May 30, 2014

The Supreme Court of Texas
Attention: The Honorable Blake Hawthorne
Supreme Court Building
201 West 14th Street, Room 104
Austin, Texas 78701

Dear Justices of the Supreme Court of Texas:

Re: Report of the Texas Access to Justice Commission
to the Supreme Court of Texas
for the period December 1, 2013, to May 31, 2014

On behalf of the Texas Access to Justice Commission ("Commission"), I submit the attached report of the main activities of the Commission from December 1, 2013, to May 31, 2014. Our report is organized to reflect the structure of the Commission, which achieves its work through committees or task forces of the Supreme Court. The appendices include access to justice efforts of the State Bar of Texas and the Texas Access to Justice Foundation.

The Commission remains deeply grateful to the Supreme Court of Texas and the State Bar of Texas for their exemplary support in reducing barriers to the justice system.

The Commission is available to meet with the members of the Supreme Court of Texas to discuss its activities or answer any questions.

Very truly yours,

[Signature]

Harry M. Reesone
Chair

EX-OFFICIO MEMBERS
For the Governor
David B. Moncrief
Austin

For the Speaker of the House
Hon. Sarah Davis
Houston

For the Lieutenant Governor
Hon. Rodney Ellis
Houston

CHAIR EMERITUS
James B. Sales
Houston

EXECUTIVE DIRECTOR
Patricia E. McAllister
Justices, Supreme Court of Texas
Page 2
May 30, 2014

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Commissioners, Texas Access to Justice Commission
EXECUTIVE SUMMARY

A REPORT TO THE SUPREME COURT OF TEXAS ON
THE ACTIVITIES OF THE TEXAS ACCESS TO JUSTICE COMMISSION
DECEMBER 1, 2013, TO MAY 31, 2014

Increasing Access to Justice through Capacity Building

Corporate Counsel Committee

In April, Wayne Watts, Corporate Counsel Committee Chair and Senior Executive Vice President and General Counsel of AT&T, gave the keynote address at the University of Texas Corporate Counsel Institute in Dallas. Former Corporate Counsel Committee Chair, Scott Rozzell, delivered the keynote presentation a month later when the Institute was held in Houston. Mr. Watts and Mr. Rozzell discussed the benefits that inure to a company when its legal department participates in pro bono and shared their personal experiences in starting an in-house department pro bono practice. The presentation was well received and attendees earned MCLE credits, including ethics.

The Commission has begun working with the Texas General Counsel Forum to host the Third Annual Charity Golf Classic benefiting the Texas Access to Justice Foundation which will be held November 20, 2014, at the La Cantera Hill Country Resort in San Antonio.

Law School Advisory Committee

*ATJ Summer Internship Program:* Through the Commission’s Access to Justice Summer Internship Program, seven law students will be working throughout the state in the rural offices of Legal Aid of NorthWest Texas, Mission Waco, South Texas Civil Rights Project, Texas Civil Rights Project, and Texas RioGrande Legal Aid. Law students will receive hands-on training and work with accomplished lawyers to provide direct services to low-income clients. The success of the internship program has promoted an increased awareness of access to justice issues amongst law students and has ignited interest in many law students to work in legal services upon graduation.

*New Law Student Leader Summit:* The Commission received a $20,000 grant from the Texas Bar Foundation to hold its first Law Student Leaders Access to Justice Summit on October 9-10. Each Texas law school will send student leaders to learn about the most pressing access to justice issues for low-income Texans and what
they can do to help, as well as participate in a poverty simulation to gain experience of what it is like to be poor and the day-to-day situations faced by our low-income neighbors. Attending students will pledge to disseminate what they have learned to students on their campus.

_Pro Bono Spring Break:_ We are pleased to report another very successful Pro Bono Spring Break. An impressive 66 students from 8 law schools participated and provided pro bono services under the supervision of law school staff and legal aid attorneys in 6 cities at 10 legal aid organizations. Law students from Baylor, SMU, St. Mary’s, Texas A&M, Thurgood Marshall, and the University of Houston spent March 10-14 helping low-income Texans in Austin, Dallas, Fort Worth, Houston, and San Antonio. Law students from South Texas and Texas Tech followed up during March 17-21 by assisting people in Houston and Midland. We owe a special thanks to American Gateways, Aid to Victims of Domestic Abuse, Cabrini Center for Immigrant Legal Assistance, Dallas Volunteer Attorney Program, Disability Rights Texas, Human Rights Initiative of North Texas, Legal Aid of NorthWest Texas, Lone Star Legal Aid, Texas Civil Rights Project, and Texas RioGrande Legal Aid for hosting the students and providing the valuable expertise and supervision needed to make this program such a success.

**Self-Represented Litigants Committee**

_Education:_ On May 19, the Education Subcommittee gave the “How to Give Legal Information without Giving Legal Advice” presentation to Access and Visitation Hotline attorneys in Dallas. The presentation gives court personnel a deeper understanding of the fine line between being helpful and engaging in unauthorized practice of law.

**Limited Scope Representation:** Limited Scope Representation Subcommittee members created a Toolkit of materials aimed at both family law and general civil law to help attorneys incorporate limited scope representation into their practices. The Toolkit contains subject matter sensitive service agreements, task assignment lists, issue assignment lists, a sample notice of limited appearance, and a motion to withdraw from limited representation. The Toolkits will be available online as well as at limited scope representation CLE presentations. The Committee also gave an informational CLE on limited scope representation to attorneys in Smith County on April 28. Additionally, we are delighted to announce that information on limited scope representation will be presented for the very first time at this year’s Advanced Family Law.

**Supreme Court Task Force on Uniform Forms**

The Commission has been working with the Real Estate Probate and Trust Law Section of the Bar on estate planning and probate forms. REPTL recently submitted draft will forms for various scenarios, including form wills for a married couple with children, married couple without children, single person with children, and single person without children. They also submitted draft Muniment of Title forms, Small Estate Affidavit
Forms, and an Affidavit of Heirship form. REPTL and the Commission will be working together to make the forms more user friendly by converting them to plain language and including instructions and a glossary.

Technology Committee

Technology Training Program: The Committee is in the planning stages of the summer training series, which brings live, in-person training to grantee staff members. Throughout the summer, participating firm legal trainers will travel to several metro areas across the state to provide training on Microsoft Office programs.

Video Conferencing Subcommittee: The Videoconferencing Subcommittee is working out the details of partnering with the Texas Young Lawyers Association to coordinate recruitment of volunteer attorneys for a pilot project in the Texas RioGrande Legal Aid’s service area. Subcommittee members are working on automating a process for TYLA members to sign up to volunteer through TYLA’s website, promoting the project to volunteer attorneys and county courts, and creating an informational packet for both self-represented litigants and the volunteer attorneys who will be assisting them.

Technology Update Presentations: On January 8, Tyler Technologies, the company that is the single system provider for E-Filing in Texas, provided a webinar presentation on the system at no charge to TAJF grantee staff.

Increasing Access to Justice through Policy and Best Practice Initiatives

Legislative Committee

State Funding: In January 2014, the Committee met to begin preparing for the 84th Legislative Session. The Committee will once again visit returning and new legislators in their home districts during the interim session. The purpose of these visits is to continue to educate legislators about access to justice issues and to form or strengthen relationships prior to the legislative session.

Federal Funding for the Legal Services Corporation: On April 9 and 10, members of the Commission, the State Bar, and the Texas Access to Justice Foundation met with 37 of the 38 Texas Congressional members during ABA Days in Washington, D.C., to seek support for funding LSC at $430 million in the coming fiscal year, which would bring an approximate additional $5 million to Texas. In early May, the full House Appropriations Committee marked up the Commerce, Justice, Science and Related Agencies Subcommittee bill that allocated $350 million for 2015 LSC funding. Although a $15 million reduction from current $365 million levels, it is $50 million higher than the Subcommittee’s 2014 allocation. Additionally, funding for the newly created Pro Bono Innovation Fund survived the mark-up period and would
provide a second year of funds for innovative legal aid programs focused on pro bono.

House Judiciary and Civil Jurisprudence Committee

The Commission was asked to provide testimony and a brief report on how low-income Texans are impacted by the estate code and access to probate courts, specifically regarding access to wills. Testimony was provided in three overriding areas: lack of access to wills, lack of pro se litigant access to probate court, and lack of access to guardianships and alternatives to guardianships. Suggested solutions included the development of easy to use forms for wills, Muniment of Title, Small Estate Affidavits, and others. Additionally, we proposed the creation of an interim session task force to review the estate code for potential remedies to current problems that could be addressed in the upcoming legislative session, as well as a formal committee that would address long-term solutions to these access problems, including the possibility of piloting potential solutions to monitor efficacy. See Exhibit B for the Commission’s full report.

Increasing Access to Justice through Fund Development and ATJ Awareness

Awards Committee

On May 13, Chief Justice Nathan Hecht presented Christine “Chris” Larson, Director of Guardianship of Estates at Family Eldercare, with the James B. Sales Boots on the Ground Award at the 2014 Champions of Justice Gala. Larson has spent the majority of her career helping disabled and elderly individuals secure their futures. She is passionate about helping her clients, many of whom are incapacitated, navigate a complex legal system and getting them services they need and deserve. Her touching comments at the Gala showed that the award meant the world to her.

Development and Fund Raising Efforts

Access to Justice Contribution Campaign: The Access to Justice Campaign is well underway. As of May 20, 2014, the Campaign has raised $482,205 from 3,498 donors, representing 8.14 percent of total attorneys who have given. Although early for predictions, we should reach our $1.2 million goal if this trend continues.

Champion of Justice Society: In 2013, we launched the Champion of Justice Society for individuals who wish to show strong support of access to justice and contribute more than the suggested $150. The aspirational goal was to fund the starting salary of at least one legal aid attorney (approximately $45,000). With 291 inaugural members, we raised over $100,000 with an additional $31,000 in deferred revenue from our Sustaining members, far exceeding our goal. As of May 13, there are 116 Champion of Justice Society members, which is a significant increase in membership at this same point in time last year. The Commission will host an
Access to Justice Reception to honor the Society members on June 26, 2014, at 5:00 p.m. at the Hilton Austin Hotel during the State Bar of Texas annual meeting.

Champion of Justice Law Firm Competition: In 2014, a strong effort was once again made to secure high ranking firm partners who strongly encourage participation in the Champion of Justice Law Firm Competition within their firms. We shortened the competition from three months to two weeks to sustain momentum and excitement.

Champions of Justice Gala Benefiting Veterans

The Commission and its co-sponsors, the State Bar of Texas, hosted its fifth annual Champions of Justice Gala Benefiting Veterans on May 13, 2014, at the AT&T Executive Education and Conference Center in Austin. Keynote speaker Dr. Laura Marsh, Executive Director of the Mental Health Care Line at the Michael E. DeBakey Veterans Affairs Center in Houston, spoke about the psychological and medical needs of veterans and how these often affect their need for civil legal services. The event raised $348,450 and the State Bar generously underwrote a significant portion of the event so that more proceeds will provide direct civil legal services to poor and low-income veterans. Co-chairs included Jack Balagia of ExxonMobil Corporation, Jerry Clements of Locke Lord, Joe Jamail of Jamail & Kolius, Janet Kelly of ConocoPhillips, Judith Lindquist of H-E-B, and Wayne Watts of AT&T. The Galas have raised more than $1,750,000 in the past five years to support legal aid to Veterans.

Administrative Matters

Board and Staff Changes

In January 2014, the Commission welcomed Liza Levine as our new Director of Development and Communications,

The Commission is thankful to Ike Vanden Eykel of Koons Fuller in Dallas and Clint Harbour, our Texas Young Lawyer Association liaison, for their valuable service as Commissioners during the past three years. We are delighted that Kay Caballero and Carlos Cárdenas have both agreed to serve a second three-year term. Mr. Cárdenas serves as chair of the Bar Leaders for Justice Committee.
A REPORT TO THE SUPREME COURT OF TEXAS ON
THE ACTIVITIES OF THE TEXAS ACCESS TO JUSTICE COMMISSION
DECEMBER 1, 2013, TO MAY 31, 2014

The Commission’s work is achieved through committees or task forces of the Supreme Court. We have structured this Report to reflect that structure. Appended to the Report are Appendix A, “Report of the Texas Access to Justice Foundation as Presented to the Texas Access to Justice Commission” and Appendix B, “Additional Efforts to Increase Access to Justice.”

INCREASING ACCESS TO JUSTICE THROUGH
CAPACITY BUILDING

Corporate Counsel Committee

The Corporate Counsel Committee, chaired by Wayne Watts, Senior Executive Vice President and General Counsel of AT&T, has been moving forward with plans to meet with General Counsel on a regional basis. Mr. Watts was asked to give the keynote presentation during this year’s University of Texas Corporate Counsel Institute in Dallas, and former Corporate Counsel Committee Chair, Scott Rozzell, delivered the keynote presentation in Houston. The keynote address focused on the benefits that inure to a company when its legal department participates in pro bono. The presentation was well received and attendees earned MCLE credits, including ethics.

Mr. Watts will address general counsel in Dallas on June 17, 2014, and provide detailed information on how to start a legal department pro bono program, including the seven key questions that must be addressed before a company decides how to move forward with pro bono.

The Commission will again partner with the Texas General Counsel Forum to host the Third Annual Charity Golf Classic to be held November 20, 2014, at the La Cantera Hill Country Resort in San Antonio. Proceeds will benefit the Texas Access to Justice Foundation.

Law School Advisory Committee

The Law School Advisory Committee is newly chaired by Harry Reasoner, Chair of the Commission and Partner at Vinson & Elkins.
Access to Justice Summer Internship Program

The Commission continues to fund and administer the Texas Access to Justice Summer Internship Program. The Commission was able to select seven law students from a set of excellent candidates to be placed throughout the state in the rural offices of Legal Aid of NorthWest Texas, Mission Waco, South Texas Civil Rights Project, Texas Civil Rights Project, and Texas RioGrande Legal Aid.

