Judge Advocates at the services' JAG schools and other JAG gatherings; (ii) acting as a volunteer consultant to the legal assistance leadership of the services and numerous installations; (iii) serving as a highly respected and always requested family law instructor at LAMP CLE programs; (iv) serving as a family law consultant for an endless procession of military legal assistance attorneys, stationed around the world, seeking the very best family advice and insights for their clients; (v) assuming a lead role in helping the services develop Family Care Plans; and (vi) unfailingly acting as a passionate and expert advocate on legal assistance policy issues. Ms. Apy, in her Committee service and extensive volunteer commitments, has never lost sight of the fact that the mission is doing what is best and what is right for servicemembers and their families.

I commend her for her superb service, and will now join the vast conspiracy to find a way to entice Tricia to remain involved in our LAMP CLEs and engaged with the LAMP Committee and its important work.

* * *

As for me, as someone who has actively participated in the American Bar Association and held a fairly large number of ABA positions over more years than many of you have walked the Earth, I leave this post as proud to be a LAMP'er as I am to be an ABA'er, which is saying something. I have told anyone who cared to listen over the past three years that I believe very strongly in the LAMP mission of advancing the cause of military legal assistance. The young men and women who have signed up to serve in our military

need and deserve competent, available and committed civil-law legal services. To me it is that simple, and it is particularly true in this climate, with extensive deployments having in many instances precipitated the very family-law, consumer-law and other legal burdens that military legal assistance was created to address.

In my view, it has been three years of good work and good progress for the LAMP Committee. LAMP took the initiative to develop strong ABA support for the federal Military Lending Act, a good first step in cracking down on abusive lending practices targeting servicemembers. I am sure the ABA will be among those organizations vigilantly watching to make sure that the relatively small number of unscrupulous, predatory lenders who traffic in abusive credit products do not find ways to evade the law's intent.

LAMP stepped up as an important partner in former ABA President Karen Mathis's Youth-at-Risk Initiative, ensuring that the special challenges facing the adolescent children of deployed servicemembers were a focus of the YAR Commission's work. I thank former LAMP Chair and YAR Commission member David Hague for his fine work in developing and leading Military Youth at Risk Roundtables, in conjunction with LAMP.

The LAMP Committee has continued to tend the flame for the mandatory military legal assistance cause. In 2007, on a LAMP Committee Recommendation, the House of Delegates affirmed ABA policy in favor an amendment to 10 U.S.C. §1044 making military legal assistance an entitlement, not just a benefit left to the services' discretion. I know the Committee will continue to work with ABA

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From the Chair...

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Governmental Affairs to develop effective strategies to get this vital cause through Congress, despite current budgetary pressures.

I am very proud of LAMP's ground-breaking effort to develop the ABA Military Pro Bono Project, which will launch this summer. The project is a first-of-its kind clearinghouse for moving pro bono case referrals on behalf of eligible active-duty servicemembers to volunteer law firms across the country. The engine of the referral program is a customized Project website that will be managed by Project Director Jason Vail. The Project is filling a great need, and we have high hopes for its capacity to help our servicemembers, so many of whom are burdened with civil-law problems in this climate of extended deployments.

The Committee is most appreciative of the financial and other support of our Project partner, the Section of Litigation, whose resources helped create the Project and whose members

will help populate the inventory of Project volunteer firms. Hats off to Section Chair Judy Miller, the Section's Reserves Committee, Pro Bono and Public Service Committee, and Military Committee, and the membership of Litigation.

LAMP recommended and secured new ABA policy supporting the children of deployed servicemembers, by urging expanded statutory family leave for non-parent caregivers and improved state public school policies removing district residency barriers facing children forced to move across school district lines when parents are deployed.

The LAMP Committee has found a wider audience for an exceptional reference book: *The Army JAG School Guide to the Servicemembers Civil Relief Act*. Former LAMP Member Greg Huckabee persuaded the Committee that there was an untapped audience for this gold-standard reference—military and civilian lawyers who could make good use of a bound volume of the *Guide*. With the cooperation of the U.S. Army Judge Advocate General's School and Learning

Center, the *SCRA Guide* was developed as an ABA book, co-published by LAMP and the General Practice, Solo and Small Firm Division. Professor Huckabee was right. The book has been an ABA bestseller, and likely will be reprinted next year.

What I shall value most about my time with LAMP are the members and military liaisons with whom I have had the good fortune to serve. I was privileged to take over the Chair duties from the great Admiral John Jenkins, a champion of military legal assistance if ever there was one, and he shall remain in my thoughts and those of my LAMP colleagues.

Lastly, I would be remiss if I did not acknowledge the superb performance of our Staff Counsel, Paul Haskins. Paul has been on top of everything involving the work of the Committee, guiding our efforts to assist our service men and women. I thank him for making my position as Chair easy, most rewarding and enjoyable.

With that, I thank the ABA and the LAMP Committee and its liaisons and constituents for another great opportunity to serve.

Wounded Warrior

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PDES. The Army brought several Reserve Component attorneys and paralegals to active duty in 2007, and even more in 2008, to specifically serve in Soldiers Counsel offices in major medical centers. The Army's Physical Evaluation Boards (PEBs) are located at Walter Reed Army Medical Center in Washington, D.C., Fort Sam Houston, Texas and Fort Lewis, Washington. The Navy's are at Bethesda Naval Medical Center, Maryland and San Diego, California; and the

Air Force's PEB is located in San Antonio, Texas.

