

PRO BONO MATTERS

Paying It Forward in Pasco

By Francine J. Lipman*

Money matters. And to the increasing population of poor families in America it can and does change lives. In *Taxing the Poor: Doing Damage to the Truly Disadvantaged* (University of California Press 2011), Katherine S. Newman and Rourke L. O'Brien demonstrate the compelling and chilling impact of increasing average income for poor families in America. Their research demonstrates that as average income of poor families increases, age-adjusted average mortality decreases (disproportionately impacting the poor, but affecting the *entire* population). High school dropout rates, crime, and single parent households also decrease when average income increases. Simply put, when poor families have more money “negative outcomes diminish and positive ones increase” for everyone. And the positive outcomes increase exponentially, especially when financial resources are allocated to poor children.

Poverty is most devastating for America when it imprisons our youngest children. As a result, money matters most for families with children. Nobel Prize-winning economist James Heckman has estimated that economic investments in young children return \$8.70 to society for every dollar spent. Recent studies have found that a \$1,000 increase in annual household income increased children’s combined math and reading test scores in the short run by 6% of a standard deviation with the greatest improvement in the most disadvantaged households. Similar studies have found that children are more likely to stay in school and significantly less likely to commit crimes if their households have more money. Money that Harvard sociologist Kathryn Edin has tracked in her studies of tax refund recipients that is used to pay off credit card bills, overdue rent and utility charges, or to buy much needed cars, refrigerators or food. Money that saves lives by meaningfully reducing unhealthy household anxiety, stress, likelihood of eviction, and utility shut-offs as well as food insecurity.

Getting money into working poor households is critical for the future of all Americans. And we do much of this work through the income tax system, most effectively with tax credits including the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC). Low-income taxpayer clinics (LITCs) and pro bono tax lawyers are on the front lines throughout America, facilitating this process to maximize net tax refund dollars for these families.

Ana Cecilia Lopez, a 2012-2014 ABA Tax Public Service Fellow, and first generation immigrant, is doing this work and making a positive difference in the everyday lives of the people of Pasco, Washington. Through the University of Washington’s LITC and MicroEnterprise Assistance Program, Ms. Lopez is working with Pasco community members to break the pernicious cycle of poverty that imprisons more than 75% of Pasco residents. Because of her Fellowship, funded by the Section, Ana Cecilia is able to provide hands-on access to tax assistance that would otherwise not exist in Pasco. Money matters, and Ana Cecilia is paying it forward every day by ensuring that tax justice prevails in Pasco.

* William S. Boyd Professor of Law, University of Nevada, Las Vegas, William S. Boyd School of Law, Las Vegas, NV.

CONTENTS

Pro Bono Matters	1
Paying It Forward in Pasco	
From the Chair	3
Rudolph R. Ramelli	
From the Chair-Elect	4
Michael Hirschfeld	
Interview	5
Charles O. Rossotti	
Points to Remember	
(1) Advantage of 401(k) Even with No Capital Gains Tax and Same (or Sometimes Higher) Tax Rate at Retirement	10
(2) The U.K. Windfall Profits Tax Circuit Split: A Unanimous Resolution . . . by Waiver?	11
(3) Irrevocable Life Insurance Trusts: An Effective Estate Tax Reduction Technique (Part 1)	14
CLE Calendar	17
Law Student Tax Challenge Bench Briefs	20
2013 Distinguished Service Award	26
Christine A. Brunswick	
Boxscore	27
Book Review	28
A Practitioner’s Guide to Tax Evidence	
Tax Bites Serenade Continues	29

In Ana Cecilia's own words ...

NQ What made you first apply for the Fellowship?

ACL I recently spoke with a woman who said that someone from social services had referred her to come see me. However, she had never talked to an attorney before and was intimidated to do so. She thought that her issue was not important enough to warrant the attention of an attorney. She went on to tell me that she had been afraid to call me in advance. I was not surprised. As a first generation immigrant to this country, I could relate to the feelings she described and recognize that most immigrants, and especially Latinos in this country, have similar experiences. I went to law school to address these issues.

When I applied to the Fellowship my main objective was to address the issues of “invisibility” and “self-editing” in the Latino population. Invisibility, because Latinos have occupied positions behind closed doors—dishwashers, cooks, roofers, after hour cleaning crews, domestic workers, etc. These workers are kept out of sight from the public, making them invisible to the rest of the population. This invisibility exacerbates the problems with self-editing. What I mean is the behavior in which the person decides that she does not qualify for a program or service before even applying for it. I saw the Fellowship as a perfect opportunity to address these issues.

By providing services in Spanish, I thought that I could truly engage my clients and explain their rights and responsibilities. I saw the potential for empowering people who have been underrepresented and/or misrepresented. But most importantly, I saw the potential to trigger social change. By educating taxpayers and small business owners, I sought to highlight their position in society as active and engaged participants.

NQ Tell us about the area your clinic serves.