Law students will receive hands-on training and work with accomplished lawyers to provide direct services to low-income clients. The success of the internship program has promoted an increased awareness of access to justice issues amongst law students and has ignited interest in many law students to work in legal services upon graduation. All of the interns participated in an orientation by webinar. This orientation covered basic professional responsibility and ethics rules, as well as important information to know before embarking on a summer serving the poor.

Law Student Leaders Access to Justice Summit

The Committee is developing a Law Student Leaders Summit to teach student leaders from each law school about access to justice issues. Each participating student will pledge to return to their school and educate their peers about the dire legal circumstance faced by low-income Texans on a daily basis and what they, as students and future lawyers, can do to help. The students will participate in an interactive Poverty Simulation, learn about pro bono programs, limited scope representation, and other means of serving Texas’ low-income population.

The Summit will be held October 9-10 at the Texas Law Center. Tiela Chalmers, a national expert in legal services and pro bono, will conduct her Poverty Simulation, a hands-on learning opportunity where the students take on the roles of low-income families. The role play simulates a five-week time frame, with each week consuming a 15-20 minute period. Participants are divided into “families,” ranging in size from 1 to 5 persons. Each group is assigned a different life scenario, and volunteers live the life of that family, trying to work, buy food, and maintain housing on extremely limited resources. The training also uses participants or volunteers to play the vital roles of community resources, such as the bank, the employer, the doctor, and other resources with which the family members will interact. A hurricane has been newly added to Ms. Chalmers’ Poverty Simulation, which will be illuminating and extremely relevant for Texas law students to understand the devastating effects of a natural disaster on the poor.

We are grateful to the Texas Bar Foundation for generously approving a $20,000 grant to cover the expenses. We could not have held the summit without the assistance of the Foundation.
Pro Bono Spring Break

The Law School Advisory Committee is pleased to report another very successful Pro Bono Spring Break program. Pro Bono Spring Break provides law students the opportunity to practice the legal skills they are learning in real world situations to assist low-income Texans who most need legal help. All students are supervised and trained by law school faculty and legal services staff.

Because the law schools did not have concurring Spring Breaks this year, we had two separate events for the students. Over the course of those two weeks, an impressive total of 66 students from 8 law schools served in 6 cities at 10 legal aid organizations across the state. Law students from Baylor, SMU, St. Mary’s, Texas A&M, Thurgood Marshall, and the University of Houston spent March 10-14 helping low-income Texans in Austin, Dallas, Fort Worth, Houston, and San Antonio. Law students from South Texas and Texas Tech followed up during March 17-21 by assisting people in Houston and Midland.

We owe a special thanks to American Gateways, Aid to Victims of Domestic Abuse, Cabrini Center for Immigrant Legal Assistance, Dallas Volunteer Attorney Program, Disability Rights Texas, Human Rights Initiative of North Texas, Legal Aid of NorthWest Texas, Lone Star Legal Aid, Texas Civil Rights Project, and Texas RioGrande Legal Aid for hosting the students and providing the valuable expertise and supervision needed to make this program such a success.

Michael Gardner, a 3L from Texas A&M School of Law, had this to say about his experience:

“What struck me was that everyone coming in truly needed help—yet many would not qualify. The reality was, that because of the limitations on the cases they could accept, most of them would not receive full representation. Despite that fact, the attorneys doing intake didn’t simply turn people away without providing some level of immediate assistance....

One of my favorite parts of the week was getting a chance to talk extensively with the attorneys working at Legal Aid. I came away convinced that—to my surprise—I’d enjoy doing the work they did. Several benefits surrounding the work had never occurred to me. For example, the atmosphere was noticeably more laid back than the environment at firms I’ve seen. The emphasis was almost solely on helping people, rather than making money and pleasing clients. The focus was on quality, not efficiency. Everyone seemed to enjoy what they did; I imagine that not having to scramble for billable hours was one of the reasons for it.”

Legal Education Training Programs Committee

The Legal Education Training Programs Committee is newly chaired by Reagan Brown of Norton Rose Fulbright.
On June 9-12, 2014 the Commission will partner once again with the American College of Trial Lawyers (ACTL) to host its tenth trial advocacy training program for legal aid lawyers. Texas ACTL Fellow Reagan Brown is the course director for the Trial Academy and has created a unique program designed especially for legal services practitioners. Like the previous training programs, the Trial Academy will be taught primarily by Texas Fellows of the ACTL and will be conducted at the University of Texas School of Law.

This year, Trial Advocacy training will be held. During this four-day program, participants will observe demonstrations by experienced trial litigators from the ACTL and interact with the course instructors regarding strategy and tactics. Following each day’s demonstration, participants in the Academy will have the opportunity to practice their skills and receive personalized critiques designed to develop and refine litigation techniques. Topics will include voir dire, opening statement, direct and cross-examination, and closing arguments. The program is limited to 30 legal aid attorneys to ensure participants obtain personalized training and critique.

Self-Represented Litigants Committee

The Self-Represented Litigants Committee (“SRL Committee”), chaired by Stewart Gagnon, Partner at Norton Rose Fulbright, is charged with addressing the challenges presented by the increasing number of self-represented litigants in the Texas court system by providing tools to help pro se litigants navigate the court system. The subcommittees of the SRL Committee have continued to examine policy, conduct trainings, and collaborate on state and local projects aimed at improving services for litigants who have been turned away from legal aid and are unable to afford any other form of legal representation.

Assisted Pro Se

The Assisted Pro Se Subcommittee has been reconstituted with two new co-chairs, Ellyn Josef, Pro Bono Counsel at Vinson & Elkins, and Alissa Gomez, Executive Director at Houston Volunteer Lawyers. The subcommittee is pursuing a mobile clinic where attorneys from Austin, Dallas, Houston, and San Antonio will take buses to rural areas to provide legal assistance to low-income Texans. This project remains in the early planning stages.

Education

On May 19, members of the Education Subcommittee gave the “How to Give Legal Information without Giving Legal Advice” presentation to Access and Visitation Hotline attorneys in Dallas. The presentation gives court personnel a deeper understanding of the fine line between being helpful and engaging in unauthorized practice of law. The presentation was requested because Access and Visitation Hotline attorneys only provide legal information, not legal advice. The presentation was well received and is a follow-up to the presentation that Subcommittee members gave to the Texas Association of Domestic Relations Conference in October 2013.
Limited Scope Representation

One goal of the Limited Scope Representation subcommittee is to educate attorneys, clients, and the court on limited scope representation—when an attorney helps someone with part, but not all, of their case. Many people who do not receive legal aid or pro bono assistance are unable to afford to pay an attorney to handle their entire case, but they may be able to afford an attorney to represent them on discrete parts of their case. Limited scope representation helps them access legal expertise at a cost they can afford.

The Subcommittee created a Toolkit of materials aimed at both family law and general civil law to help attorneys incorporate limited scope representation into their practices. The Toolkit contains subject matter sensitive service agreements, task assignment lists, issue assignment lists, a sample notice of limited appearance, and a motion to withdraw from limited representation. The Toolkits will be available online as well as at limited scope representation CLE presentations.

The Subcommittee has also developed a CLE presentation to inform attorneys about the need for limited scope representation. This presentation was given in Smith County on April 28 and was very well received. To augment this basic limited scope representation presentation, the Subcommittee is developing a CLE for attorneys who have less than five years of experience. The presentation will outline how limited scope representation can be used as a substantial income stream for their practice, how to market limited scope representation to potential clients, and how to incorporate limited scope representation into an existing practice. The presentation will also review how to use the Commission-approved Family and General Civil Law Toolkits.

Limited scope representation will be a new topic at the 2014 Advanced Family Law course. Subcommittee members have reached out to the course directors to offer assistance in creating the training. The Committee has also sent the presenter its Family Law Toolkit, which should be disseminated at the course.

Uniform Rules and Guidelines Subcommittee

This Subcommittee completed its work on revisions to Texas Rule of Civil Procedure 145 and awaits action by the Court. However, the Subcommittee will not reconvene. The Commission voted to establish a new Rules and Legislation Committee that will serve as a resource to legal aid and pro bono providers for all legislative, rules, policy, practice and procedure changes. Because this Subcommittee was limited to SRL matters, Commissioners felt it was best to dissolve it and absorb its mission and role in the new Rules and Legislation Committee.
Supreme Court Protective Order Task Force

During the 83rd Legislative Session, changes were made to the Family Code that required minor revisions to the Protective Order Kit. The Task Force has finalized the forms, which are currently being formatted so that they can be sent to the Court for approval. If approved, the Kit will be made available on TexasLawHelp.org, and the Kit will be translated into Spanish and Vietnamese and converted to an online fillable form.

Supreme Court Task Force on Uniform Forms

The Supreme Court Task Force on Uniform Forms, chaired by Stewart Gagnon, has finished drafting name change forms for adults and children. The Commission has been working with the Real Estate Probate and Trust Law Section of the Bar on estate planning and probate forms. REPTL recently submitted draft will forms for various scenarios, including form wills for a married couple with children, married couple without children, single person with children, and single person without children. They also submitted draft Muniment of Title forms, Small Estate Affidavit Forms, and an Affidavit of Heirship form. REPTL and the Commission will be working together to make the forms more user friendly by converting them to plain language and including instructions and a glossary.

Technology Committee

The Technology Committee, chaired by Michelle Cheng, Partner at Whitehurst, Harkness, Brees, and Cheng, explores using technology to increase efficiency and effectiveness of the legal service delivery system for the poor in Texas.

Technology Training Program

The Committee is in the planning stages of the summer training series, which brings live, in-person training to grantee staff members. Throughout the summer, participating firm legal trainers will travel to several metro areas across the state to provide training on Microsoft Office programs. This summer’s program will be a shorter program and exhaust the remaining grant funds provided by MD Anderson.

Video Conferencing Subcommittee

The Videoconferencing Subcommittee is working out the details of partnering with the Texas Young Lawyers Association to coordinate recruitment of volunteer attorneys. At this time, the Subcommittee has agreed to roll out a pilot project limited to Texas RioGrande Legal Aid’s service area. A limited roll out allows the project to work out any kinks and test the waters on how successful this type of project could be.
Subcommittee members are working on several pieces including:
1) Creating an automatic process for volunteers to sign up on TYLA's website that will subsequently be input to a live spreadsheet for the TRLA coordinator;
2) Creating materials to publicize the project to volunteer attorneys and county courts;
3) Creating an informational packet for both the self-represented litigant and the volunteer attorney.

Technology Update Presentations

On January 8, 2014, the subcommittee sponsored a webinar on the new mandatory E-Filing system. Over 100 legal aid attorneys and staff participated in the webinar presented by Brian McGrath of Tyler Technologies. The webinar gave an overview of the new requirements for E-filing across the state and provided detailed information on choosing a provider. See Exhibit A.

INCREASING ACCESS TO JUSTICE THROUGH POLICY AND BEST PRACTICE INITIATIVES

Legislative Committee

The Legislative Committee, chaired by recently appointed Commissioner Harriet Miers of Locke Lord LLP, assists the Commission in developing and advocating a legislative agenda to ensure successful legislation and funding for legal services to the poor.

State Funding for Basic Civil Legal Services

In January 2014, the Committee met to begin preparing for the 84th Legislative Session. The Committee will once again visit returning and new legislators in their home districts during the interim session. The purpose of these visits is to continue to educate legislators about access to justice issues and to form or strengthen relationships prior to the legislative session.

Federal Funding for the Legal Services Corporation

On April 9 and 10, the Texas Delegation headed to Washington, D.C., to take part in the annual ABA Days. The Delegation met with 37 of the 38 Texas Congressional members and requested support for LSC funding at $430 million for the coming fiscal year, which would bring an approximate additional $5 million to Texas.

In early May, the full House Appropriations Committee marked up the Commerce, Justice, Science and Related Agencies Subcommittee bill, which allocated $350 million for 2015 LSC funding. While this is a $15 million reduction from current $365 million levels, it is $50 million higher than the Subcommittee's 2014 allocation. Additionally, funding for the newly created Pro Bono Innovation Fund survived the
mark-up period and would provide a second year of funds for innovative legal aid programs focused on pro bono.

House Judiciary and Civil Jurisprudence Committee

The Commission was asked to provide testimony and a brief report on how the estate code and access to probate courts impacted low-income Texans, specifically regarding access to wills, and to propose solutions to problems, if any. Trish McAllister, Executive Director of the Commission, testified on April 28, 2014, on behalf of the Commission. Testimony was provided in three overriding areas: lack of access to wills, lack of pro se litigant access to probate court, and lack of access to guardianships and alternatives to guardianships. Solutions included the development of easy to use will forms, Muniment of Title forms, Small Estate Affidavit forms, and other forms as well as the creation of an interim session task force to review the estate code for potential solutions to current problems that could be addressed in the upcoming legislative session. An additional suggestion of creating a formal committee that would address long-term solutions to these access problems was offered, including the possibility of piloting potential solutions to monitor efficacy. See Exhibit B for the Commission’s full report.

Strategic Planning Committee

The Strategic Planning Committee is chaired by Judge Al Bennett. The Commission approved a five-year strategic plan at its January 2014 meeting. The plan was submitted to the Court and to the Executive Committee of the State Bar of Texas. The plan was not approved by the Executive Committee of the State Bar of Texas.

ENSURING ACCESS TO JUSTICE THROUGH FUND DEVELOPMENT AND AWARENESS

Awards Committee

The Awards Committee is chaired by Justice Gina Benavides and convened to discuss the winner of the James B. Sales Boots on the Ground award, as well as awards that will be presented over the summer.

James B. Sales Boots on the Ground Award

On May 13, Chief Justice Nathan Hecht presented Christine “Chris” Larson, Director of Guardianship of Estates at Family Eldercare, with the James B. Sales Boots on the Ground Award at the 2014 Champions of Justice Gala. Larson is an exemplary advocate who gives selflessly of her time to provide legal help to those who have no voice. She has spent the majority of her career helping disabled and elderly individuals secure their futures. She is passionate about representing clients, many of whom are incapacitated, and helps them navigate a complex legal system and
gets them the quality of service they need and deserve. It was clear by her touching comments at the Gala that the award meant the world to her.