Recuperating soldiers are found across the country, though, and now medical professionals should know to refer soldiers whose conditions may be found unfitting to Soldiers Counsel. The Staff Judge Advocate at Walter Reed Army Medical Center hosted weeklong training conferences both last year and this year to further hone the skills of Soldiers Counsel. This year's conference, held in June, included attendees from all of the services and brought together instruction by the General Counsels of the DVA and the Department of

the Army, seasoned Soldiers Counsel, physicians who regularly evaluate injured servicemembers, psychiatrists with expertise in Post-Traumatic Stress Disorder and Traumatic Brain Injury, and PEB members who explained the subtleties and challenges of rating injuries, diseases and disabilities.

Soldiers Counsel expertise is so critical because Congress, DoD and DVA are reconstructing a system that had been in place since World War II. The FY 2008 National Defense Authorization Act contained several provisions affecting all stages of the PDES. Even the FY 2007 authorization

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A Call to Action: Taking a Stand against Poverty and Inequality

by Professor Peter Edelman

The following were remarks delivered by Professor Peter Edelman as the keynote speaker at the Equal Justice Conference, Minneapolis, Minnesota on May 7, 2008.

These remarks are also reprinted in 42 Clearinghouse Review (July-Aug. 2008)

I am honored to have the opportunity to speak to you today. Each year this meeting brings together all elements of the equal justice community: lawyers who work full-time for low-income people; pro bono partners, coordinators, and other private practitioners; law school clinicians and other faculty and administrators; law students; and especially—my favorites—Equal Justice, Skadden, and other Fellows and brand-new lawyers who are just starting their public-interest careers.

This is the largest annual gathering of lawyers involved in civil legal services for low-income people—over a thousand people whose variety symbolizes that we are all in this together, and that we have to work together if we are to get the most out of our collective potential. This meeting is a time of refreshing and re-energizing, and I always look forward to being a part of it.

2008 is a hugely important year. It is a time of looking forward and a time of looking back, all in the midst of a present that is of exceptional significance.

Looking forward, there will be a change in our national leadership regardless of what happens. There is a tremendous opportunity and a tremendous challenge in this. The opportunity, obviously, is to do better. The challenge is to us—to everyone here in this room and beyond—to take part, to be a part, of moving things in the right direction.

2008 is also a time of looking

back, looking back 40 years, to be precise. It has been 40 years since one of the most tumultuous years in American history. We have had even more trying times, to be sure—the Civil War, the Great Depression, two world wars—but 1968 was unusual in a somewhat different way. It was a time—in parallel, perhaps, with President Lincoln’s assassination—when great hope was transformed almost overnight into deep despair and, as things turned out, into a sharp turn in our very direction as a nation.

So we remember, and mourn again, the murders of Dr. King and Robert Kennedy. We remember and mourn, too, the murders of Medgar and Malcolm, and others who gave their lives in the struggle for justice. And we ask, now as then, how a nation can lose so many leaders in such a short period of time and still move forward? We still feel the loss.

There has been progress in many ways, of course, but these four decades have been a difficult period, too. One could say we have spent 40 years wandering in the desert. Forty years is a time frame that surely evokes a biblical allusion. Are we about to enter the promised land? I don’t know. But we can hope.

And there will be change regardless. Our responsibility is to make the change be for the better.

I want to talk with you this morning about some of the challenges we face. And I want to talk with you not just about the challenges for poverty lawyers in the work they do for individual clients, but about poverty itself—about poverty **and** inequality—and about what we can do, what

we **must** do, to end poverty and reduce inequality in this wealthy nation. Whoever we are, wherever we work, however we conceive of our primary purpose in life—what we can do.

The official statistics tell us there were 36.5 million Americans living in poverty in 2006—one in every eight people in our country—far too many in this, the wealthiest nation in the world.

And this is not even the right measure. In 2006 the poverty line was about \$16,000 for a family of three and about \$20,600 for a family of four—try to live on that in most parts of the country.

Nor is poverty, however measured, the real measure of economic difficulty. Research, to say nothing of real life, reveals that the actual point at which people can pay their bills and weather at least small financial crises is at a level that is more like twice the poverty line—encompassing more like 90 million people, or 30 percent of the population.

Why? Why should it be true that 30 percent of the population in this wealthy country have to think twice about which bill to pay, or whether to go to the doctor? (Even if they have health coverage, deductibles and coinsurance often make medical care an impossibly costly item.)

The answer is a profound flaw in the American economy—a serious failing in the American labor market that has been getting worse for more than a third of a century. We all know that “good” jobs began disappearing to globalization and automation a long time ago. 1973—the year

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of the first oil price crunch—turned out to be a major turning point. The economy didn't stop growing—our Gross Domestic Product has more than doubled in real terms, adjusted for inflation, since then—but almost all the fruits of that growth have gone to the people at the very top.

The problems of the people at the very bottom are complicated by problems of job availability, their fitness to work, and other issues, but for the millions and millions of people mired in low-wage jobs, the problem is fundamentally just that—far too many low-wage jobs and far too few jobs that pay enough to live on. The high-paying industrial jobs that disappeared were in fact replaced—our unemployment rate is quite low compared to other countries—but they were replaced by service and retail jobs that pay shockingly low wages in relation to what it really costs to live in today's America.

