

PRO BONO MATTERS

At the Crossroads in America

By Francine J. Lipman*

James Dean, David Letterman, Raggedy Ann, and the gasoline pump were all born in Indiana. Recently, the state at the Crossroads of America has suffered poverty increases at a faster rate than in all but five other states. More than a million Hoosiers live in poverty and more than two million residents (including 45% of Indiana children) are officially “low income,” with household incomes that are less than 200% of the federal poverty level.

While jobs have been on the rise since the Great Recession, Indiana has the fifth-highest concentration of fast-food and janitorial workers in America. The Center for Economic and Policy Research notes that the majority of these workers are adults, of whom 85% have a minimum high school education—and more than a quarter are raising children. Not surprisingly, these families depend upon antipoverty relief delivered through the federal income tax system.

Fortunately, Patrick Thomas, a Tax Section Public Service Fellow at the Neighborhood Christian Legal Clinic, is in Indianapolis providing pro bono tax assistance.

In Patrick’s own words ...

NQ What made you first apply for the Fellowship?

PT I’ve always been interested in serving the low-income and immigrant communities in central and southern Indiana. In law school, I began working with the Neighborhood Christian Legal Clinic—my current sponsor—in the summer after my first year. I worked on a number of immigration law issues, including helping victims of violent crimes obtain a stable immigration status in the United States.

My interest in tax arose after I started volunteering with the Indiana University’s Volunteer Income Tax Assistance (VITA) program during law school. It was there that I saw first-hand the federal government’s attempts to address systemic poverty through the tax code. Through my three years in VITA, I began to understand the value of refundable credits, such as the Earned Income Tax Credit, to low-income families.

When I first heard of the fellowship, I knew that Neighborhood Christian had an excellent Low-Income Taxpayer Clinic (LITC). I had been interested in getting involved with an LITC throughout my time with VITA, and this was a perfect opportunity. My familiarity with the organization combined with my experience serving low-income taxpayers in Bloomington made applying for the fellowship a natural choice.

NQ Tell us about the area your clinic serves.

PT The LITC at the Neighborhood Christian Legal Clinic serves our low-income neighbors throughout Indiana. Thanks to the growing reach of our Clinic as a whole, we now have a physical presence in Fort Wayne, Richmond, Kokomo, Madison, Gary, and other cities in the state. In Indianapolis, we see a large number of clients from our immigrant communities—including those from Mexico and Central America, and also our burgeoning refugee community, which includes clients from Burma, the Democratic Republic of the Congo, Syria, Iraq, and others.

The LITC is only part of the legal services offered at the Neighborhood Christian Legal Clinic. We also help immigrant clients obtain various forms of immigration status in the United States, negotiate with mortgage lenders

to achieve affordable monthly payments, and assist our clients with myriad other legal issues, such as landlord/tenant disputes, bankruptcy, consumer debt, expungement, and family law, among others.

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

PT In my short time with the Clinic, I’ve been able to take on a number of tax controversy cases, which has allowed the Clinic to take on more tax controversies as a whole. Additionally, it’s freed up resources to implement systemic changes to our LITC that allow us to better serve our clients. For example, I’ve led our efforts to acquire and implement tax preparation and controversy software that reduces errors, keeps all of our attorneys on the same page, and further improves our case processing efficiency.

Further, my language abilities and cultural competencies have allowed me to better assist our English-as-a-Second-Language clients. Not only must they speak a foreign language in their everyday lives in the United States, they must, as a matter of law, negotiate complicated tax and other legal issues that are entirely unheard of in their home countries.

For example, the very concept of a tax return or a tax refund is completely unheard of in the Democratic Republic of the Congo. My clients, who were in a dispute with the Service, were asking me questions such as “Why are we supposed to get this money in the first place?” “Do we get this amount every year?” “Why do we have to file documents?”

Without getting too theoretical, I was able to explain the basic concept of tax

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



withholding versus the reconciliation process on the tax return, along with the Earned Income Credit and how it offsets any taxes they might otherwise owe. They had previously gone to a tax preparer who had not explained any of the above, made up phony income to increase their EITC, and caused this controversy in the first place. Armed with this information, I hope that these clients, along with the other new immigrant clients I speak with, are able to make wiser choices about their tax preparer in the future.

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

PT Most of our clients come to us with a letter stating that the Service intends to levy on their wages, Social Security, or other income. At this point, they've already received letters—often poorly worded and confusing, as a recently published TIGTA report pointed out—that advise them of the tax debt, or of an audit. But frequently, it's only at the point where the Service actually attempts to take the taxpayer's property that these letters have any effect on many taxpayers; often long gone is the taxpayer's opportunity to challenge the amount of the tax itself.