Bar Leaders for Justice Committee

The Bar Leaders for Justice Committee, chaired by Carlos Cárdenas of Joseph Abraham Law Office, engages local bar leaders in local and statewide fund raising efforts and in developing access to justice initiatives in their communities.

The Committee is currently evaluating its role and how best to utilize committee member time and influence to promote access to justice. Members have recently been contacting bar leaders in their surrounding counties to gain more insight into local access to justice efforts and needs, and how the Committee can help them accomplish their goals or implement programs or projects.

The Committee continues to assist the Commission's Access to Justice Campaign by promoting the Campaign within their local bar associations, firms, and peers.

Communications

The Commission continues to communicate with the entire membership of the State Bar about various access to justice issues and initiatives through the Update, our electronic newsletter, which is sent out on a quarterly basis. The Commission Facebook page is another great resource for quickly pushing out the latest news and highlighting members of the Champion of Justice Society on an ongoing basis. We are in the final stages of introducing a newly designed website that will provide more content and resources to attorneys and the public on access to justice matters. We will also be launching a new donor database, Raiser's Edge, which will allow better tracking of donor information, reporting, and communication with donors. Finally, we are working with a marketing firm on a comprehensive marketing and communications plan to increase understanding of access to justice issues and financial support for the cause. See Exhibit C.

Development and Fund Raising Efforts

Access to Justice Contribution Campaign

The Access to Justice Campaign encourages all attorneys to make the suggested $150 voluntary contribution on the State Bar of Texas dues statement. It is divided into two phases: Phase 1 to capture donations for Texas lawyers participating in firm billing and Phase 2 for attorneys across the state who receive the paper dues statement. The Commission launched Phase 1 in March 2014 and Phase 2 on May 1. The campaign goals are to raise $1.2 million and increase attorney participation by 10%, or to 7,700 total donors. We are also making a concerted effort to secure contributions from prior donors this year as we did last year. As of May 20, 2014, the Campaign has raised $482,205 from 3,498 donors, representing
8.14 percent of total attorneys who have given. It is still very early to make many predictions but if this trend continues, we should reach our $1.2 million goal. See Exhibit D.

Champion of Justice Society. In 2013, we launched the Champion of Justice Society for those individuals who wish to show their strong support of access to justice and contribute more than the suggested $150. The aspirational goal was to fund the starting salary of at least one legal aid attorney (approximately $45,000) in its first year. With 291 inaugural members, we far exceeded our goal and raised over $100,000 with an additional $31,000 in deferred revenue from our Sustaining members.

As of May 13, 2014, there are 116 Champion of Justice Society members, representing a significant increase in membership at this same point in time last year. Because membership is on a rolling annual basis, membership has not yet come due for many members. Our goal is to secure renewal for each member. The Society has 10 Sustainer, 9 Gold, 23 Silver, and 74 Bronze members and has raised $39,250 this year with an additional $38,000 in deferred revenue. The Commission will host an Access to Justice Reception to honor the Champion of Justice Society members on Thursday, June 26, 2014, at 5:00 p.m. at the Hilton Austin Hotel during the State Bar of Texas annual meeting. See Exhibit E.

Champion of Justice Law Firm Competition. In 2014, a strong effort was once again made to secure high ranking firm partners who strongly encourage participation in the Champion of Justice Law Firm Competition within their firms. Firm captains were asked to reach out to their colleagues and encourage their participation in this year’s ATJ Contribution Campaign. We shortened the timeframe of the competition from three months to two weeks to sustain momentum and excitement. A shorter time frame also helps ensure that the firm captains feel more invested and are able to be fully engaged in the campaign due to a shorter time commitment. Liza Levine, our Director of Development and Communications, worked closely with the managing partner and firm coordinator at over 82 firms across the state. Additionally, she made two Access to Justice CLE presentations to the Kelly Hart firm in its Ft. Worth and Austin offices.

Champions of Justice Gala Benefiting Veterans

The Commission and its co-sponsors, the State Bar of Texas, hosted its fifth annual Champions of Justice Gala Benefiting Veterans on May 13, 2014, at the AT&T Executive Education and Conference Center in Austin. Keynote speaker Dr. Laura Marsh, Executive Director of the Mental Health Care Line at the Michael E. DeBakey Veterans Affairs Medical Center in Houston, spoke about the psychological and medical needs of veterans and how these often affect their need for civil legal services. The event raised $348,450, and the State Bar generously underwrote a significant portion of the event so that more proceeds will provide direct civil legal services to poor and low-income veterans. Co-chairs for the Gala included
prominent Texas attorneys who donated their time for the effort: Jack Balagia of ExxonMobil Corporation in Irving, Jerry Clements of Locke Lord LLP in Dallas, Joseph Jamail of Jamail & Kolius in Houston, Janet Kelly of ConocoPhillips in Houston, Judith Lindquist of H-E-B in San Antonio, and Wayne Watts, of AT&T, Inc. in Dallas. The Galas have raised more than $1,750,000 in the past five years for support of legal aid to Veterans. See Exhibit F.

ADMINISTRATIVE MATTERS

Board and Staff Changes

In January 2014, the Commission welcomed Liza Levine as our new Director of Development and Communications, having said farewell to Georgia Nolan in November 2013.

The Commission is thankful to Ike Vanden Eykel of Koons Fuller in Dallas and Clint Harbour, our Texas Young Lawyer Association liaison, for their valuable service as Commissioners during the past three years. We are delighted that Kay Caballero and Carlos Cárdenas have both agreed to serve a second three-year term. Mr. Cárdenas serves as chair of the Bar Leaders for Justice Committee.
Please join us January 8th for a training on the new Texas mandatory E-filing system presented by Brian McGrath of Tyler Technologies, Inc. The webinar is open to all on this listserv (not just TAJF grantees) on a first come, first serve basis so register soon!

Let me know if you have any questions.

Mandatory E-filing Training for TAJF Grantees

Join us for a Webinar on January 8

REGISTER NOW

Space is limited.
Reserve your Webinar seat now at:
https://www1.gotomeeting.com/register/638356049

This webinar will provide an overview of the new, mandatory e-filing system for the State of Texas, and will present unique program details for the Access to Justice community.

Title: Mandatory E-filing Training for TAJF Grantees
Date: Wednesday, January 8, 2014
Time: 1:00 PM - 2:00 PM CST

After registering you will receive a confirmation email containing information about joining the Webinar.

System Requirements
PC-based attendees
Required: Windows® 8, 7, Vista, XP or 2003 Server

Mac®-based attendees
Required: Mac OS® X 10.6 or newer

Mobile attendees
Required: iPhone®, iPad®, Android™ phone or Android tablet

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To donate visit www.TexasATJ.org  Like us on Facebook
A Report to the House Judiciary & Civil Jurisprudence Committee
From the Texas Access to Justice Commission
On the Primary Needs of the Poor in Probate and Estate Matters
April 28, 2014

INTRODUCTION

There are almost six million Texans who qualify for legal aid, yet legal aid and pro bono programs are only able to help about twenty percent of those with civil legal needs. Significant decreases in funding to legal aid programs from reduced Interest on Lawyer Trust Accounts ("IOLTA") revenue and federal funding levels, combined with one of the highest poverty rates in the nation, means that there will be fewer legal aid lawyers to help the growing numbers of poor who need assistance.

The Supreme Court of Texas established the Texas Access to Justice Commission ("Commission") in 2001 to serve as the statewide umbrella organization for all efforts to expand access to justice in civil legal matters for the poor. It is the role of the Commission to assess national and statewide trends on access to justice issues facing the poor, and to develop initiatives that increase access and reduce barriers to the justice system. The Commission is comprised of ten appointees of the Court, seven appointees of the State Bar of Texas, and three ex-officio public appointees.

There are three overriding issues that impact low-income Texans with probate and estate matters: access to wills, access to guardianships, and access to the courts for those who must represent themselves without a lawyer. This report will focus on the reasons that these issues are important to our communities and suggest some solutions to these problems.

ACCESS TO WILLS

Overview of Probate and Alternatives to Probate in Texas

Types of Wills

To execute a will in Texas, a person must be an adult of sound mind and sign the will in front of two witnesses who are at least 14 years old and who sign their names in the testator's presence.\(^2\) Texas also recognizes holographic, or handwritten, wills.

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\(^1\) Funds generated from IOLTA have decreased from $20 million in 2007 to estimated $4.0 million in 2014. Federal funds have declined from $12.56 per poor person in 1995 to $5.46 per poor person in 2014.

\(^2\) Estates Code Sec. 251.001. WHO MAY EXECUTE WILL Under the rules and limitations prescribed by law, a person of sound mind has the right and power to make a last will and testament if, at the time the will is made, the
holographic will must be entirely in the decedent's handwriting and must be legible. Unfortunately, while most people know that they can write their own will, they do not know to insert language that allows for the independent administration of the estate. They are similarly unaware that unless a bond is waived in the will, one will have to be posted. If there is no self-proving affidavit, two witnesses must testify that the handwriting belongs to the decedent.\textsuperscript{3} Clearly, a holographic will should only be executed in very limited circumstances when there is no other alternative. Nuncupative, or oral, wills were previously allowed in Texas to pass personal property valued at less than $500, but were excluded in the recent move of the probate code to the new estates code.

**Probating a Will in Texas**

Probate matters are handled in statutory probate courts or county courts at law. Statutory probate courts are limited to urban areas. There are eighteen statutory probate courts but they exist in only ten counties.\textsuperscript{4} There are five possible procedures to dispose of assets: an Administration of the Estate, a Muniment of Title, a Determination of Heirship, a Small Estate Affidavit, or an Affidavit of Heirship. In Texas, wills must be filed within four years after death unless good cause is shown. Additionally, property cannot be inherited until all debts are paid.

If a will exists and there are outstanding debts, there are two options: an Administration of the Estate or a Muniment of Title. An Administration of the Estate must be filed if the estate has any debt not secured by real property. A Muniment of Title can only be filed when the sole existing debt is secured by real property. No other debt, such as a car loan or credit card debt, is allowed. It is a disposition of property that is unique to Texas and provides a streamlined process for probating a will that is less costly than traditional probate because it does not require the appointment of an administrator or an executor. The will is simply filed for probate and once everything is found in order, the court issues a court order that can be used to transfer title to the person listed in the will. Importantly, it is also the only mechanism for probating a will more than four years after death of the decedent.\textsuperscript{5} The main drawbacks to a Muniment of Title are that it transfers a lesser title to the property, and because it is unique to Texas, it can cause problems when working with out-of-state financial institutions or attorneys.

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\textsuperscript{3} Estates Code Sec. 256.154. PROOF OF EXECUTION OF HOLOGRAPHIC WILL. (a) A will wholly in the handwriting of the testator that is not self-proved as provided by this title may be proved by two witnesses to the testator's handwriting. The evidence may be by: (1) sworn testimony or affidavit taken in open court; or (2) if the witnesses are nonresidents of the county or are residents who are unable to attend court, written or oral deposition taken in accordance with Section 51.203 or the Texas Rules of Civil Procedure. (b) A witness being deposed for purposes of proving the will as provided by Subsection (a)(2) may testify by referring to a certified copy of the will, without the judge requiring the original will to be removed from the court's file and shown to the witness.

\textsuperscript{4} Statutory probate courts are in ten counties, but Bexar, Dallas, El Paso, Harris, and Tarrant counties all have more than one statutory probate court, resulting in a total of eighteen courts.

\textsuperscript{5} If the will is not brought forth within four years and the person filing the will is not at fault for the delay, a court can recognize the will only through a Muniment of Title.
If a will does not exist, property must pass by Texas' laws of intestate succession. No easy way currently exists to address the issue in probate court, such as with the Muniment of Title. If all debts have been paid, assets can be disposed by filing a Determination of Heirship, an Affidavit of Heirship, or a Small Estates Affidavit. When a Determination of Heirship is filed, all known heirs must be located and an attorney ad item must be appointed to represent the interests of the unknown heirs. Title to the property vests as soon as the court signs the order. However, Affidavits of Heirship filed outside a Determination of Heirship must be on file at least five years before a title company will recognize them. If the property is valued at $50,000 or less, a Small Estate Affidavit can be filed, but an affidavit must be sworn to by each heir of the estate with legal capacity.

While intestate succession clearly delineates where title lies, it can be difficult and time consuming – and consequently expensive – to locate the heirs, especially when several generations have passed from the original owner. Once located, they must then agree on how to dispose of the property. The greater the number of heirs, the harder it is to reach an agreement.

**Alternatives to Probate**

There are several ways that a person can pass property without going through probate. Making use of these options, when appropriate, saves both time and money. For low-income people who cannot afford probate, these options can make the difference between the property being properly transferred or not transferred at all.

**Transfer on Death Accounts**

To transfer certain personal property, such as a bank account, the account owner can create a transfer on death account, which allows the account holder to name a beneficiary who can access the assets in the account after the account holder dies without the need for probate. Transfer on death accounts do not give the beneficiary access to the assets while the account holder is alive, which eliminates the possibility of the beneficiary taking advantage of the account holder by using or depleting the assets in the account. More importantly for low-income Texans, transfer on death accounts are not considered a transfer of property for the purposes of Long-Term Care Medicaid (LTC Medicaid) or Supplemental Security Income (SSI) benefits.⁶

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⁶ Transfers of assets can cause a person to be ineligible for Medicaid or SSI. A person must be very careful about making uncompensated transfers of assets ("gifts") within a 60-month period before applying for the Long-Term Care Medicaid Program or 36-months for SSI. This period is known as the "look back period." The purpose of the look back period is to determine whether an individual divested otherwise available assets to qualify for Medicaid or SSI. Generally, whenever an individual makes an uncompensated transfer of property, a time period of ineligibility ("penalty period") is generated.
Joint Tenancy with Right of Survivorship

Another way to transfer property is to create a joint tenancy with a right of survivorship, which gives access to the asset while the asset holder is still alive.