Consider this simple fact. The wage of the median-paying job in the U.S. in 1973 paid \$12.99 an hour, in 2005 dollars. Half the jobs in the country paid less than \$12.99 an hour. Do the math. This is about \$27,000 a year if one has the job 40 hours a week for the whole year. In 2005 the median-paying job paid \$14.30 an hour. That's a 10 percent growth in real wages for half the jobs in the country, or a growth that averaged about a third of a percentage point each year. (And in fact that growth all took place in the last half of the nineties.) And if income was stagnant, the cost of living for lower-income people was not. The costs of housing, energy, health care and, lately, food have all increased at rates exceeding the rate of inflation. The squeeze is real.

Do you know what happened to the top 1 percent of earners over roughly the same period of time?

From 1979 to 2005 their average income increased 176 percent after taxes. From 1968 to 2005 CEO compensation went from being 24 times the pay of the average worker to 262 times that amount. If the minimum wage had gone up at the same rate as the pay of the average CEO, it would be something like \$25 an hour today. The figures about wealth are even more staggering. The top 1 percent had 1500 times more wealth than the bottom 40 percent in 1983 and this widened to a multiple of 4400 by 2001.

Nor can we talk about poverty and inequality without talking about race and gender. African-Americans, Latinos, and Native Americans were all poor in 2006 at rates between 20 and 25 percent, as were some groups of Asian Americans. By contrast, non-Hispanic whites were poor at a rate of 8.2 percent. An even greater disparity exists with respect to single parents with children, who are overwhelmingly women. Their poverty rate in 2006, including all races, was 30.5 percent. Poverty in this wealthy nation is unacceptable. The disparities among the poor are even more unacceptable.

We—you—everyone in this room have to become part of the solution. This means not just handling individual cases, although that is vital, but also getting involved in policy, getting involved in economic justice—wholesale, not just retail. It means joining in a determination to reclaim a decent measure of economic democracy—both as lawyers and as citizens.

Where do we need to do the work? Where do we fit ourselves in? Working to end poverty and reduce inequality requires both public policy and private action. It requires both national action and local action. It means work both to build our nation and build strong communities and families. It means pursuing both rights and responsibilities. It means staying at it all year long, year in and year out.

As far as public policy is concerned, it means being involved in both electing people and pushing them once they're in office. How many times have we found that, even when we elected the person we preferred, they didn't do what we elected them to do? We have to extract the commitments while they're running, push them to keep their commitments once they're in office, and push those who made no commitment at all to do the right thing even if they really don't want to.

What are the elements of a strategy to end poverty or at least cut it in half? Some of it is simple to do if we can summon the political will to make it happen. Some of it is hard—no question about it.

The "simple" part is raising people's incomes, especially income from work. Raising the minimum wage, both federally and state by state, is a key building block. It was my privilege to co-chair a Task Force on Poverty for the Center for American Progress, which issued its report last year, and we recommended gradually increasing the federal minimum wage to half the average wage and then indexing it to inflation. That step in itself would lift nearly two million people out of poverty.

What is deeply troubling, though, is that our labor market is so broken. Wages alone can't get people to the point of having an income they can live on. That is really quite shocking. We have to have public policy to add income to the wages people would receive even with a proper minimum wage. That's why we have the Earned Income Tax Credit, or EITC, which now adds nearly \$5,000 to the income of a minimum-wage worker with two children. So we need to get the minimum wage up to the maximum that we can accomplish without going to a level that begins to destroy jobs, and also

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strengthen the unions that represent low-wage workers. Then on top of that we need to improve the EITC and the Child Tax Credit and other ways of adding to income from work, including the ways we can act at the state level on the same kinds of policies.

Then of course there are a number of things that effectively add to income while fulfilling a societal responsibility at the same time. These all involve a mix of public and personal responsibility depending on people's income—health coverage for everyone, help with child care for all of those who need help, assistance in paying rents that have skyrocketed to the point where they push people into homelessness, and help with the cost of college. Right now a minimum-wage job does not pay the fair market rent of a two-bedroom apartment in any state in America.

If all of these things, including a decent safety net for people who can't find jobs or are not in a position to work, are in the here and now, the second huge challenge is to invest in the future. This means what we do for children from birth until they go to school, what happens in school, the off-school hours, and pathways to adulthood.

These are areas in which civic initiative and action are vital. We need dollars, but we also need local action and local leadership. With all the public money in the world, from whatever level of government, we will not get high quality systems in any of these areas without civic initiative and partnership. For example, seeing to it that every child is ready for school at age five means a combination of pre-kindergarten, a real system of child care and child development, and reaching parents in a respectful way to help them see better what they need to do. This will not happen unless a

community makes a commitment to make it happen.

I want to talk especially about disconnected youth, especially disconnected young men. We face a crisis in what is happening with minority young men. The figures on what happened to the employment of young African-American men between the ages of 18 and 24 with a high school education or less during the 1990s are really quite shocking. During a decade when virtually every other demographic group did better, they did much worse. The number employed went from 59 percent down to 52 percent, and this does not even include those in prison.

