

PRO BONO MATTERS

Pro Bono Matters in the City of (Fallen) Angels

By **Francine J. Lipman**, William S. Boyd Professor of Law,
William S. Boyd School of Law, University of Nevada, Las Vegas, NV

Income and wealth inequality is grave in the City of Angels. “We have the most millionaires, the most mansions, but also the most acute poverty in the country,” reports Gary Blasi, a law professor at the University of California, Los Angeles¹. In Los Angeles County, an estimated 254,000 men, women, and children experience homelessness during some part of the year. To put this population in perspective, this is the equivalent of *everyone* living in Buffalo, New York; Chandler, Arizona; or Madison, Wisconsin. “The human suffering that occurs on [L.A.’s] Skid Row is astonishing—it will literally take your breath away. That kind of suffering, that kind of desperation should not be happening, but it is. It’s a humanitarian crisis and a moral shame,” said Councilman Jose Huizar in late 2015².

On any given night, about 82,000 Angelinos are homeless. Included in this astronomical number are 4,800 to 10,000 unaccompanied youth. About 20% are military veterans and almost 50% are women, many with children. Somehow, about 20% of homeless Angelinos are currently employed, and over 40% were employed at some time within the last year. While unemployment has been decreasing in Los Angeles since 2013, homelessness has increased 12%. As a result, Los Angeles’ Mayor Garcetti and City Council members have once again declared a “state of emergency on homelessness” hoping to stay this steadily rising tide, especially with the looming threat of a severe El Niño in 2016.

Tragically, the problem is more severe than these numbers portend. Los Angeles County’s shortage of affordable housing has similarly reached a state of emergency. An average renter must earn \$38.77 an hour to afford average housing. When the high cost of housing is considered, Los Angeles County has one of the highest poverty rates in the nation at 26% or one in four households. With a population of over 10 million, this represents more than 2.6 million people (almost equivalent to the population of Nevada). Because of extreme affordable housing shortages, millions of Angelinos are forced to live in unsafe and unhealthy conditions. Overcrowding for low-income renters in Los Angeles County is three times greater than the national average, contributing significantly to poor health and academic achievement in vulnerable families and children.³

1 *Homeless on Skid Row: the City of fallen Angels*, YAHOO! News (Sept. 30, 2014); <http://news.yahoo.com/homeless-skid-row-city-fallen-145839325.html>.

2 Josie Huang, *Update: Los Angeles leaders pledge \$100 million to fighting homelessness ‘emergency’*, 89.3 KPCC (Sept. 22, 2015); <http://www.scpr.org/news/2015/09/22/54559/city-council-to-pledge-100-million-homelessness/>.

3 For a good overview of the problem, see [this LA TIMES story](#) (Jan. 7, 2016).

“When I was a boy and I would see scary things in the news, my mother would say to me, ‘Look for the helpers. You will always find people who are helping.’” —Fred Rodgers

Fortunately, the second largest city in the United States has helpers. Helpers include lawyers who work on the front lines day in and day out providing access to justice, including economic “tax” justice or antipoverty relief increasingly delivered through our income tax systems. The Earned Income Tax Credit, the Child Tax Credit, and, most recently, the Premium Tax Credit help lift millions of children and their parents out of poverty each year. Not surprisingly, millions of Angelinos qualify for and benefit from these critical social programs.

Notably, the Taxpayer Advocate Service has listed Los Angeles as an underserved location needing more low-income taxpayer assistance. One of the rising angels answering this demand is tax lawyer Ariel Stevenson. Ariel is a 2014 Skadden Fellow who earned her law degree at Yale and who is presently working with vulnerable Angelinos at Bet Tzedek Legal Services.



In Ariel Stevenson’s own words . . .

When Jimmy came to me for legal help, he had been trying to resolve his tax problem for nearly three years. A retired bus driver in his 80s, Jimmy had lost his entire life savings to a devastating Ponzi scheme that targeted retirees like him. To further compound the nightmare, the Service was including his lost savings as income. Because the savings had been held in an Individual Retirement Account, accounting for the loss was complicated from a tax perspective. Jimmy did his best to explain the loss of his life savings, but he was unsuccessful.

What seemed like a straightforward case became inexplicably complex, made more so after years of amended returns and conflicting advice from different government employees and tax preparers. Jimmy needed a tax attorney, but with low income, his options were practically nonexistent. Eventually, the Service assessed nearly \$10,000 in taxes, penalties, and interest. Jimmy was devastated.

Access to tax justice is limited for people like Jimmy, who face complicated tax controversies and cannot afford an attorney. Fortunately, Jimmy found his way to the Bet Tzedek Legal Services Tax Clinic (BT-TC), and we were able to take his case. Winning Jimmy’s case was not a foregone conclusion, but with an attorney by his side, at least he stood a fighting chance.