With personal property, such as a joint bank account, it can be useful in certain situations, such as help with paying bills, but exposes the account holder to the potential for financial abuse. Unfortunately, a family member is the most likely person to take assets from an account holder, which is why this option is not regularly recommended.

A homeowner can also create joint ownership with a right of survivorship in real property. Many low-income elderly people who do not have a will are given erroneous information that they should give their property to their family members prior to death or it will go to the state. However, because access to the asset is given to another person while the real estate owner is still alive, it is considered a transfer of assets under the Medicaid Estate Recovery Program (MERP) for LTC Medicaid and SSI purposes. If the transaction occurred within the look-back period (five years for LTC Medicaid or three years for SSI), they will be ineligible for those benefits for a penalty period that is determined by the value of the asset transferred and the value of the benefits that would have been received. If the transaction occurs while the property holder is already receiving benefits, the benefits will be terminated for an indefinite period of time for LTC Medicaid and up to three years for SSI. It is important to note that these consequences are not clear in the Estates Code, except for Class 7 claims (MERP claims).

Lady Bird Deed

An alternative means of conveying real property in Texas is through the Lady Bird Deed, which allows the owner to deed the property to another person while retaining a life estate. The Lady Bird Deed allows the life tenant to improve the property, encumber the property with a loan, and sell the property. Other states have a “transfer on death deed” which is similar to the Lady Bird Deed. The Lady Bird Deed is not viewed as a transfer of property since the life tenant retains control.

Poor Texans Do Not Have Wills

Most low-income people do not have a will.\(^7\) There is a general lack of understanding around the importance of having a will and the general public assumes that their family will divide their personal and real property according to their wishes.\(^8\) Even when the importance of having a will is understood, it is simply cost-prohibitive for the poor to hire an attorney to

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\(^7\) Only 10% of colonias owners have a will. Contract for Deed Prevalence Project: A Final Report to the Texas Department of Housing and Community Affairs (TDHCA), Ward, Way, Wood, August 2012, Chapter 6, page 4.

\(^8\) Some families make a formal arrangement to transfer title by deeding the house to child, but this is not the norm. Approximately 46% have informal arrangements for giving the home to a family member but are unaware that these will be trumped by intestacy laws. Id.
prepare one. Because the poor are the least likely to have a will, the consequences associated with not having a will have a disproportionate impact on low-income Texans.\(^9\)

**Problems Arise When No Will Exists or Will Not Probated**

When no will exists, real and personal property cannot be properly transferred according to the decedent’s wishes. While the property may be informally given to the person that the decedent wanted to have the property, title cannot properly pass. Without title, that person cannot sell the property, encumber the property, use it as collateral on a loan, or qualify for property tax exemptions for which they would be otherwise eligible, such as the disability exemption or the over-65 exemption. Issues of co-ownership can also arise as well as issues of clouded title.

When a will is not timely probated, it is as if no will exists, and property must pass by intestate succession to heirs as tenants in common. When property passes by intestate succession, all known heirs must be located. When there are multiple generations or large families involved, the location of heirs can be extremely challenging. An attorney ad litem must also be appointed to represent the interests of the unknown heirs, which is an additional expense and serves as another barrier to probate for low-income families.

When property passes by intestate succession, the home is usually sold unless the heirs can be found and they agree to give ownership to a family member(s). When the property is sold, the low-income Texan previously living in the house is often left without a place to live. It is not uncommon that these individuals are elderly or disabled. If family members do not take them in, they wind up in shelters, living on the street, or in assisted living facilities or nursing homes. The situation is made more tragic due to the fact that the amount received by each heir from the sale of the home is often negligible. This is especially true for low-income homeowners, since the value of their homes tend to be low and the cost of probate, paid for by the proceeds of the sale, can be high. Some properties are not worth selling because the cost of probate is higher than the property value, leading to property abandonment and blight.\(^{10}\)

**Frequent Probate Issues Faced by Poor Texans**

As previously mentioned, the poor are the least likely to have a will and the most likely to have title issues arising from improper transfer of title or the complete lack of transfer of title.\(^{11}\) Even when a will exists, the poor often do not timely probate it.\(^{12}\) Many do not know that they must probate the will within four years.\(^{13}\) For others, the expense of hiring an attorney to probate the will is simply cost-prohibitive. Normally, people who cannot afford an

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\(^9\) Similar problems have been seen in older African-American communicates in the state and country where property titles have passed across multiple generations via intestacy, leading to serious problems with the delivery of disaster recovery and other government rebuilding assistance, barring families’ ability to sell their property, and a host of other issues.\(^{1}\)

\(^{10}\) Id., page x.

\(^{11}\) Id., Chapter 5.

\(^{12}\) Id.

\(^{13}\) Id.
attorney have the option of trying to represent themselves in court. However, in probate
court, people are not allowed to proceed without an attorney except in very limited
circumstances.\textsuperscript{14} The situation is exacerbated because some judges do not consider the
inability to pay an attorney as good cause for failing to timely probate a will and will not allow
the will to be probated as a Muniment of Title, even when all other criteria are met.

To complicate matters further, disabled heirs or heirs with medical needs can be terminated
from receiving needed LTC Medicaid or SSI benefits if they inherit from a will that was not
probated or if the will did not include a special needs trust.\textsuperscript{15} This makes probating the will
critical, yet impossible for many poor Texans due to the expense.

Other issues arise when an adult or minor heir lacks capacity and may require a guardian to
manage or dispose of the estate, or seek exemptions based upon disability. Guardianships
of the estate are not financially feasible for the poor because of bond requirements, which
are double the value of the estate.

The family home is often the only asset that a low-income family has. Many times, the home
is fully paid, having passed down from generation to generation. Legal aid typically sees
these families when they have gotten behind on property taxes and the county moves to
foreclose. Generally, low-income people will not qualify for a loan to pay the debt. The
home cannot be used as collateral because they do not have title to show that they own it.
The situation is more heartbreaking when the home is occupied by an elderly or disabled
person who would qualify for a property tax exemption if title had been properly passed and
would not be obligated to pay the property taxes owed.

\textbf{Common Stories of Poor Texans}

\textit{Terminally Ill Elderly Woman Loses Medical Benefits}

Maria was diagnosed with a terminal illness that required weekly treatment and qualified
her for SSI benefits. She owned her home and could not afford an attorney to draft a
will. She decided to gift the home to her daughter before she died to avoid any problems
with ownership after she was gone on the agreement that she could live there until she
passed. She did not know that SSI would consider the gift a transfer of property for
eligibility purposes and that she would lose her much needed medical benefits.
Unfortunately, that is exactly what happened and she was no longer able to obtain the
treatment she needed. If Maria had access to a will, there would have been no risk of an
inadvertent transfer of property during her lifetime. Additionally, if Maria had knowledge
of, and access to, a Lady Bird Deed, she would have been able to accomplish the same
goals of ensuring that her daughter got the property without the expense of going
through probate and that she would be able to live in her home until she died.

\textsuperscript{14} Id.
\textsuperscript{15} See note 7, supra.
Disabled Man At Risk of Losing Family Home Over $2000 Property Tax Debt

Don grew up in the family home that his grandmother bought fifty years earlier. When his grandmother died, his mother and his siblings continued to live there. Eventually, Don’s siblings moved out but he continued to live in the home with his mother. When she died, Don’s siblings agreed that it was best for him to remain in the home. Don had physical and mild mental disabilities but was able to live independently and the house was fully paid. Unfortunately, Don got behind on his property taxes. When he talked to the county about the disability property tax exemption, he learned that he did not qualify for the exemption because he did not legally own the home like he thought. In fact, the home was owned by the multiple heirs of his grandmother. Don did not even know who some of them were. When he arrived at legal aid, the county had moved to foreclose on the home he had lived in his entire life because he owed $2,000 in property taxes. Fortunately, legal aid was able to track down the heirs and they all agreed to give their small share to Don so that he could remain in the home. However, the situation could have been completely avoided if his grandmother and his mother had executed wills that were subsequently probated.

Woman Loses Home; Heirs Get $500 Each

When Sarah’s mother died, Sarah found her will in a shoe box under her bed. Her mother had six children but had left the home to Sarah. Sarah had cared for her mother full-time when she was ill for the last several years of her life and this was her mother’s way of thanking her. Sarah could not afford an attorney, so she put the will back in the shoe box and moved into the home with her children. Six years later, her deceased brother’s son sued her for his share of the house. Sarah contacted legal aid for help. Since it was well past the four year time limit to probate a will, her only option was to see if the court would probate the will as a Muniment of Title. The judge refused and ordered the house sold. The home was located in a rural part of Texas and valued at $15,000. By the time the legal expenses were paid and the proceeds divided between the heirs, each person received $500. Sarah and her children moved into a shelter until more permanent housing could be found.

Recommendations to Improve Situation for Poor Texans

Several things can be done to improve the situation for poor Texans, including the development of Court-approved forms, reviewing the probate process for improvements, and increased education and awareness on common misconceptions about the probate process.

Court-Approved Forms

The most critical need is the development of plain language forms that can be easily used by low-income people, which are approved by the Supreme Court of Texas. It is a best practice for the forms to have inner lineated instructions and a glossary of terms, and be available in Spanish and other common languages. Forms needed to address
the lack of access to wills include basic will forms for married and single individuals with and without children, Small Estate Affidavit form, and Muniment of Title forms. It would also be helpful to make the current statutory forms plain language and to include a glossary and instructions for use. Additional forms would be beneficial, such as a declaration of guardianship in advance and a Lady Bird Deed form.

The Commission and the Real Estate Probate and Trust Law Section of the State Bar of Texas (REPTL) have been collaborating on the development of forms for use by poor Texans. The Commission and REPTL are in the process of forming a joint committee to make forms that have been developed by REPTL into plain language forms with instructions and a glossary that will be easy to use. Once this process is complete, the forms will be jointly submitted to the Supreme Court of Texas for approval.

*Improvements to Probate Process*

It would be helpful to create a committee to study the impact of the probate code and system on low-income Texans and make recommendations as to needed change. It would be useful for an informal task force to look at these issues during the interim session so that some may be able to be addressed in the upcoming legislative session. While by no means a comprehensive list, it would be helpful to:

- Clarify the consequences of using certain vehicles to transfer property on LTC Medicaid or SSI in the Estates Code;
- Investigate ways of making probate more affordable for low-income people, especially when the estate is very small and the cost of probate exceeds the value of the estate, possibly by creating a process by which very small estates could pass outside of probate;
- Review the current tools available to low-income people to see if they could be improved to make them easier to use and access;
- Examine the possibility of uniformly defining the inability to afford an attorney as good cause for failing to timely probate a will when proceeding under a Muniment of Title;
- Examine the possibility of easing the standard regarding the existence of debt when probating a will as a Muniment of Title; and
- Examine the need for a pilot study to test effectiveness of newly developed tools or code changes.
- Examine the need for a comprehensive study of how the probate code impacts the poor and the most significant barriers encountered by low-income people in addressing their probate and estate needs.

*Increase Education and Awareness*

There is a great need to educate the general public and increase awareness on a variety of issues, including:
• What happens when no will exists and the laws of intestate succession. The general public still assumes that everything will go to their family members, who will then decide how to divide it. They are not aware of, and do not understand, Texas laws of intestate succession.
• The importance of timely probating a will and when the laws of intestate succession apply.
• The unintended consequences of transferring property. Many attorneys are also not aware of these consequences.
• The existing vehicles that convey real property in a manner that protects the property owner and prevents unintended consequences for LTC Medicaid and SSI benefits.

ACCESS TO GUARDIANSHIPS

Overview of Guardianships in Texas

In Texas, guardianships can be expensive and burdensome. Attorneys charge approximately $2,000 or more to handle an uncontested guardianship, not including the filing, service, and attorney ad litem fees. Although a low-income applicant can qualify for an affidavit of inability to pay costs, the litigant's ability to pay an attorney can give rise to a contest of the affidavit. Additionally, while the attorney ad litem fees are supposed to be paid for by the county if the ward is indigent, an attorney is generally needed to make that argument in court. Statutory probate court jurisdictions typically require corporate surety bonds, which must be renewed every year, even when SSI is the ward's only income and factors would justify a cash or personal bond.

Once a guardianship has been finalized, annual reports are required to renew it. The guardian does not receive any reminder from the court to renew the guardianship and may not understand the renewal requirement. It is not uncommon for guardians whose letters of guardianship expired years earlier to suddenly be cited by the court to appear and show cause with a requirement of producing several years worth of annual reports.

Guardianships remove the civil rights of an individual who is, by definition, vulnerable. Legal aid providers have articulated a concern that there are not enough protections for the proposed ward in non-statutory probate court jurisdictions. The Commission has received reports that ad litem do not perform the recommended due diligence and do not evaluate less restrictive alternatives. A full guardianship is simpler and less expensive than seeking a tailored or limited guardianship, which provides no incentive for an applicant for guardianship to do so even though the law requires these options.

A guardianship over a minor child may circumvent the due process notice requirements to parents in a Suit Affecting the Parent Child Relationship in family court. With pressure on nonparent caregivers of minor children to obtain a custody order, usually from schools, guardianship can be the easiest route. Parents must be notified only if their whereabouts are known and there are no parental presumption or standing requirements in a guardianship. However, the situation becomes problematic if a parent later wants to assert their rights as natural guardian because the Estates Code does not authorize removal or
termination of a guardianship because a parent is now fit or available to take care of his or her child.

Common Guardianship Situations

A typical guardianship applicant is a single parent whose disabled child requires full-time care. The only income for the family may be the child’s SSI check, which is capped at $721, and sometimes child support. When the child becomes an adult, a guardianship is required for the parent to continue making decisions for their child, such as medical and educational decisions. There is simply no money available to pay the costs associated with a guardianship. Money to pay attorneys, filing fees, and bond requirements is money that deprives the family of necessaries.

Additionally, acting as a guardian can make a parent ineligible to serve as a home health care provider in certain types of Medicaid waiver programs. For a parent-caregiver, this is often the only income available outside of the disabled adult’s SSI check.