Of course prison has a lot to do with it. As the Children's Defense Fund says, we have been running a cradle-to-prison pipeline in America. When young men get out of prison, lacking in skills to begin with, they face huge barriers to getting work and getting reconnected to society generally. We are losing generation after generation of lower-income African-American men. This is a tragedy of immense dimension.

At the end of the day everyone has to take responsibility for himself or herself. That is basic and fundamental. But the community has to create the pathways and the approaches. Very few communities around the country are making that effort in sufficient measure, whether to prevent the disconnection in the first place, or to create second chances that reconnect as many as possible.

There is a third category for policy and action: place—the consequences of where people live, the quality of the neighborhoods in which they live, the extent to which the neighborhoods are safe, have good schools, are proximate to jobs, and can truly be called communities.

Inner-city African-American (and Latino) poverty is the image that comes to the mind of many if not most people if you ask them who is the typical poor person in

the United States. The inner-city poor are a relatively small slice of American poverty, but, along with the isolated rural poor, they are disproportionately represented among those who remain poor throughout their lives and from generation to generation. They are the people who generate the stereotypes and the hot-button controversies about welfare and crime and drugs and teen births. They are also the hardest to reach because their poverty is so entrenched.

So if we are going to join the issue on reducing poverty, we cannot neglect the lens of place. The issue has changed some in recent years. More people have come to realize that the issue must be seen in a regional framework. More effort is needed to create housing and job choices throughout the region for people isolated in the inner city. And it also means conscious efforts to pursue neighborhood revitalization that ameliorates the impact of gentrification on the inner-city poor, instead of what we have now, where the poor are too often pushed out to places unknown.

And finally as to policy concerning poverty, we need to come to grips with the holes that have been ripped in our safety net for the poor. Another deeply troubling fact is what has happened with extreme poverty—the number of people who have incomes below half the poverty line, below about \$8,000 for a family of four. The total number of poor people jumped by nearly six million during the Bush years, and number of those in extreme poverty went up by more than three million, to a total of 15.4 million, over five percent of the nation's population.

This is in significant part because of the weaknesses in our safety net for the poorest of the poor. We hear all the time about the so-called success of the 1996 welfare law, with welfare rolls

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nationally now down below four million people, from 14.3 million in 1994. We do of course want to have the minimum number we can receiving welfare, and the maximum number self-sufficient without welfare. But we want that to be the case because we are doing things correctly. The number of Americans on welfare is now one and a third percent, while poverty is at 12.3 percent. Less than a third of poor children are part of families receiving welfare assistance. That percentage has been cut in half over the past dozen years.

Is that good or bad? I'd say it this way. Welfare is no longer a legal entitlement. That means it is basically a matter of local discretion. It is now very difficult to get on welfare. The welfare rolls are up a little now, given the current recession, but compare what has happened to food stamps, which are still a legal entitlement. The food stamp rolls were down to 17 million people in 2000, but are now back up to 28 million people. Did the need for welfare assistance go down during this same time period? I don't think so.

I suggest that we need to restart the conversation about welfare. We also need a full re-examination of unemployment insurance. With variations from state to state, UI reaches only 35 percent of those who lose their jobs, replaces only 40 percent of the person's wage, and is in general out of kilter with the realities of today's low-wage, heavily part-time, contingent-work job market. And while we're at it, we have huge issues about pensions and disability insurance as well.

There is one other policy matter—reducing inequality. The people at the top need to pay their fair share of running this country. They would not have the financial markets and other

infrastructure they need to succeed in accumulating wealth but for the stability that government provides in America. In other parts of the world where there is endemic instability and violence, some definitely get rich, but they do so by stealing and killing. In the United States, people get rich because we have an economic and legal framework that makes it possible for them to succeed. That costs money, and they should gladly pay their fair share of preserving and protecting that framework.

Lawyers have a role to play in all of this, not just in handling individual cases, although that is always important, and not just in impact litigation, although that is still relevant especially where there is a pattern of statutory violations, but in policy work, in getting involved in public policy.

We need organized efforts to bring change, people-driven and civically driven efforts to bring change. And if you're a lawyer and want to contribute to change as a lawyer (contributing as a citizen lobbyist is fine, too), you need a client. You need to work with organizations and organizers. The people need a lawyer. I am talking about the power of many. There are plenty of people using the power of money. For the kind of change I am discussing today we need the power of many. And the many need lawyers.

We need more full-time lawyers and we need more pro bono effort.

To begin with, we must be ready in the next Congress to fight for the removal of the restrictions on what federal funded legal services lawyers are allowed to do. Why no class actions? Why no policy advocacy? Why no representation of inmates or immigrants? These restrictions were the result of raw politics. The American Bar Association has been heroic in its support of the Legal Services Corporation over the years but, while the private bar was perhaps the key force in keeping the legal

services program alive, the price that was paid was high. It is time to repeal the restrictions.

And money but, obviously, not just federal money. Federal funding now makes up only a little over a third of funding for legal services for the poor. We have to increase the flow from all sources. Every state should enact IOLTA comparability, so banks have to pay the same interest rate on escrow accounts that they pay on other commercial accounts. State funding, which has increased nicely in recent years, should go up more. This is a never-ending challenge, as a few states facing revenue shortfalls have slipped backwards this year. People who work the state legislatures know full well that every year amounts to a brand-new challenge, with new players coming on the scene, new competitors for funds, and so on.