I started the BT-TC during my Skadden Fellowship, with the goal of increasing access to tax justice for low-income Los Angeles residents. With a 2016 IRS Low-Income Taxpayer Clinic (LITC) grant, Bet Tzedek will be able to continue and expand its work after the end of my fellowship. The BT-TC provides tax controversy representation and tax education resources to underserved communities. I launched the clinic because I noticed an urgent need for tax legal services while representing immigrant workers during law school. For example, complicated tax issues arose for workers whose employers had misclassified them as independent contractors, successful plaintiffs who struggled to understand the tax consequences of their wage claim awards, or unauthorized workers applying for Individual Tax Identification Numbers

(ITINs) to file their tax returns. At the time, the legal service agencies in Los Angeles County were not well connected to the existing pro bono tax legal resources in the area. Even when attorneys were aware of tax services, with so few clinics serving such a geographically expansive area, there simply were not enough services to go around.

Increasing access to justice starts with increasing access.

That means taking our direct services to our client

communities, rather than waiting for them to find us. With a population of over 10 million people, Los Angeles County comprises over a quarter of the entire population of California. Almost 2 million L.A. County residents live below the official poverty line, over 3.5 million are foreign born, and just over one million are unauthorized community members. Reaching these populations is challenging, but thanks to Bet Tzedek's well-established partnerships with community organizations, news about our tax clinic spread quickly. Bet Tzedek reaches seniors through outreach at twenty-seven senior centers, and homeless and low-income individuals via outreach at food pantries throughout L.A. County. Bet Tzedek attorneys work with labor centers and unions to reach low-income workers, and immigrant rights advocates to reach underserved immigrant communities. Importantly, by foregoing Legal Services Corporation (LSC) funding (a financial sacrifice for the organization), Bet Tzedek is able to represent undocumented immigrants, who would otherwise have no access to free legal help due to LSC funding restrictions. All of these established connections have enabled the BT-TC to reach L.A.'s underserved communities, connecting them with tax legal services that they could not otherwise afford.

Merely reaching underserved communities, although necessary, is only part of the battle. Even after clients are connected with advocates, low-income clients face complicated barriers that create and exacerbate their legal problems and often limit their ability to receive tax justice. For example, many of Bet Tzedek's clients have limited English proficiency as well as limited literacy generally. Many others are disabled, or struggling with mental health disorders. These challenges make it nearly impossible for individuals to receive fair treatment without an advocate to assist them. Additionally, living in or near poverty creates obstacles that contribute to tax problems and make legal representation more complicated. For example, many clients cannot maintain a bank account due to bank fees, which means they often lack the necessary financial records to prepare accurate returns, respond to an audit, or file an Offer in Compromise. These types of problems are both symptoms and perpetuators of poverty, and they are issues that come up constantly for legal services clients.

Many lawyers, both inside and outside of the public interest world, are surprised to hear that low-income individuals face complex tax problems. Many people mistakenly assume that the extent of a low-income person's interaction with the tax system is to claim a refundable credit. In reality, low-income taxpayers

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have incredibly complex tax situations. Home foreclosures, early IRA distributions, and cancelled indebtedness are examples of common life events that trigger tax issues for low-income individuals. Additionally, tax levies and liens are extremely destabilizing, making it impossible for a family to pay their monthly bills and even contributing to homelessness. These are serious, life-changing situations.

There are solutions for these systemic problems, not the least of which is increasing government funding for tax services. However, we cannot only rely on the government to help those urgently in need of tax assistance. Meaningfully increasing access to tax justice requires community-wide efforts. Providing pro bono assistance is one simple way that tax attorneys can play a part in expanding access to justice for low-income taxpayers. LITCs are an excellent vehicle for those interested in taking on pro bono cases, but they are not the only option. LITCs are necessarily limited in terms of the clients they can serve and the scope of cases they can accept. Thus, offering pro bono assistance through non-LITC organizations can help expand access to tax justice for those who do not qualify for services through an LITC, including low-income taxpayers whose income is too high for the program's income thresholds and small-business taxpayers.

I believe that more can be done to expand access to tax justice in the public interest world as well. Through my experience running a tax clinic, I can attest that there are many legal service advocates who want to help their clients with tax problems, but they simply do not know where to start. Unfortunately, many of these advocates lack access to necessary practice aids, especially if they work outside of large law firms or LITCs. The low-income tax practitioner community should be mindful of the needs of non-tax specialists and small firm attorneys who are willing to help their lower-income clients with tax problems. For example, tax practitioners should consider more broadly sharing sample documents and delivering free training events and webinars targeting non-tax audiences. This is commonplace in other legal service fields, and when I offer such trainings, I find an eager audience of practitioners. Ultimately, a national support center for low-income tax law is an ideal, albeit long-term, goal.

If there had been more tax advocates in Los Angeles, Jimmy's tax problem would never have become so personally devastating and financially crippling. By the time Bet Tzedek took his case, he had already paid over \$1,500 for a liability that he did not actually owe. After we took the case, I compiled an audit reconsideration request that included over a hundred pages of supporting exhibits. When an examiner finally reviewed the request—over six months later—she immediately agreed with our analysis and cancelled the entire liability. After three years of struggling to make his voice heard before one of our nation's most challenged government agencies, Jimmy finally received tax justice. ■