Another common occurrence seen by legal aid providers is unnecessary guardianships of the estate. Under case law, SSI income does not constitute an estate for guardianship purposes. Unfortunately, legal aid routinely sees guardianships of the estate where SSI income is the only estate. Guardianships of the estate have more onerous reporting requirements and an attorney is required to prepare the annual report, an expense that low-income families cannot afford.

Recommendations to Improve Situation for Poor Texans

The Office of Court Administration (OCA) is working on two fronts to address guardianship issues. OCA and the American Bar Association WINGS Initiative (Working Interdisciplinary Network of Guardianship Stakeholders) have partnered together to make suggestions regarding guardianships and alternatives to guardianships. OCA is also working with the Elder Committee of the Court's Judicial Council on addressing guardianship issues in probate court. Both groups will be making recommendations on what can be done to improve guardianships and alternatives to guardianships in Texas. The Commission is confident that these groups are aware of the issues that have arisen in Texas and will adequately address them. Our recommendation is simply to act on the suggestions arising from these two groups.

PRO SE LITIGANT ACCESS TO PROBATE COURT

Pro Se Litigants Have Very Limited Access to Probate Court

While there is no constitutional right for a party in a civil lawsuit to appear pro se, Texas Rule of Civil Procedure 7 allows any party to represent themselves in court without an attorney.\(^{10}\)

\(^{10}\) Unlike in criminal matters, there is no constitutional right to represent yourself in court without an attorney in civil matters in either the US or Texas Constitutions. “Any party to a suit may appear and prosecute or defend his rights therein, either in person or by an attorney of the court.” Tex. R. Civ. Pro. 7.
However, this is generally not the case in Texas probate courts. Unlike other areas of law, a person may not represent themselves in probate court except in very limited circumstances. This occurrence is largely a result of interpretation of case law stemming from Steele v McDonald in 2006 and In re Guetersloh in 2010.\(^{17}\) An attorney is required when a person is applying for letters testamentary, letters of administration, determinations of heirship, and guardianship of the person or the estate. While someone may serve as an executor, administrator, or guardian, they must be represented by an attorney in the underlying case.

There are two main exceptions. A person may proceed pro se when probating a will as a Muniment of Title if he or she is the sole beneficiary under the will and there are no debts against the estate other than those secured by real estate. The other exception is in the limited circumstances of when a small estate affidavit is appropriate for use.

This restricted access to probate court prevents low-income litigants from resolving their legal matters. Wills cannot be probated. Guardianships cannot be obtained.

**More Poor, Fewer Lawyers to Help**

With almost six million Texans qualifying legal aid and the legal aid and pro bono resources to help about twenty percent of eligible people with civil legal needs, there are not enough lawyers to help the growing numbers of poor who need assistance.

This means that more and more people are in the unfortunate position of needing to represent themselves in court. Data from OCA shows that over 20% of civil case filings are filed by pro se litigants. While over 20% of all family law filings are filed by pro se litigants, and over 45% of divorce filings is suspected, only 2.4% of filings in probate court are by pro se litigants.

**Majority Pro Se Are Poor**

Although OCA does not track the income levels of pro se filers in district and county courts, we do have information on user income levels of TexasLawHelp, the largest online self-help source for free legal information and free forms in Texas.\(^{18}\) User income levels are extremely low. When viewing income levels with household size, approximately 81% of users qualify for food stamps.\(^{19}\) Even excluding household size, users are clearly poor, with 24% earning less than $9,570 annually and 62% earning less than $29,000 annually.\(^{20}\) Because all information and forms on the website are available at no cost, there is no incentive for users to lie about their income or household size.

\(^{17}\) Steele v McDonald, 202 S.W. 3d 926 (Tex. App.-Waco, 2006) and In re: Guetersloh, 326 S.W. 3d 737 (Tex. App. – Amarillo, 2010).

\(^{18}\) In 2011, the site had 596,555 visits, averaging 1,634 visits per day. Interview with Colton Lawrence, Website and Special Projects Coordinator, Texas Legal Services Center, January 6, 2012.


\(^{20}\) Id.
Increased Pro Bono Will Not Meet Need

Legal aid and pro bono programs closed over 100,000 cases last year. There are over 90,000 attorneys licensed by the State Bar of Texas. Even if every lawyer were required to represent at least one pro bono client, we would still only be able to serve less than 40% of the poor who seek help from legal aid. A major additional barrier is that we do not currently have the infrastructure in place to coordinate urban pro bono lawyers with rural clients.

Greater Access to Probate Courts for Pro Se Litigants in Other States

Pro se litigants are allowed greater access to probate courts in other states. Many states have adopted the Uniform Probate Code, which outlines the procedure for informal administration of estates. For example, in Wisconsin, informal administration is the most common form of probate. It does not require the assistance of an attorney and may be used if the will does not prohibit its use and there are $50,000 or more of assets. All parties must agree to use informal administration and any party can petition for formal administration, which does require the assistance of an attorney. Informal administration proceedings are administered by a probate registrar instead of a judge. For estates with less than $50,000 in assets, parties in Wisconsin can proceed pro se using Summary Settlements, Summary Assignments, or Transfers of Property without Estate Administration.

There may also be situations that are low risk or are of little monetary value that could be addressed on a pro se basis. For example, it may be possible to establish inheritance rights to bank accounts where no transfer on death beneficiary is on file. Most banks will not accept an affidavit of heirship but instead require a court order, such as a small estate affidavit or heirship determination. Bank account deposits for low-income families are rarely more than $1,000, such that the value of the estate would be eaten up by attorney fees.

Recommendations to Improve Situation for Poor Texans

The Commission recommends that the Legislature establish a committee to study how pro se litigants in other states access to probate courts, and to investigate ways to increase access to the probate courts in Texas, including evaluating ways to allow low-income pro se litigants with very small estates or lower risk situations to address them without a lawyer. The Commission believes it is feasible for this committee to be the same one that would study the impact of the probate code and system on low-income Texans and make recommendations as to needed change as mentioned in the Access to Wills section of this report. In other words, that the committee have a dual charge of investigating ways to increase pro se litigant access to probate court and investigating ways to improve the impact of the probate code and system on low-income Texans.

The Commission also recommends, to the extent needed, the implementation of pilot studies to test the efficacy of potential solutions to increase pro se litigant access to the probate courts. Pilot studies are helpful in situations where there are concerns that the means of increased access may have unintended consequences. Often, this is the point at which the potential solution is discarded rather than tested.
CONCLUSION

While many of the issues faced by low-income Texans regarding probate and estate matters require more study, there are some that could begin immediately, such as the development of forms. The Commission and REPTL will begin working collaboratively on making the forms already developed by REPTL into plain language and develop instruction and a glossary to accompany them. The Commission is delighted to offer assistance with any efforts that the Legislature believes will lead to greater access for low-income Texans to the probate system.
Wills can be crucial to the heirs of low-income families. Often the only substantial asset is a family home. With no will, clearing title to the family home may be financially impossible for the heirs. Paul’s story illustrates what can happen with no will.

Paul was brought to legal aid by his son because he was about to lose his home over $3,000 in unpaid property taxes. Paul was in a wheelchair and suffered from physical as well as mild intellectual disabilities but was still able to live independently. He was living in the family home that had been purchased and fully paid for by his maternal grandmother. Paul and his mother had lived in the home when he was growing up, and Paul had continued to live there independently after his mother died. Unfortunately, his grandmother and mother could not afford an attorney to help with end-of-life planning. Both died without a will, so there was no record of who should get the family home.

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Find out how legal aid helped Paul
Decades of Service: Texas Access to Justice Foundation Marks 30th Anniversary

By: Lamont Jefferson, TAJF 30th Anniversary Committee Chair

The Texas Access to Justice Foundation kicked off the celebration of its 30th anniversary on Jan. 23 by recognizing its history and by hosting a panel discussion on the past, present, and future of legal services in the state. Held at the LBJ Presidential Library, which is commemorating the 50th anniversary of LBJ’s War on Poverty, the event was co-hosted by the Legal Services Corporation, LBJ Library Future Forum, and the State Bar of Texas.

Read more...

The Commission+ series is on a brief hiatus so that we can share some exciting innovations in access to justice across the country. Enjoy! The Commission+ series will return in June.

A group of legal experts, legal aid organizations, law firms, and law schools have worked together to develop the interactive Justice Index. Visit the index to explore the data on access to justice and see how Texas compares to other states.

Rights advocates see access to justice gap in US

Legal Services Corporation budget requests go to Congress

Students help do-it-yourself litigants navigate the court system

New fellowship launched to build healthcare expertise among civil legal aid leaders

The commission will host its annual Champions of Justice Gala Benefiting Veterans Tuesday, May 13, 2014. The gala raises funds for legal aid providers that help veterans facing legal issues.

The event will feature guest speaker Dr. Laura Marsh, a gifted neuropsychiatrist and research scientist, who is chief of mental health care services at the Michael E. DeBakey VA in Houston. The DeBakey VA has one of the largest, most innovative, and most effective “wrap around” psychiatric programs in America. Dr. Marsh will share information on the psychosocial and psychiatric issues faced by veterans, many of whom are legal aid clients, as well as specific innovations the VA has made in helping veterans integrate back into civilian life from military service.

The evening will begin at 6 p.m. with a reception, followed by dinner and the program, at 7 p.m. For sponsorship and ticket information, please visit www.texasatj.org/gala or contact Catherine Galloway at cgalloway@texasbar.com.
Stay informed! Please go HERE to ensure that you will continue to receive all Texas Access to Justice Commission alerts, news and announcements.

Please go here to opt-out from receiving this mailing from the Texas Access to Justice Commission.
On behalf of the almost 6 million Texans who qualify for legal aid, we urge you to become a Champion of Justice by contributing to the Access to Justice Campaign. Providing access to justice to everyone is a fundamental principle on which our country was founded. You can ensure that our friends and neighbors in need get the legal assistance they deserve and the opportunity for a brighter future.

Instead of going to bed with a goodnight kiss, Veronica used to go to bed with bruises. With help from legal aid, she got a protective order and a divorce and now lives free from fear and abuse.

Cathryn's home was destroyed in the 2013 Halloween flood. Her insurance company refused to pay and she would need to move into an assisted living facility. With legal aid's help, Cathryn can rebuild her home and continue living independently.

Your $150 Access to Justice donation makes a tremendous difference to more than 100,000 of our fellow citizens across Texas. You help provide the critical support to Texas's most vulnerable residents. The elderly, veterans, victims of domestic abuse, at-risk families facing issues such as home foreclosure, or victims of natural disasters need our help! Your voluntary, tax-deductible donation supports legal services provided to the poor through local programs funded by the Texas Access to Justice Foundation and the Texas Bar Foundation.

Individuals wishing to show their strong support of access to justice may contribute at a higher level to become a member of the Champion of Justice Society. Individuals may contribute at the Sustaining ($1,000 per year for five years), Gold ($1,000+), Silver ($500-$999), and Bronze ($250-$499) levels. Society members receive special event invitations and recognition throughout the year; click here for more details on the benefits.

Thank you for supporting Veronica and Cathryn and all of the legal aid clients in Texas!
SUSTAINER
$1,000 per year for 5 years
Carlos Eduardo Cárdenas
Peggy Montgomery
Jackie Pontello
Harry M. Reasoner
Scott Rozzell
Stuart R. Schwartz
William L. Wallander
Hon. Michael J. Wilson
Carlos Zaffirini, Jr.

GOLD
$1,000 and above
Paul E. Anderson, Jr.
R.H. Anderson
Hon. Jane Bland
Samuel L. Boyd
Hon. Jeffrey Brown
Kevin Clark
Joe F. Crabb
James Albert Donohoe
Sara Dysart
Jeffrey Edwards
Kara Elizabeth Gehan
Douglas Glass
Hon. Nathan Hecht
Russell D. Hunt, Sr.
Martha Kollmorgen
Dohn Larson
E. Pierce Marshall, Jr.
Patricia E. McAllister
Harriet Miers
Barrett Hall Moursund
Ellen Smith Pryor
Daniel Antonio Sanchez
Kevin Terrazas
Ben Vaughan, III
Patricia J. Villareal

(Silver cont.)
David Davenport
William Gary Fowler
Geoffrey M. Gay
Beverly B. Godbey
Damian Gomez
Jose R. Guerrero
George L. Hands, Jr.
Mary Lorene Henrich
George B. Hernández, Jr.
Brenda Neel Hight
C.M. Hudspeth
Michelle Hunter
Lamont A. Jefferson
Roland K. Johnson
Jamie A. Joiner
Michael L. Jones
Charles M. Jordan
Kenneth Alan Keeling
Tressa Kelly
Susan Kennedy
John A. Koepeke
J.K. Leonard
Carla Machnik
David George Matthews
Retta A. Miller
Stephen S. Mosher
Karen Neeley
John Nitschke
David Noel, Jr.
James Thomas Oltzinger
Hon. Priscilla Owen
James Irvine Perkins, IV
Michel L. Phifer
Daniel V. Pozza
Jeanne Frazier Price
Randall Reed
Ernest W. Rothfelder
Charles J. Ruhmann, IV
Susan B. Sanchez
Hon. Susan D. Sheppard
David M. Sloan
Matthew R. Stammel
Glenn H. Steele, Jr.
Kevin Terrazas
Marty Truss
Hugh Tucker
Deborah D. Williamson

BRONZE
$250 to $499
Jeffrey Akins
Robert A. Allen
James Devin Alsup
Michael J. Alvarez
Elizabeth Anne Apperley
Charles Lynde Badcock, IV
Norman Bailey, Jr.
Ryan Bates
J. Robert Beatty
Sharon Beausoleil
Sheel Bedi
Angela Bell
Anthony Benedetto
Richard Nathaniel Berberian
Marc Bernhisei
David J. Bertoch
George R. Bienfang
Russell Booth
Winfred G. Boriack
John F. Boyle, Jr.
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Hon. David Briones
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Keri Brown
Craig W. Budner
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William Camp
Jo B. Campbell
Patricia A. Campbell
Keith C. Carter
Michael Caywood
Janet Douvas Chafin
Cynthia Chapa
Joseph D. Cheavens
Michelle Mei-Hsue Cheng
Kevin Chistensen
Chalon Clark
Brenda L. Clayton
Hon. Murry B. Cohen
Susan G. Conway
Scott W. Cowan
Clayton Cox
Robin Cravey
Tom Alan Cunningham

(continues on back)
BRONZE (cont.)