Private giving from law firms and individual lawyers is a major area for growth. Our Access to Justice Commission just did a study in the District of Columbia of how much our firms are giving for civil legal services. Our city's firms are generous both with their funding and their time, and we are grateful for all they do, but it is also clear that they have the capacity to do considerably more than they do currently. We are studying the results to come up with some suggested benchmarks for giving and will pursue the issue. We have had success in getting our city government to join the ranks of states supporting legal services. Our private bar needs to show that the public contribution has stimulated an increased effort from its ranks.

More funding will mean more full-time lawyers, whom we definitely need. We also have a new local loan repayment program, partly supported by the city and partly by private funds, which is reaching over 60 of our full-time lawyers and effectively adding up to \$12,000 to their

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income. This is going to enable staff lawyers to continue their advocacy for the poor longer and will therefore raise the overall quality of the representation they provide. But we also need to ramp up the pro bono effort. The full-time lawyers can't do the job by themselves, nor should they. Pro bono lawyers, especially if properly integrated into a well-organized system, can extend

the effectiveness of the full-time lawyers very substantially.

I want to say bluntly, there is a continuing mistrust from both sides that we need to confront explicitly. I continue to hear vibrations from some among the full-time lawyers that the private bar doesn't really understand poor people, and from some among the private bar that pro bono lawyers can solve all the problems if we just increase the pro bono effort sufficiently. To the extent that these old refrains are still sung, we need them to stop. Each

community needs to value the other. We need them both.

We definitely need much more initiative from the bar to help meet community needs.

How many places have projects to help people hit by the subprime lending crisis and the ravages of predatory lending?

How many places have projects to help veterans from the conflicts in Iraq and Afghanistan with their many legal needs?

How many places have projects to help ex-offenders surmount the legal

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LAMP

Wounded Warrior

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act contained directives to DoD to improve the training for Physical Evaluation Board Liaison Officers (PEBLOs). PEBLOs are usually senior non-commissioned officers or civilians, located at every medical facility in DoD, who are the first to identify and advise those who may eventually go through the PDES. Congress also charged DoD to do a better job of aligning the PDES systems as they exist across the services.

Focus on the Extent of Injuries and a Reformed System

The 2008 Act, however, contains new and more extensive directives. One provision of the statute addresses a concern expressed by many injured servicemembers is that military medical care providers did not take cognizance of the extent of their injuries, or did not identify some conditions at all. Now, a servicemember has the right to seek an independent medical examination and have that record included in their file as he or she moves into the PEB

stage of the process. Additionally, although both DoD and DVA are to use the Veterans Administration Schedule for Rating Disabilities (VASRD), DoD found the VASRD inapplicable to the rating of some types of disabilities. Servicemembers were receiving one rating from DoD and then another from the DVA, a fact that caused great confusion and concern.

Congress now requires DoD to use only the VASRD in rating disabilities. Under a DoD/DVA pilot program, some servicemembers now proceed through the PDES up to the point of the "fit or unfit" determination by DoD. If found unfit for continued service, the servicemember proceeds to DVA to receive a rating by agency physicians. That rating then returns to the DoD system where a percentage is assigned if the disability is compensable, and the servicemember is either separated or retired.

The challenges in reforming the military disability system reflect its all-encompassing scope. Not only does this system attempt to justly handle servicemembers returning

from combat zones with injuries, but it also processes those who are injured in the regular performance of their duties in the United States, as well as those who may develop a disease or other disabling condition.

More than 10,000 soldiers pass through the Army PDES alone each year. Some return to duty, some are discharged, some are compensated, and others are not. Some are separated with severance pay, and still others are medically retired before passing through to the DVA. For all the enhancements in the PDES system, to the average servicemember it remains complex and confusing. At a time when a servicemember may be at his or her physically weakest, effective legal assistance is all the more critical. To this end, the services have stepped up, better trained their Soldiers Counsel and increased their ranks, and infused existing JAG training at the service schools with more intricate knowledge in this practice area.

Major John Frost is an associate professor at The Judge Advocate General's Legal Center and School in Charlottesville, Virginia.

A Roadmap toward Justice

by the Hon. John T. Broderick, Jr.

The following were remarks delivered by Chief Justice Broderick at the National Access to Justice Conference, Minneapolis, Minnesota on May 9, 2008.

This past February I flew very early one morning to Washington to attend a memorial service on Capitol Hill for a friend, who was also a distinguished member of Congress. Someone I revered.

My cabdriver that morning was as pleased to see me, as I was to see him. Business at Reagan at that early hour was slow and cabs were scarce. As we drove across the Potomac, we continued to talk and he began telling me his story.

Although he spoke with a thick accent, he had been in the United States for almost twenty-five years. He had two daughters who were just children when they arrived here. He now had a granddaughter. He was one proud grandfather. At a stoplight he passed me her picture. She was just as adorable as he said. I told him I had granddaughters, too. We had found common ground.

"My grown children," he said, "are well educated and have very good jobs." He was proud of them. Mostly, he said, he was proud to be an American. "This is the greatest country on earth," he told me forcefully. "The very best. I'm from the Balkans, and my daughters' lives here have been so much better. They have been given so much. I love the American people."