Thus, the greatest bulk of our efforts consists of collection matters, including

placing clients into Currently Not Collectible (CNC) status and preparing Offers in Compromise (OICs). When our clients do not have the ability to pay their taxes in full—or even make a monthly payment towards them—without severely hampering their ability to provide for themselves or their family, CNC status offers a reprieve from the Service threatening levies on wages or assets, along with the constant letters. Once a client is in CNC status, we'll then look closely at the case to determine whether to offer the Service an amount of money to settle the client's aggregate tax debts permanently. Sometimes the relief here can be substantial; for example, I recently successfully negotiated a \$1 offer for a client with a liability over \$110,000, accumulated over the course of 13 years.

I have also prepared past-due tax returns (these are required as a condition of the forms of relief listed above), requested innocent spouse relief, represented taxpayers in Service examinations, counseled *pro se* litigants in Tax Court, and negotiated settlements for some of them.

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

PT There are two parts of my practice that I enjoy the most: averting a crisis and educating a client for future success. As noted above, the vast majority of our clients come in because they are facing a crisis: their income or assets are about to be taken, often leaving them in dire financial straits. All of our clients are very grateful when we're able to negotiate a low payment plan or place their tax accounts into CNC status.

But this only stops the bleeding. My favorite part of the job is creating a plan for the client to resolve their tax liabilities and place them on the path to future tax compliance. Often this involves multiple steps, balancing various risks, and many meetings with the client, but the

increasing intricacy makes it all the more interesting for me—and rewarding when it works out for the client.

NQ What has been your biggest challenge in the position?

PT Even where I'm able to negotiate a successful settlement with the Service, the Indiana Department of Revenue is often much more aggressive in their enforcement of delinquent tax debts, and has very few avenues for relief—even for taxpayers who are already in economic hardship, without paying a monthly tax bill. Sometimes my successes are thus a pyrrhic victory. It is at once frustrating for me and causes extreme hardship for low-income Hoosier taxpayers.

NQ You have attended several Tax Section meetings. How have they helped you in your work?

PT These meetings have been extraordinarily helpful. Not only do I get the opportunity to network with the brightest minds in taxation, the various panels and forums allow me to learn about more effective ways to serve my clients. For example, at the May 2014 meeting, the Individual and Family Committee held a panel on recent developments in Innocent Spouse relief. I had just done an intake for such a case, and was able to immediately apply the panel's expertise to assist my client.

NQ Do you have any advice for lawyers or law students interested in public service or pro bono work?

PT Get your hands dirty, early and often. Seek out volunteer opportunities through your law school or your firm's pro bono coordinator. It's incredibly important for multiple reasons. First, if law students or young lawyers are interested in pro bono work or careers in public service, it's important to build your network with lawyers performing the work on a day-to-day basis. We will never turn down an opportunity for free help! Demonstrating

this interest is also likely to lead to future opportunities. Second, for those interested in pursuing public service as a profession, it's important to get a handle on the type of work you'd be doing in any given setting. Public service work varies greatly and it's critical to tease out what type of work you'd like to do—and especially what you *don't* want to do. Finally, it's a chance to build up your skill set in a particular area. While you don't need a full background in all facets of the work of a public interest lawyer, having experience in a few areas will be particularly helpful—both to getting the job and performing it.

NQ After the Fellowship, do you currently plan to stay at the Clinic? If not, will the position you have created exist after you leave?

PT I don't currently know what the future holds. I will certainly continue my relationship with the Neighborhood Christian Legal Clinic in whatever capacity I'm able that allows me to serve our neighbors in central Indiana. Whether that's in a volunteer capacity or in my current position will depend—like most decisions in the nonprofit world—on the availability of adequate funding. I'm definitely planning to continue working with tax controversies and look forward to exploring the wide range of opportunities that exist in this field. ■

Since 2009, the Section has funded two Christine A. Brunswick Public Service Fellows each year, including these amazing young lawyers. Details about the Fellowship 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)
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)

2014-2016

Patrick Thomas (Neighborhood Christian Legal Clinic, Indianapolis, IN)
Lany Villalobos (Philadelphia Legal Assistance, Philadelphia, PA)

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should debate if they so choose. But they should exercise their legislative prerogatives in a responsible manner that does not unfairly punish the dedicated employees of the Service or the taxpayers they serve. As representatives and advisors to taxpayers around the country, members of the Tax Section will see the consequences first-hand when our clients cannot get answers to their

questions, or face even longer wait times to receive refunds, resolve tax audits, or otherwise conclude their interactions with the Service.

Members of the Tax Section can weigh in to support our friends and colleagues at the Service. Please consider writing or calling your representatives in Congress to ask them to restore the funding that was recently cut. Please remind them

that every dollar spent on the Service helps the government collect nearly \$300. That's the type of return on investment that even the best money managers can only dream of achieving. And given the importance of a well-functioning tax system to provide for our government, it's an investment worth making. ■