Jill Czapla
Jessica Dart
Mario Davila
Julie Ann Davis
Joseph Delgado
William W. Dibrell
Allan K. DuBois
Jack R. Dugan
Richard Clement Dunn
Mary Dubin
Candice Dykhuzen
John Saul Edwards, Jr.
Michael Edwards, II
John R. Eldridge
Jeffrey R. Elkin
Christopher L. Elliot
Gary Ewell
Quinton Alan Farley
Buddy Ferguson
Michael John Filla
Mark Flanagan
John Floyd, III
Angela Lee Fontana
Julia Patterson Forrester
Thomas M. Fountain
Curtis R. Fraiser
Hon. Tom Fuller
Nell Fuquay
Alicia Garcia
Kathryn Gardner
Geoffrey M. Gay
Jayna Genti
Gary Gex
Jimmy Mark Gilbreth
Michael Louis Goldstone
Raed Gonzalez
Ryan Goodland
Polly Graham
Ann Grandich
Kathleen Hackett
Husein Hadi
Nancy Wells Hamilton
Clint Harbour
Jason Harmon
Alan Craig Haston
Julia Hayes
H. David Herndon
Sylvia Herrera
Hon. Laura C. Higley
Michael W. Hillard
Lisa Bowlin Hobbs
Johnmerica Hodge
Lonny S. Hoffman
Scott Hooker
John Horvath
Nancy R. Hudson
Thomas B. Hudson, Jr.
Carmen Irene Huerta-Perez
Jim Huggler
Victor Huhem
Keiko Ichiye
Leonel Iruke
Liane A. Janovsky
Janet Patricia Jardin
John W. Johnson
Hon. Philip Johnson
Barry Evan Jones
Lavon L. Jones
Randolph L. Jones, Jr.
Robert R. Kamm
Mary A. Keeney
Eileen Keiffer
Lowell A. Keig
Lawrence Kelly
James M. Kennedy
Ted M. Kerr
John P. Kincade
Caroline Rene Kirksey
Christopher Klement
Martha Lackritz
Tiffany Lam-Bentley
James Morris Lassiter, III
Kathleen M. Lavelle
George Lee, III
Andrew LeGrand, Sr.
Suzanne C. Leslie
Virginia C. Levensback
Rhonda Beth Lewis
John F. Luman, III
Nick Maram
James A. Markus
Eddie Martin
Marietta M. Maxfield
Bryan Lyn McClellan
Dudley McClellan
Kenneth McClure, Jr.
William Brendan McFadden
H. Jeanene McIntyre
John J. Mcketta, III
Curtis W. Meadows, Jr.
Nathan Mechler
Susan Brownlee Miller
Jacqueline Montejano
R. Harrell Moore
Lonny D. Morrison
Bruce Moseley
Francis S. Nathan
Nick Nichols
Tammi Niven
Jonathan A. Nixon
Georgia Nolan
Mary Elizabeth Oakes
Steve Okoroja, Jr.
Louis Andrew Oliver
Daniel Orfield
Lorrie Orton Heath
Robert Osburn
Clement H. Osinetha
Imogen Papadopoulos
Diane Parker
Sumit Pattanaik
Spencer C. Patterson
Ray Vernon Patton
James David Penny
Karen Petraborg
Bailey Augusta Pharr
Mark A. Pharris
Gregory A. Phillips
Frederick Plaeager, II
Ronald Polasek
Edwin C. Polsdorfer
Joe Richard Pool
Charles Joseph Quaid
James L. Reed, Jr.
Anne Collier Rice
WM P. Riddick
Aleeed J. Rivera
Robert M. Roach, Jr.
Jackie Robinson
James Rodman
Rebekah Rodriguez
Bruce J. Ruzinsky
Hon. Frank Barlow Rynd
James B. Sales
Brian Paul Sanford
Ladd Charles Sanger
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Robert Seale, III
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Michael J. Shelly
Melanie Singh
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David Van Os
Ryan Vassar
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Richard D. Yeomans
Evan Young
Tobi Young
Jessica Zavadil
Kenneth A. Zimmern

The support of donors like these is critical to improving access to civil legal aid for low-income Texans.

You too can join by visiting www.TexasATJ.org/CJ/Society to become a Champion of Justice or make a contribution of any amount to the ATJ Campaign.
THANK YOU for raising $348,450!

Because of you, the Texas Access to Justice Commission can provide more resources to legal aid so more Texas Veterans can get the legal help they need and deserve. Your generous support also helps us raise awareness of the importance of access to justice for all people, regardless of income.

Over $348,000 was raised this year and more than $1.75 million has been raised in the 5 years since the Gala’s inception.

A special thank you to the State Bar of Texas for underwriting a significant portion of this event and to our Host Committee co-chairs and major sponsors.

We could not have done this without you.
You are all true Champions of Justice!

To view the event photos, please visit: 
https://www.flickr.com/photos/texasatj/sets/72157644280594428/
APPENDIX A

Report to the Supreme Court of Texas
December 1, 2013 – May 31, 2014

Much has changed since the Supreme Court of Texas created the Texas Interest on Lawyers’ Trust Accounts (IOLTA) Program and the Texas Access to Justice Foundation (TAJF) in 1984. The interest rates that hovered around 12 to 15 percent to create the IOLTA funding stream have now fallen to zero to .25 percent; the poverty population we serve in Texas has more than doubled; and great strides have been made in securing additional funding for legal services.

However, the need for legal services for poor Americans has never been greater; nearly one in five Americans now qualifies for legal assistance. In Texas, approximately 5.8 million Texans qualify for legal aid services; the second highest number in the nation.

Federal Funding
In January, the President signed the FY 2014 Appropriations legislation that included $365 million for the Legal Services Corporation (LSC). This represented an increase of 6.1855 percent compared to the 2013 appropriation. In Texas, our three LSC-funded programs received $30.2 million. While the increase is welcome news, if funding had kept pace with inflation when compared to its 1995 appropriation of $400 million, LSC’s funding this year would be more than $600 million.

While appropriations negotiations for Fiscal Year 2015 will continue over the coming weeks and months, the LSC asked Congress for $486 million for FY15. At the time of this report, the House Subcommittee bill allocates $350 million for LSC, decreasing the funding $15 million from the current level.

Interest on Lawyers’ Trust Accounts (IOLTA)
IOLTA revenue available for grant awards has been declining dramatically since the interest rate cut in 2008. The Federal Reserve expects rates to remain at historic lows until at least 2015. The funding generated by IOLTA in 2013 was $4.2 million, which is a decline of more than 75 percent since 2007 when IOLTA generated more than $20 million. Due to the interest rate forecast and first quarter indications, TAJF anticipates IOLTA revenue for 2014 to remain near $4 million.

There are currently 60 Prime Partner Banks that pay one percent on IOLTA accounts, down from the 72 reported this time last year. TAJF is consistently making efforts to encourage participation at these banks, and the “I Bank on Justice” campaign recognizing lawyers and their banks has been well received. We have seen an increase in the number of new IOLTA accounts opened at Prime Partners Banks, including our largest number of new accounts in one month during February 2014. TAJF Board Member Jon Levy and Betty Balli Torres were interviewed for a statewide radio
program on the increasing number of attorneys banking at Prime Partners and the tremendous impact it has on increasing IOLTA revenue for civil legal services.

Crime Victim Civil Legal Services (CVCLS)
The Crime Victims Compensation Fund will have the same level of funding available for civil legal services as last grant cycle. This means TAJF expects to be able to award approximately $2.5 million to grantees for 2014-15 in funds to support civil legal services to victims of crime. TAJF received the final report of the Office of Attorney Generals’ 2013 audit review of the CVCLS contract with the Supreme Court of Texas and administered by TAJF. It was a clean review with no findings, questioned costs, or corrective action. The review included TAJF as well as three of TAJF’s CVCLS grantees: Boat People SOS, Lone Star Legal Aid, and St. Mary’s University School of Law-Center for Legal and Social Justice.

Construction Law Section Donation
In April the Foundation received another generous $40,000 donation from the Construction Law Section of the State Bar of Texas. Since 2007, this Section has contributed $245,000 to TAJF for basic civil legal services.

GRANTS
Due to continuing low interest rates and inadequate LSC funding, the Foundation Board decided to limit new applications for grants for 2014-15 to include only current grantees, with the exception of applicants for veteran’s legal services projects. The Foundation Board will make the grant decision awards and recommendations at the May meeting for the grant year beginning September 2014 through August 2015.

2013-2014 TAJF Grant Awards by Category

Data collected from current TAJF grantees for calendar year 2013 reports that TAJF-funded legal aid programs closed more than 108,946 cases impacting more than 247,219 low-income Texans throughout the state, benefiting spouses and children dealing with domestic violence, families facing wrongful eviction, workers cheated out of their wages, seniors in need of medical care, and veterans deserving of benefits.
Texas DACA Day
Last fall, nine TAJF grantees were awarded grants totaling $750,000, through a matching grant with national funders, to offer civil legal aid to eligible youth in Texas to apply for deferment. These grantees are coordinating the first Texas DACA (Deferred Action on Childhood Arrivals) Day on Saturday, August 16. Through coordination of community workshops, free legal clinics and other events, the statewide Texas DACA Day will raise awareness about the benefits of DACA for the community and the intended population with the hope to further reach the remaining DACA-eligible young people by providing educational and legal information throughout Texas. Univision Communications, Inc. has agreed to be a co-sponsor and assist in the dissemination of the public messages. GameStop Corporation has "adopted" the TAJF-funded DACA program, Catholic Charities of Dallas, and is promoting its DACA services in all of the GameStop stores in North Texas.

The DACA initiative, a federal policy directive implemented in 2012, grants eligible youth the ability to apply for work authorization and temporary relief from deportation. DACA youth can also obtain driver’s licenses in almost all states, and in some they pay in-state tuition rates in public colleges and universities. Estimates are that up to 1.9 million youth are potentially eligible for DACA. States like Texas, California, and New York are home to the largest numbers of potential DACA beneficiaries. An estimated 47,000 potential DACA-eligible beneficiaries in Texas have not yet applied.

Site Visits to Grantee Organizations
The TAJF staff, along with peer reviewers, conducts on-site reviews of grantee organizations throughout Texas. Thirteen grantee site visits and fiscal reviews were conducted by TAJF in 2013 and nine are scheduled for 2014. The objective of the site visit is to provide grant oversight in the following manner:

- Assess the grantee’s compliance with the grant requirements contained in the Texas Supreme Court Order and the IOLTA, BCLS, CVCLS and veteran’s grant agreements;
- Evaluate the quality and effectiveness of the grantee’s operations and services;
- Assess the accuracy of information provided in the grant application and quarterly reports; and
- Provide technical assistance and/or recommendations to ensure compliance and/or improve the grantee’s services and operations.

The purpose of monitoring is to ensure that grantees meet their programmatic and financial requirements by properly managing funds and following grant program requirements. Monitoring activities include on-site program reviews and financial and legal reviews.

In addition to direct TAJF oversight, grantees are also subject to an audit by independent examiners and conducting of a desk fiscal audit review. This audit review is designed to determine whether systems are in place and controls established. The purpose and scope of the desk fiscal audit review is to assess the accuracy of the information provided in the grant quarterly report submissions and the compliance with the respective grant provisions. The desk fiscal audit review also helps determine if the grantee is using funds as provided for in the grant agreement and budget narrative and are consistent with the grantee’s general ledger. These reports provide
reasonable assurances that the grantee is managing funds in compliance with laws and regulations.

Legal Aid for Low-Income Texas Veterans
The Foundation recently closed the application period for the 2014-15 grants that fund and support legal aid programs that provide civil legal services for low-income Texas veterans. TAJF received requests for funding from all of its current grantees (many requesting additional funding) and one new application. The funding for these grants is the proceeds from the Texas Access to Justice Commission’s Champions of Justice Gala for Veterans held on May 13, 2014, along with TAJF dollars.

For grant year 2013-2014, the Board awarded $426,713 in grants which included the Gala proceeds of $341,000; TAJF additional funding of $83,413; and a $2,000 donation from the Military Law Section. During the first six months of this grant cycle, the grantees have closed 2,636 cases; opened 2,481 new cases; and held 85 veteran clinics.

PROGRAMS & PROJECTS

Texas Student Loan Repayment Assistance Program (SLRAP)
For the 2014-15 year, TAJF has applications pending for 120 legal aid lawyers for the Student Loan Repayment Assistance Program (SLRAP) which offers assistance to recent law school graduates who work for Texas legal aid organizations. TAJF, with the generous support of the State Bar of Texas, will fund all qualifying applicants up to the maximum monthly loan amount of $400. The public interest lawyers who have applied have a total combined law school debt of $14,282,885 on an average per lawyer salary of approximately $48,100. The average monthly loan payment for these attorneys is $665.

The State Bar of Texas in 2011 included approximately $1.75 million in the State Bar budget, over five years, to support this worthwhile project that ensures lawyers will continue to be able to work at Texas legal aid programs.