As we turned onto Pennsylvania Avenue with the Capitol Rotunda in the distance, he asked me what I did for a living. I told him I was a judge, an appellate judge. "You have the most important job in your entire government," he exclaimed, his voice rising and full of admiration. "Your job makes America, America." I asked him what he meant and why he felt that way. "Courts protect people

from government, particularly from its abuses," he told me. "Without judges," he said, "little people like me could never be sure if they were really safe, really equal or really free." A few minutes later, he dropped me near the Capitol. After I paid him, he stretched his right arm over the seat between us to shake my hand. "Good luck to you," he said, with a wide smile, "it has been an honor to have you in my cab. A real honor."

I had a little time before I needed to be in Statuary Hall so I walked around the block lost in thought. I had been very touched by the cab driver's words and by his simple wisdom. My walk took me past the United States Supreme Court. It was still early and there weren't many people on the sidewalk. So I stopped just to take it in. As I stood there that morning gazing at the front edifice of the Court, I wondered what American life would be like without it, how the history of the Twentieth Century might have been different if it did not exist and how the real promise of our country could ever be assured without an independent, accessible judiciary. The cab driver this day had put a face on it for me. A very human face. And a very grateful one, too.

After a minute or two, I crossed the street and followed a marked path to the Capitol, just a few hundred yards away. The Congressman, whom I was there to honor that cold winter morning, had survived the Holocaust as a Hungarian Jew. He had been held in forced labor camps and finally escaped. He then worked for the underground before he emigrated to the United States. He arrived here penniless. Through hard work and the generosity of the

American people, he got a Ph.D. in Economics.

He was the only Holocaust survivor ever to serve as a member of Congress. He knew firsthand what it was like when no one was there to stop the trains in the middle of the night. The Nazis killed his mother and much of his family. The storied and distinguished life of Congressman Tom Lantos was testament to what the cab driver had told me and to the fundamental obligation of the American justice system.

In our country, the greatest nation in the world, rights matter. Everyone's rights, no matter their station in life, no matter their income. No matter their circumstances. Guaranteed rights are fundamental to the American identity, fundamental to its core values. That belief is part of the social compact. It's integral to our Constitution. It's even chiseled above the threshold of our nation's highest court: "Equal justice under law."

It's something all of us learned in school and sometimes in church or synagogue. We all grew proud of it before we really knew what it meant or how special it was. It's what American soldiers have died for and one of the many reasons we honor their service. It's part of our pledge of allegiance: "With liberty and justice for all." It's what many of us get up each day to try to ensure. But I wonder at times if we are keeping the faith and whether we really mean it?

After nine years of service on the Board of the National Legal Services Corporation watching federal dollars for the poor grow smaller each year and their rights to legal counsel more restricted,

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and twelve years of service as an appellate judge, I ask myself some days whether “equal justice under law” represents a real commitment or merely an aspiration. I wonder if my cab driver gave me more credit that February morning than I deserved and whether I should be doing more to keep his trust by doing everything in my power to ensure more meaningful access to the courts for the disadvantaged. So, when you were kind enough to invite me to Minnesota to speak about access to justice, I was delighted to accept. For myself and for my cabdriver.

All of you who have gathered here this morning from across the country have been engaged in the struggle for equal justice for a long time. Many of you stood watch when others had fallen asleep. Many of you, no doubt, endured criticism for your outspokenness. You deserve much credit and in most quarters have earned much respect. You certainly have mine. But we all know that more remains to be done, much more and that

millions of people we don’t know and will never meet are counting on us to speak and act for them. Not only because it’s right, but also because it’s critically essential.

The single biggest challenge confronting the state courts in America, in the first decade of this new century, is the rising number of self-represented litigants. They enter our courthouses in increasing numbers and compound our dockets. In my state there is an ever-rising tide of self-represented litigants in all our courts and yesterday’s answers are not enough.

The self-represented are no longer just the poor, but their ranks now include more members of the middle-class and a rising number of small businesses. The vast majority of the self-represented enter our courthouses without lawyers because they can’t afford one, not because they don’t want or need one. It’s not their fault and the justice system in America has an obligation to respond. Doing nothing will not diminish their growing number or ensure justice for those already in the system. The court system in this country belongs to the

people, all the people, and it is our responsibility to make it work, not just for the wealthy and well connected, but for everyone. If we are to deal effectively with this growing challenge, we need to take a new look, a fresh look, at how we do business and how staff and judges interact with the self-represented. To do anything less would not keep faith with the principles that brought all of us to Minneapolis.

The simple truth is that more and more parties are coming to court alone at the same time more and more lawyers are becoming too expensive. Neither trend is helpful. When I have occasion to speak to groups of lawyers in my state, I often ask them to answer two simple questions privately. Could you afford to hire yourself and for how long? I usually get a number of knowing smiles. The decline in meaningful access to justice is everyone’s problem and it can only be solved with everyone’s help.

For too long and for too many reasons, too many have remained silent or turned away. It is my firm belief that the public will not long

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barriers that unfairly keep them from having a chance to succeed in getting and keeping a job?

How many places have projects to involve senior lawyers or midcareer lawyers who are at home raising children?

How many places have projects to involved transactional lawyers in doing pro bono work?

On the money side, how many law firms are supporting Equal Justice Works Fellows or other fellowships to attract young lawyers into poverty work?