ACL My office is located in Pasco, Washington. Here, the clinic serves lower-income individuals and small business owners, mostly Latino immigrants from the surrounding counties. Pasco's population is 63% Latino and Yakima, the neighboring county, is a little over 50%. In addition, Pasco has one of the highest percentages of poverty in the state—76%. This area houses large agricultural employers and many independent contractors doing



Ana Cecilia Lopez

construction work. These occupations pay minimum wage salaries or by piece work and are limited by the season. Many Pasco agricultural workers migrate to neighboring states in pursuit of agricultural work; therefore, services may begin in Pasco, but will continue to be provided as workers migrate. Pasco is about 3.5 hours from the closest metropolitan area to access services. I have several clients who live an hour away from Pasco and they are very happy to receive services.

NQ How does your service area affect how your clinic operates?

ACL Because of the broad geographical area, I have partnered with several established agencies and private businesses to provide educational seminars. In addition, I am collaborating with

the local radio station providing information to a wider audience. Many of my clients are referred to me through word of mouth and Spanish speaking accountants, CPAs, and other attorneys. I also rely on local economic development agencies and participate in as many teaching opportunities as possible. In addition, I have been a guest speaker in the Pasco school system's parent education program. Through this program, I am able to address participating parents, in Spanish, about important tax and business related matters. I teach introductory classes covering a variety of topics, from rights and responsibilities to business deductions, credits, and choice of entity for businesses. Because of the vast region served, most of the services must be provided by phone, fax, and mail.

NQ Can you give examples of the types of tax issues you deal with in providing tax assistance to low income taxpayers?

ACL My services range widely. I have prepared innocent spouse petitions and assisted clients with a variety of issues including tax return examinations, offers in compromise, collections assistance, tax return amendments, failure to file tax returns, disallowance of dependents, CTCs and EITCs.

With small businesses I provide education and direct representation. I spend time with each client giving them information about business issues such as permissible and impermissible deductions, employment tax and self-employment tax distinctions and responsibilities, and the difference between federal and state taxation. In addition, I assist them with properly designing, forming, and managing their small businesses—requesting business licenses, Employer Identification Number requests, registering with Washington revenue agencies, developing accounting systems, mileage logs, and exploring payroll system options.

NQ What has been your most rewarding experience as a Fellow?

ACL Educational presentation attendees are very thankful to receive the information. They may be interested in starting a business, or may already have one, but they were not aware of the many things they need to take into account. At these presentations, there is a true sense of empowerment and lifting of the community as a whole. This program provides information to those who have felt isolated for a long time. As a client told me recently, he is eager to start a business and he was starving for direction and information. After the presentation he felt a sense of direction for his next steps and how to get started. I see the hunger for knowledge in students and clients and being able to help them empower themselves is truly rewarding.

I am currently working with a client who is being audited. His biggest problem is that he has been operating informally for the past three years. He has no records or documentation. We are helping him formalize his business and become compliant with state and

federal requirements. The client understands that he will have to pay fines and bring his payments current. However, this is the first time he has had access to business information in Spanish and is excited to take all the necessary steps to become a recognized and compliant Washington business. This process is very rewarding when I help clients shift their fears into the confidence needed to successfully run their businesses.

NQ What has been your biggest challenge in the position?

ACL The biggest challenge is changing people's perceptions about attorneys and the services we provide. Clients ignore issues until they become severe. At this point they have no choice but to seek help. Failure to act earlier costs money and opportunities. Too often people fail to access the right information or assistance in a timely manner. Because of lack of access and resources clients are forced to rely on non-attorneys to help them with legal documents that affect their rights and ultimately because they are not properly or timely prepared it has adverse consequences.

NQ Do you have any immediate plans after the Fellowship?

ACL In several counties in eastern Washington, the Latino population is now the majority. I plan to open a legal practice in Pasco, Washington, where I will continue to provide business and tax law services. Ideally I would like to secure funding to start a nonprofit organization and continue providing services to lower-income individuals, but expand services to include immigration law. I also recognize an emerging middle class among Latinos, and their need for services in Spanish; if I am unable to find funding for a nonprofit, I would like to assist paying clients with sliding fees, payment plans, and of course pro bono services. In addition, I will continue teaching business seminars and tax information for adults. I am in the process of coordinating with the local school district to teach business and tax law at the middle and high school level. ■

Since 2009, the Section has funded two Public Service fellows each year, including these amazing young lawyers (fellowship details are available at <http://www.americanbar.org/groups/taxation/awards/psfellowship.html>):

2009–2011

- Laura Newland** (AARP's Legal Counsel for the Elderly, Washington, DC; now the ABA Tax Section's Pro Bono Tax Counsel)
- Vijay Raghavan** (Prairie State Legal Services, Rockford, IL)

2010–2012

- Douglas Smith** (Community Action Program of Lancaster County, PA)
- Katie Tolliver Jones** (Legal Aid Society of Middle Tennessee and the Cumberlands, Nashville, TN)

2011–2013

- Sean Norton** (Pine Tree Legal Assistance, Inc., Portland, ME)
- Anna Tavis** (South Brooklyn Legal Services/Immigrant Workers' Tax Advocacy Project, New York, NY)

2012–2014

- Ana Cecilia Lopez** (University of Washington, Low-Income Taxpayer Clinic, Pasco, WA)
- Jane Zhao** (Center for Economic Progress, Chicago, IL)

2013–2015

- Susanna Birdsong** (National Women's Law Center, Washington, DC)
- Susanna Ratner** (SeniorLAW Center, Philadelphia, PA)