Equal Justice Works (EJW) Fellowships
The Foundation is gratified to support four Equal Justice Works Fellows for the two-year term beginning August 2014 and to have played a strategic role in the selection of two others for work in TAJF-funded organizations. Each of these fellows will be taking an innovative and entrepreneurial approach to addressing critically needed legal services in partnership with their host organizations. The first four fellows are TAJF-funded in whole and part and the last two were top tier TAJF selections, but the Fellowship Committee strategically held off on their decision-making until funds from other sources could be maximized to support as many applicants as possible.
The 2014 Fellowship class includes:

- Gonzalo Serrano – (TAJF, Equal Justice Center) to bring wage recovery and employment justice legal services to low-wage immigrant working men and women in Dallas/Fort Worth, the largest urban area in the nation that lacks legal services of this kind.
- Olivia Mathis – (TAJF, Catholic Charities, Galveston-Houston) to provide holistic legal representation to victims of human trafficking in Houston and to create a framework through which nonprofits and pro bono attorneys can meet victims’ wide-ranging legal needs.
- Johnathan Silva – (TAJF, Anonymous, and Lone Star Legal Aid) to advocate and appeal on behalf of returning veterans who are being denied the full benefits that their service and/or level of service-related injury merit.
- Mani Nezami – (TAJF and Greenberg, Thurgood Marshall School of Law’s Earl Carl Institute) to address the issue of disproportionate minority contact through a holistic approach by providing legal representation to children who are in the criminal justice system, the mental health system, and foster care system.
- Megan Sheffield – (Private sponsor, Equal Justice Center) to extend new DACA legal assistance initiative to reach remote clients in Central, North, and Northwest Texas; to build forward-looking legal bridge for clients to access comprehensive immigration reform.
- Erin Gaines – (Private sponsors, Texas RioGrande Legal Aid) to promote access to safe housing in underserved, low-income neighborhoods along the Texas Gulf Coast by addressing health and safety hazards through litigation, administrative advocacy, and education.

**Parenting Order Legal Line (POLL)**

Since 2008, TAJF has collaborated with the Division of Family Strengthening Initiatives of the Office of the Attorney General (OAG) on services designed to assist parents to better understand the rights and responsibilities created by their parenting orders. The Parenting Order Legal Line provides a meaningful service to parents trying to make their shared parent arrangements work. This hotline project that began in 2010 uses family law attorneys at Texas Legal Services Center to provide brief services and counsel and advice to parents seeking to enforce their rights under their shared parenting orders and to help them arrive at negotiated agreements in an effort to avoid protracted, litigated disputes between co-parents in appropriate cases. Appropriate cases are referred to this project from the Access & Visitation Hotline that TAJF and the OAG support. During the first seven months of the 2013-14 grant year, 1,065 parents received assistance with 4,506 brief legal services. Additionally, 286 parents received services related to negotiated settlements.

**OUTREACH**

**30th Anniversary**

The Texas Access to Justice Foundation kicked off the celebration of its 30th anniversary on January 23 by recognizing its history and by hosting a panel discussion on the past, present, and future of legal services in the state. Held at the LBJ Presidential Library, which is commemorating the 50th anniversary of LBJ’s War on Poverty, the event was co-hosted by the Legal Services

During the anniversary kick-off event, TAIF honored William O. “Bill” Whitehurst with the prestigious Kleinman Award for his efforts to ensure the newly-created IOLTA program succeeded. The LSC recognized pro bono efforts of Texas lawyers, including our TAIF Chair Richard “Dick” Tate. Many other leaders who were critical to the formation and growth of the Texas Access to Justice Foundation are being spotlighted throughout the year on our website and Facebook page.

The Legal Services Corporation held its Board meeting in Austin on January 24 and 25. TAIF Executive Director Betty Balli Torres moderated a panel consisting of the three LSC-funded directors at its board meeting.

ABA Days
Texas Access to Justice Foundation leaders joined members of the Court, State Bar of Texas, and Texas Access to Justice Commission on the annual ABA Days event in Washington, D.C., in April. Foundation board members participating in this educational outreach included: TAIF Chair Richard “Dick” Tate, Roland Johnson, past board member Judge Lora Livingston, and Executive Director Betty Balli Torres.

White House Forum on Increasing Access to Justice and Policy Briefing
In conjunction with ABA Days, Betty Balli Torres and Judge Lora Livingston were invited to join the Legal Services Corporation and access to justice leaders from throughout the country for a White House Forum on Access to Justice on April 8. Administration officials participating in the event and expressing passionate commitment to access to justice included the White House Counsel, the Solicitor General of the United States, Assistant to the President, Chief of Staff to the First Lady, and the Associate Attorney General of the United States.

In March, Betty Balli Torres participated in a meeting with United States Citizenship and Immigration Services (USCIS) and other Administration officials for a Deferred Action for Childhood Arrivals (DACA) White House Briefing for Philanthropy with foundations from across the country.

Legal Needs Study
As part of our 30th anniversary year, the Foundation has commissioned The University of Texas-San Antonio to conduct a legal needs study to help better plan for our future needs. The random sample will be surveyed this summer, with results expected in the fall.

Staff
A 20-year employee of the Foundation, Janice Cappiello, will be retiring at the end of May. Janice handled the day-to-day interactions with the banks that participate in the IOLTA program and will be greatly missed. Additionally, the Foundation is searching for a senior financial accountant to fill the open position and is advertising for a new development position that will focus on working with other foundations to leverage funding opportunities for legal services.
APPENDIX B
STATE BAR OF TEXAS LEGAL ACCESS DIVISION
EFFORTS TO INCREASE ACCESS TO JUSTICE

Sustained Pro Bono Recruitment Campaign

Numerous legal aid communities asked the State Bar to assist them in creating a culture of pro bono for Texas lawyers. The Bar responded by creating a sustained statewide pro bono campaign, known as the Care Campaign.

Community Conversations on Pro Bono

The State Bar of Texas Legal Access Division is holding a series of “Community Conversations on Pro Bono” across the State. The conversations facilitate connections, assist local groups identify gaps for pro bono opportunities, and identify areas where the State Bar can help. The conversations have included interviews and conversations with over 40 legal aid and pro bono providers and numerous representatives from local bar associations, corporate counsel, the judiciary, and others. The roundtable dialogue provides organizations an opportunity to discuss the current pro bono community landscape and the possibility of partnering together to help encourage and support attorneys interested in doing pro bono work. See Attachment A.

The Legal Access Division has also formed a Statewide Pro Bono Work Group, chaired by former State Bar President Terry Tottenham, to assist with a major initiative to energize the community and develop a culture of pro bono in Texas. Spanning across Texas, the group of approximately twenty-five participants has champions of pro bono and access to justice from local bar associations, the State Bar of Texas, the Texas Young Lawyers Association, the American Bar Association, the private bar, and the judiciary.

Language Access Fund

The Language Access Fund has helped connect legal aid organizations and their pro bono volunteers with much-needed translation and interpretation services for clients with limited English-language proficiency. The Bar has contributed over $150,000 to the Fund. To date, more than 31 organizations have used the Language Access Fund to assist clients speaking over 35 different languages—including American Sign Language, Spanish, Bengali, French, Arabic, Mandarin, Farsi, Vietnamese, Somali, and many more. See Attachment B.
SBOT Care Commitment
The State Bar of Texas has launched the pro bono “Care Commitment” to help lawyers make pro bono an integral part of their legal practice. Lawyers who perform a certain amount of pro bono can now earn the Care Commitment badge, which will appear by their name on the popular “Find a Lawyer” page of the State Bar website. The Care Commitment is intended to encourage lawyers to perform a base level of pro bono and inspire them to strive towards the State Bar’s aspirational goal of performing at least 50 hours of legal services to the poor each year. In just over one month, over 50 attorneys have joined their colleagues to make the Care Commitment.

Sections Challenge
In October, the State Bar of Texas Legal Access Division issued a Pro Bono Challenge to the sections of the State Bar. The idea was to recognize the sections for their pro bono participation and add to the competitive spirit among them. The Challenge appears to be working. Since the challenge began, members have assigned approximately 22,000 pro bono hours to their respective sections. The challenge will run through May 31, 2014, and winners of the Pro Bono Challenge will be selected in two categories: (1) the highest number of hours reported by a section; and (2) the highest percentage of section members reporting pro bono hours. See Attachment C.

Poverty Law Conference
On April 23-25, the Legal Access Division hosted its annual Poverty Law Conference in Austin. The three-day conference provided close to 300 legal services attorneys and pro bono attorneys the opportunity to explore various topics affecting the practice of poverty law, including the intersection between legal aid and healthcare. Work groups and task forces in the areas of Family Law, Immigration Law, Public Benefits and Health Law, Housing and Consumer Law, Labor and Employment, and Veterans Issues met to give legal aid practitioners an opportunity for round table discussions and updates in the practice area. See Attachment D.

2014 Pro Bono Excellence Awards
The State Bar of Texas’ Pro Bono Excellence Awards will be presented in Austin at the State Bar’s Annual Meeting in June.

Frank J. Scurlock Award
This award honors an individual attorney, in good standing, who has provided outstanding pro bono work. The award is named for the late Frank J. Scurlock, the first chair of the Legal Services to the Poor in Civil Matters Committee. Scurlock
was known for his tireless efforts to provide legal services to the poor. This year, the award will recognize Pete Schenkkan of Graves, Dougherty, Hearon & Moody.
Mr. Schenkkan exemplifies the best of the legal profession. He has been a strong example of pro bono service and dedication in Austin for decades. In the early 1990s, Volunteer Legal Services (VLS) recognized its greatest need was finding legal help for people needing a divorce. VLS and legal aid were already helping women who were in an abusive situation; however, people who wanted an uncontested divorce were unable to find affordable help. VLS decided to ask law firms to take a certain number of family law cases per month in exchange for matching them with an experienced family law attorney and additionally encouraged them to participate in a Family Law Clinic. VLS made their pitch to Mr. Schenkkan, then a managing partner at Vinson & Elkins, and he became instrumental in recruiting firms to work with VLS. Mr. Schenkkan's pro bono work has also had significant impact on entire communities beyond Austin. In the case of Camacho v. Texas Workforce Commission, Mr. Schenkkan was the leader of a team at Graves, Dougherty, Hearon, and Moody. Mr. Schenkkan and his partners and associates represented the Texas Welfare Reform Organization and working moms of modest means to vindicate Congress' definition of "work" under Medicaid. By doing so, Mr. Schenkkan protected access to health care for thousands of working moms of modest means.

J. Chrys Dougherty Legal Services Award
This award recognizes an outstanding legal services staff attorney. The award is named for J. Chrys Dougherty, a private attorney and Bar leader, whose efforts helped to build a strong working partnership between the State Bar of Texas and legal services providers. The award includes a $1,500 stipend from the Texas Bar Foundation and a contribution from Graves Dougherty Hearon & Moody.

This year, the award will be given to Andrea Marsh, director of the Texas Fair Defense Project. Ms. Marsh has made enormous contributions to the legal profession and to the administration of justice in the State of Texas. She conceived, obtained funding for, and now heads a nonprofit law firm, the Texas Fair Defense Project, that has played a leading role in efforts to reform Texas's indigent defense system and improve the quality of representation provided to poor people accused of crime. Although Ms. Marsh's work focuses on improving access to justice in the criminal justice system, she does not represent clients in criminal trials. Instead, she represents indigent criminal defendants in civil rights litigation and advocates for systemic improvements to indigent defense practices in the Texas Legislature, before state agencies, and in local jurisdictions. She has achieved major victories for her clients in the highest courts in the state and nation, helped designed and build support for new indigent defense programs that have dramatically improved case outcomes for poor people in the criminal justice system, and continues to work
tirelessly to create a justice system that treats all litigants equally, regardless of their wealth.

Judge Merrill Hartman Pro Bono Judge Award
This award honors a judge, sitting or retired, who has provided exemplary pro bono service, including: outreach to attorneys to increase the quantity and quality of pro bono representation; modifications to court processes to increase access to justice; advocacy on behalf of access to justice; or service as a volunteer judge for pro bono clinics or other pro bono proceedings. The award is named after the late Judge Merrill Hartman of Dallas, a tireless advocate for low-income communities’ access to justice. The award will be presented to Chief Justice Kem Thompson Frost.

Appointed in early 1999 and elected three times since, Chief Justice Frost is the longest-serving member of the Fourteenth Court of Appeals. Chief Justice Frost is a tireless and enthusiastic leader who has dedicated many hours of her time to facilitating access to justice and encouraging private lawyers to provide pro bono service. For example, Chief Justice Frost led the Garland R. Walker Inn of Court’s presentation of a nearly two-hour multi-media reenactment of the trial and U.S. Supreme Court argument in Gideon v. Wainwright. Chief Justice Frost used the opportunity to personally ask those in attendance to consider the impact of a lawyer’s involvement and give of themselves in the civil pro bono realm. Chief Justice Frost also donated her time during National Pro Bono Week to help Houston Volunteer Lawyers recruit pro bono volunteers. Chief Justice Frost asked attorneys to lead the next generation of lawyers by showing them, rather than telling them, that pro bono service is a necessary and irreplaceable part of the legal profession. Chief Justice Frost’s work has also directly benefitted low-income litigants in Harris County courts who cannot afford to pay filing fees. For example, Chief Justice Frost, along with two other justices and the Executive Director of Houston Volunteer Lawyers, visited with senior leaders at the Harris County Attorney’s Office to brainstorm about ways to streamline and more effectively handle affidavits of inability to pay costs.

Pro Bono Award
This award honors a volunteer attorney organization that has made an outstanding contribution toward guaranteeing access to the legal system by the poor. Houston Volunteer Lawyers, a service of the Houston Bar Association, will be recognized for its significant contributions.

In 2013, Houston Volunteer Lawyers (HVL) provided in-person, one-on-one legal advice to over 4,000 applicants at no charge. 1,270 of their matters were referred to pro bono lawyers for long term representation—which represents a placement rate of 98 percent of accepted cases. Over 1,900 of the persons helped in 2013 were United States veterans or spouses of deceased veterans. In addition, HVL assisted
over 7,100 pro se litigants at the Harris County Family Courthouse. HVL's 1,778 volunteer attorneys logged 20,000 hours on pro bono cases; of those, 319 were new volunteers. HVL credits this uptick in pro bono participation—and its ability to place all but 22 cases on its waiting list in 2013—to some of its novel approaches to attorney recruitment. Among other things, HVL hosted its first ever “Service Raiser” where lawyers pledged to take pro bono cases in exchange for raffle tickets for big prizes. HVL also commemorated the 50th anniversary of Gideon v. Wainwright at its Movie Night. The “movie” was a live rendition of the Supreme Court argument, performed by members of the judiciary. Volunteer lawyers attending two in-depth seminars for free in exchange for taking cases resulted in the placement of over 65 family cases and 38 Chapter 7 bankruptcy matters. HVL continues to do a number of things to support and retain pro bono lawyers, including assigning a staff attorney to every pro bono case for mentoring, making legal resources available through the Online Volunteer Portal, and notifying volunteers of available cases, training opportunities, and events via its weekly newsletter, social media, and a completely revamped website.