We need leadership. We need

your leadership.

And let me say a word to the students who are here. We need **you**. We need a new generation of lawyers to do the work we’re talking about today.

And a word to the law schools. Every law school needs to do better in creating clear pathways to public-interest work, pathways that are as clear as the pathway to private practice. Every law school needs to promote pro bono work for its students who are going to enter private practice. No law school is doing enough—not my own, of which I am very proud, not anyone. When the law firms come around during interview week, the culture in the law school

must be one that says to every student, loudly and clearly, in neon lights if you will, public-interest work is equally valued.

There is so much to do. It is not enough to talk about lawyering for the poor. We—you and I—need to be part of a bigger answer. What will you, and you, and you do to help us end poverty in America?

Rabbi Abraham Joshua Heschel—Dr. King’s great friend—said it very succinctly: “We are not all guilty, but we are all responsible.”

Thank you for the chance to speak to you this morning.

Peter Edelman is Professor of Law at the Georgetown University Law Center and is Chair of the District of Columbia Access Commission.

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entrust its confidence to a system of justice it often cannot navigate, afford or understand.

I believe that courts need to speak with a louder voice and that judges, in particular, need to be heard. If those who preside in our courtrooms do not take a laboring oar on the issue of meaningful access to justice, then we cannot complain when others don't. If we as judges do not press the bar to step up, the courts to change and the legislative and executive leaders in this country to join us, we will surely fail. Silence is not our friend nor is it mandated by any ethical code that governs our conduct. We are all free to speak and write on issues affecting the administration of justice and more importantly, it is, in my judgment, our fiduciary obligation to do so. It goes to the very essence of what drew us to public service in the judicial system.

In early 2006, I met at the Supreme Court with the managing partners of the thirty largest firms in my state to ask them to renew their firm efforts on pro bono. I also invited myself to visit eighteen law firms for lunch with their lawyers. I think it helped and many lawyers and firms responded. The New Hampshire Bar has a proud history of commitment to access to justice issues so it is hard to ask for more. But I did and more is happening. I know I will need to continue to reach out to keep people moving forward.

It is particularly difficult to ask lawyers to volunteer their time in a worsening economy, but IOLTA revenue is down and the needs of the poor are increasing. We have to ask, but we also need to recognize those who respond.

Continued silence will not make needed change happen. Only awkward moments, public

pressure, civic involvement and forceful persistence can do that. We need to find new and different ways to broaden public understanding of the growing crisis in the state courts and we need to do a better job enlisting public support. Most importantly, we need resources--for the legal services offices and community and for the state courts. We also need more aggressive debt forgiveness for lawyers willing to dedicate a credible portion of their professional lives to assisting the poor.

We need to do all we can as often as we can to ensure that the people and the politicians across this country are as concerned publicly about universal access to justice, as they are about universal access to healthcare. We can start at home. A few years ago, our Supreme Court appointed a Citizens Commission to examine the New Hampshire state courts. Most of the members and the two co-chairs were lay people. In frugal New Hampshire, the Citizens Commission recommended that our state "examine the expansion of legal representation to civil litigants unable to afford counsel and study the implementation of a civil Gideon" for the poor threatened with the loses of shelter, sustenance, safety, health and the custody of a child. They intuitively understood that on legal matters of critical importance, every citizen should have an advocate. Every citizen. Its realization is still distant but the need has been recognized. It's a good beginning. In New Hampshire, I am proud to report that our legislature is stepping up. In the last few years, it has provided funds to New Hampshire Legal Assistance to allow it to open new offices in Littleton, Nashua and Concord. More needs to be done, but it is an impressive beginning.

I believe the American people and the legislators who represent them will do more to assist if the

issues that brought us here today were made to resonate with them. That can't happen, however, unless we capture their attention.

Our individual access to justice commissions are a critical first step. They need to fairly assess the unmet needs in their states, ensure coordination and cooperation by the legal services community in the intake and delivery of legal services and they need to both reach out and speak out. In my judgment, every access to justice commission should issue an annual report card on the status of justice for the disadvantaged in their state. They should seek press coverage and editorial board opportunities. Each Supreme Court should annually and publicly, recognize a person or firm who has taken a leadership role in addressing the access to justice challenge. Every Chief Justice, who has the opportunity to address a joint session of their state's legislature, should press the issue of the growing challenge posed by self-represented parties. When I last had the privilege to speak to our Legislature, I asked for more help. Sooner, as opposed to later.

I would also like to see the Conference of Chief Justices, of which I am privileged to be a member, speak out as an organization each year on these issues. It would seem to me that the voices of the fifty Chief Justices in America would be hard to ignore. I would propose that Chief Justices in various regions of the country select one of their members to speak annually, if allowed, at the regional conference of their Governors. I would also suggest that the President of the Conference of Chief Justices should look for an opportunity annually to address the American Bar Association at its convention, the National Governors Association and the National meeting of State Legislators on the status of state court justice and the growing challenges it faces.

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We need to find and encourage national voices for the poor. Not that many years ago United States Senator Warren Rudman from New Hampshire was a strong voice for fundamental fairness and access. The void left by his voluntary departure from the Senate has not been filled. I fear that America's promise-of equal justice under law is not being kept. We need ongoing, high level open discussion at both the state and federal levels of a problem too often left unaddressed in the shadows. The poor need a national champion and we need to help find one or grow one.