Pro Bono Coordinator Award
The Pro Bono Coordinator Award is presented to an individual who has made an exceptional contribution to the delivery of and access to legal services for the poor, while serving as the pro bono coordinator for a volunteer attorney organization or group, local bar association, law firm, law school, corporate legal office, governmental law department, or legal services organization. Shauna Wright from Kelly, Hart & Hallman is the recipient of this year's award.

Ms. Wright is a partner at Kelly Hart & Hallman LLP and is the firm's Pro Bono Coordinator. Kelly Hart's first organized pro bono policy was implemented in March 2009, and Ms. Wright was the driving force behind accelerating the firm effort. She enlisted a firm pro bono committee and brought systemic organization to Kelly Hart's pro bono policies. In the past year, Kelly Hart hosted three in-house events to offer support, continuing education, mentors for pro bono matters, and opportunities for attorneys to accept pro bono cases. Additionally, Ms. Wright managed two pro bono events that included summer clerks, further establishing a culture of pro bono priority in the firm. Ms. Wright collaborates with the Tarrant County Bar Association and co-chairs Tarrant Volunteer Attorney Services (TVAS). Through her leadership at TVAS, Ms. Wright has coordinated a county-wide effort to encourage local Tarrant County attorneys to provide pro bono services. She is also working with the chair of TLTV to support the expansion of services that can be provided to veterans in North Texas. Through TVAS, Kelly Hart's Pro Bono Committee remains in constant contact with legal aid organizations and other community services programs to develop a referral system for care. Ms. Wright has established a culture both inside the firm and in the legal community of supporting pro bono efforts. In a short period
of time, she has created a means to access the legal system, made life-changing improvements in the provisions of legal services to the poor, and led the Fort Worth legal community in this effort. Her tireless work will have a long-lasting impact in the community.

W. Frank Newton Award
This award recognizes the pro bono efforts of attorney groups (e.g., law firm, corporate law department, government attorney office, law school faculty) whose members have made an outstanding contribution toward increasing access to legal services for the poor. The award is named for W. Frank Newton, former Dean of Texas Tech University School of Law and longtime pro bono advocate. Baylor University School of Law will receive the award this year.

Baylor Law School has reached out in a variety of ways to help the local community get much needed access to the legal system. From veterans' assistance and immigration clinics to assisting local lawyers who have taken on pro bono cases, the law school is striving to make a positive impact on the community. The student population has devoted nearly 3,000 hours to pro bono efforts since the school began recording their hours in 2010, resulting in approximately 95 clients receiving legal advice and approximately 280 people being represented in legal matters. As an education institution, Baylor Law has focused on developing a system to deliver legal services to the poor while educating its students. Beginning at their 1L orientation, students are introduced to the importance of pro bono work, and the opportunities offered by the school help instill within the students the desire to serve and volunteer. In the last year, a new position was created—Director of Student Relations and Pro Bono Programs—to increase access to opportunities for students and expand the resources available to the public. The law school has found that many local lawyers are hesitant to take on pro bono cases for fear that they turn into time consuming cases that jeopardize their practice. To combat this obstacle, the law school created a Litigation Team and Transaction Team—groups of students who are always ready to help a lawyer with a pro bono case by doing things like drafting memos and briefs or doing basic research. Baylor Law School recognized the significant need in the community and rose to meet the challenge by making major and meaningful strides to bring together students, faculty, and local attorneys to provide much needed pro bono legal services to deserving segments of the community.
## SUMMARY OF FACTORS THAT INFLUENCE/DISCOURAGE PRO BONO

### PRIMARY REASONS FOR TAKING A CASE

1. Personal satisfaction
2. Sense of professional responsibility
3. Knowledge/Awareness of legal needs
4. Faith-based commitment
5. Opportunity to enhance legal skills
6. Employer encouragement
7. Opportunity to gain exposure in community at-large
8. Employer policies
9. Directive from a court
10. Professional benefits such as contacts and referrals
11. County bar requirement
12. Free CLE or training
13. Encouragement from law firm clients
14. Awards or professional and judicial recognition

### OVERALL INFLUENTIAL FACTORS THAT DISCOURAGED PRO BONO SERVICES

1. Lack of time
2. Commitment to family obligations
3. Lack of skills or experience in the practice areas needed
4. Competing billable hour expectations and policies
5. Too costly, financially burdensome to my practice
6. Lack of malpractice insurance
7. Lack of administrative support or resources
8. Lack of information about opportunities
9. Discouragement from employer
10. Lack of desire/interest in pro bono

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### OTHER MOTIVATIONAL FACTORS THAT ENCOURAGE PARTICIPATION

1. Commitment to an organization and desire to support it
2. Commitment to professional responsibility and desire to provide meaningful service
3. Case has interesting and challenging issues
4. The time commitment is of limited and predictable duration
5. The issue is of demonstrable importance to the client
6. The opportunity to comply with the Voluntary Pro Bono Standard
7. Recognition by peers for efforts
8. Case might generate publicity for lawyer or law firm
9. Case is routine

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### SYSTEMIC FACTORS THAT ENCOURAGE PARTICIPATION IN PRO BONO

1. Availability of expert backup and support
2. Availability of funds to cover costs
3. Potential pro bono clients are consistently pre-screened
4. Access to sample forms and pleadings
5. The attorney’s firm credits to billable hours
6. Availability of training
7. Availability of malpractice coverage
8. Availability of wide range of pro bono opportunities
9. Opportunity to co-counsel
10. Activity does not involve creation of an attorney-client relationship
11. Pro bono cases are given favorable placement by judges

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**ABA Report on the Pro Bono Work of America’s Lawyers (March 2013), p. 30**

**Assessment of Pro Bono in Michigan (February 2013), p. 12**

**Assessment of Pro Bono in Michigan (February 2013), p. 14**
Language Access Fund usage as of April 30, 2014

Calls

- Spanish: 400
- Arabic
- Vietnamese
- Amharic
- Somali
- Nepali
- French
- Portuguese
- Mandarin
- Farsi
- Swahili
- Romanian
- Tamil
- Turkish
- Japanese
- Tagalog
- Russian
- Oromo
- Dinka
- Kurdish
- Urdu
- Burmese
- Thai
- Dari
- Kirundi
- Italian
- Cambodian
- Korean
- Tigrinya
- Bengali
- Hindi
- Karen
- Polish

Note: The chart shows the usage of the Language Access Fund as of April 30, 2014, with Spanish having the highest usage.
PRO BONO SECTIONS CHALLENGE 2013-2014

Section:
- Administrative and Public Law
- Alternative Dispute Resolution
- Animal Law
- Appellate Section
- Asian Pacific Interest Section
- Bankruptcy Law
- Business Law
- Construction Law
- Consumer and Commercial Law
- Corporate Counsel
- Criminal Justice
- Entertainment & Sports Law
- Family Law
- General Practice, Solo & Small Firm
- Government Law
- Health Law
- Hispanic Issues
- Immigration and Nationality Law
- Individual Rights & Responsibilities
- Insurance Law
- Intellectual Property Law
- International Law
- Justice of the Peace Courts
- Juvenile Law
- Labor & Employment Law
- Litigation - Regular
- Litigation - Sustaining
- Military and Veterans Law
- Native American Law Section
- Oil, Gas & Energy Resources
- Poverty Law
- Real Estate, Probate & Trust Law
- School Law
- Women and the Law

Total Hours:
- Administrative and Public Law: 209
- Alternative Dispute Resolution: 1251
- Animal Law: 125
- Appellate Section: 23
- Asian Pacific Interest Section: 871
- Bankruptcy Law: 311
- Business Law: 94
- Construction Law: 469
- Consumer and Commercial Law: 148
- Corporate Counsel: 233
- Criminal Justice: 1685
- Entertainment & Sports Law: 914
- Family Law: 914
- General Practice, Solo & Small Firm: 308
- Government Law: 230
- Health Law: 308
- Hispanic Issues: 252
- Immigration and Nationality Law: 125
- Individual Rights & Responsibilities: 504
- Insurance Law: 47
- Intellectual Property Law: 147
- International Law: 18
- Justice of the Peace Courts: 147
- Juvenile Law: 420
- Labor & Employment Law: 244
- Litigation - Regular: 118
- Litigation - Sustaining: 45
- Military and Veterans Law: 45
- Native American Law Section: 61
- Oil, Gas & Energy Resources: 438
- Poverty Law: 298
- Real Estate, Probate & Trust Law: 1620
- School Law: 5545
- Women and the Law: 1389
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| 11:30-12:45 | 1: Chances Are There Is An Aged Out Foster Youth On Your Caseload (.25 Ethics)  
S: Kristina Pfeiffer & Mary Christine Reed | 2: Disability Discrimination in Employment and Housing  
S: Lia Davis & Brian East | 3: Lawyering for Social Change (.5 Ethics)  
S:D’Ann Johnson &Daphne Pattison | 4: Preventing Homelessness at its Core  
S: Richard Troxell |
| 1:00-2:15 | 5: How to Effectively Represent Survivors of Family Violence  
S: Meghan Kempf, Sarah Loeffler, Julia Raney Rodriguez & Karmel Willis | 6: Automobile Issues: Repossessions, Deficiencies, and Title Problems  
S: Richard Tomlinson | 7: Abuse, Neglect, and Exploitation of Vulnerable Adults – Prevention and Remediation  
S:Norma Baker, Bruce Bower & Patty Ducayet | 8: Unemployment Benefits 101 and Beyond: Unemployment Benefits Appeals  
S: Polly Bone & Blair Craddock |
S: Kevin Dietz & Jeana Lungwitz | 10: Update on Attorney’s Fees  
S: Robert Doggett & Richard Tomlinson | 11: Pitfalls for New Managing Attorneys to Avoid  
S: Duana Boswell-Loechel, Allison Fussell & Tai Ho | 12: Top Ten Immigration Facts Every Attorney and Advocate Should Know  
S: Linda Brandmiller |
| 4:00    |                                                   |                                                   |                                                   |             |
| 5:30    |                                                   |                                                   |                                                   |             |

**THURSDAY, April 24**

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| 8:30 - 9:45 | 13: Virtual Visitation: Communication Outside the Box  
S: Janet Heppard & Barbara Stalder | 14:Possible Attacks on Payday and Title Loans  
S: Richard Tomlinson | 15: Don’t Make a Court Case Out of It: Alternatives to Probate and Guardianship  
S: Carlos Aguinaga & Julie Balovich | 16: The Family & Medical Leave Act  
S: David Guillory & Katy Youker |
| 10:00-11:15 | 17: Ethics Grab Bag (1.25 Ethics)  
S: Chuck Herring |                                                   | 18: In Forma Pauperis from JP to Federal Courts: Tricks to Filing for Free  
S: Amin Alehashem & Elliott Tucker | 19: Strategies for Recovering Unpaid Wages  
S: Philip Moss, Sarah Rich & Claire Rodriguez |
| 11:30-1:00 | 20: Snapshot of the Affordable Care Act in Texas (Lunch in Phoenix Central)  
S: Ann Dunkelberg |                                                   |                                                   |             |
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<th>Phoenix South</th>
<th>Austin Room</th>
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| 1:15 - 2:30 | 21: Clean Air & Clean Water  
S: Kelly Haragan & Amy Johnson | Phoenix Central | 22: State of Women’s Health in Texas  
S: Trelisha Brown, Jessica Cassidy, & Keegan Warren-Clem | 23: Immigration Options for Victims of Workplace Abuses  
S: Stacie Jonas & Jed Untereker |
| 2:45 - 4:00 | 24: Family and Consumer Cross-Over: Holistic Advocacy for the Long Term Stability of Domestic Violence Survivors (.5 Ethics)  
S: Angela Littwin, Krista Del Gallo & Carla Sanchez-Adams | Phoenix Central | 25: Fair Housing Law: Overview and Selected Topics  
S: Veronica Carbajal, Irene Garcia, Kelli Howard & Sandra Tamez | 26: How the Erosion of Reproductive Rights Can Affect Your Clients  
S: Heather Busby & Susan Hays |
| 4:15 - 5:30 | 28: Plain Language Automated Forms: Protective Orders  
S: Robert Doggett | 31: Deferred Action for Childhood Arrivals: Immigration Benefit for DREAMers  
S: Luis Arango Petrocchi & Jenna Carl |
| 5:30 | RECEPTION | | | |

**FRIDAY, April 25**

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| 8:30 - 9:45 | 32: Introducing Westlaw  
S: Anna Hascall | Phoenix Central | 33: New Theories in Debt Defense  
S: Richard Tomlinson | 34: Legal Consequences of Mental Health Crises (.5 Ethics)  
Peter McGraw & Jacques Ntonme |
| 10:00-11:15 | 36: E-Filing Unveiled  
S: Terry Derrick | Phoenix Central | 37: Kick ’em When They’re Down: Taxation of Cancelled Consumer Debt  
S: Mandi Matlock | 38: Medicaid: Terminations, Reductions and Denials  
S: Priscilla Noriega & Bernadette Segura |
| 11:30-12:45 | 40: Adobe Tricks for E-Filing  
S: Kelsey Snapp | Phoenix Central | 41: Damages in Civil Litigation  
S: Kathryn Newell, Meredith Shyles Parekh & Karla Vargas | 43: Managing Student Loan Debt and Focusing on What Matters  
S: Heather Jarvis & Lisa Melton |
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