A critical component of change, essential if we are to effectively meet the challenge posed by the growing number of self-represented parties, is for courts to self-examine how they do business and why. Courts need to constantly examine and re-examine how their service is provided and whether process can be streamlined to both reduce delay and cut costs for those who use their invaluable services. It's hard for me to believe that if we were designing our court system from scratch today, to deal with the realities on the ground, that we would create the exact same model with the exact same paperwork.

In this new century, which is moving at the speed of light, we need more and better technology in our state courts and a competitive mindset to match it if we are to do the public's business. We need more public access terminals and user-friendly technology. We need self-help centers, on site and offsite. We need world-class self-help websites. We need to streamline both process and procedure and be bold enough to ask if every dispute in our system is best suited

to the adversary process, at least in the first instance.

We need more, not less, mediation in our courthouses. We need off-ramps for those who want them. We need to treat our staff as our most valuable resource and advocate for fair wages and benefits where they don't exist. It is unlikely we can successfully serve the needs of the self-represented without skilled staff behind the counters, on the phones and in our courtrooms. Quality staff is key to any long-term solution and they deserve our full support.

Judges will also have to grow more comfortable with the notion of "neutral engagement" and be prepared to be more proactive and more explanatory in their courtroom protocols and in their rulings. We need to amend our Judicial Conduct Codes to make "neutral engagement" less stressful and more the norm than the exception. A few months ago several of us from New Hampshire, along with judges and senior staff from thirty-seven states, attended a multi-day conference at Harvard Law School to discuss and examine a teaching curriculum for judges for dealing with the self-represented. It offers much promise. Judges have a key role to play in changing and shaping the justice system of the 21st century to meet its expanding obligations. We need to be bold enough to redesign America's courts from the front door to the judge's bench while ensuring that parties get all the process they're due but not more than they need.

If we do not more aggressively and more publicly address the challenges of the self-represented to the fair, timely and impartial administration of justice in America's courthouses, be assured there will be unintended collateral consequences. None are helpful and none are inevitable if we choose to act. If we do not act, I am concerned that within a decade state courts will be largely

for the poor and for those charged with a crime. If that occurs, some legislators might wonder if we need the same money we used to receive when our users were more diverse. Many in the business community, who advocate for us now, may no longer come to our front doors but rather race in increasing numbers to the flourishing private justice system in America. If change does not happen, I wonder whether we will attract the best and brightest lawyers to preside in our courts. But most of all, I am concerned we will lose or at least continually diminish what makes America, America, as my cabdriver would say.

Equal justice under law is not achievable if poverty or limited resources effectively barricade the doors to our courthouses and do not allow a growing segment of our population a fair, understandable, affordable and impartial forum for resolution of their disputes. How would you feel if we had a system in this country where, if you went to an emergency room with severe abdominal pain, without insurance, you were told to use the illustrated textbooks on the bookshelves to diagnose your problem and the sterilized instruments in the trays to perform your own surgery? All of us would think that system immoral. Somehow, when mothers or fathers are told to fight for custody of their child or for their health care, their job, their apartment or their home without a lawyer, too many think it's perfectly alright for them to perform their own surgery in our courthouses with burdens, rules and process they do not understand. Well, it isn't all right and we shouldn't tolerate it in the greatest justice system in the world. As a nation, we should expect better and as a people we can do better. If the courts cannot work for my cabdriver, they will soon enough defy the promise of the Framers. Justice isn't just a nice

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idea, it's the glue that keeps our democracy together.

Let me close with a brief story. In my first year on the Supreme Court, I got a call one morning in my chambers from a woman I didn't know. She was quite distraught. I could barely hear her because of annoying background noise. When I asked her where she was, she angrily replied, "I'm on a sidewalk in Nashua with my two children. I need your help." Thinking she had dialed a wrong number, I told her I was a judge and really couldn't be giving her advice. "I know you're a judge," she said with a rising voice. "Why do you think I called you?"

"What's your problem, ma'am," I asked. "I'm being evicted from my apartment," she said. "I have

no money and my kids and I will be on the sidewalk. I don't think my landlord can do this to me." "Ma'am," I replied, "you should probably go over to the district court. Maybe they can help you. Maybe they can find you a lawyer." By this point, she was screaming into the phone, although I could hear her children crying in the background. "I didn't think you'd understand," she yelled in an exasperated voice. "You've never been poor and you've never been homeless." She was right. She slammed her receiver down.

The desperation in her voice haunts me still. That call was over twelve years ago and I wonder what became of her and her children. But I am certain of this. The justice system in this country should afford everyone meaningful access, dignity and opportunity, even if they lose. Even if they're poor. Especially

if they're poor.

I would like it said years from now that during our collective watch no one was turned away and that the dignity of all who sought justice was respected and that the courts were truly open. If we work together, if we all strive harder-the courts included, all things are possible. If nothing changes, the justice system will be less respected and rendered less relevant to more and more of our citizens. In my judgment no one wins if we let that happen. The choice is ours and both public trust and personal pride demand that all of us do more. Impatience is our best friend, honesty our best weapon and success our obligation. We have no time to waste. Thank you for what you do and thank you for listening.

Justice Broderick is the Chief Justice of the New Hampshire Supreme Court.

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