

DIALOGUE

Summer 2012

VOL. 16, NO. 1

News and Perspectives from the ABA Division for Legal Services

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LAMP

The ABA Military Pro Bono Project: Four Years of Delivering Access to Justice to Servicemembers and their Families
By Mary C. Meixner, ABA Military Pro Bono Project Director, and Jason T. Vail, ABA Standing Committee on Legal Assistance for Military Personnel Chief Counsel

Throughout the course of the past decade, the ABA Standing Committee on Legal Assistance for Military Personnel (LAMP) became increasingly aware that ongoing military conflicts overseas, with their associated, frequent deployments of servicemembers, were resulting in an increasing level of legal needs by military families. [Read more...](#)

From the Chair...
By David G. Ehrhart, Brig Gen, USAF (Ret.)

One of the privileges of the LAMP Committee is the opportunity to formally recognize the exemplary work performed by military legal assistance offices and individual attorneys in meeting the civil legal needs of our service men and women stationed around the world. [Read more...](#)

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By Ken Smith, Betty Balli Torres and Judith Baker

With short term interest rates expected to remain historically low well into 2014, IOLTA leaders are trimming expenses and abandoning any lingering hopes for a "magic bullet" that would restore IOLTA revenues to the peak levels seen just a few years ago. [Read more...](#)

From the Chair...
By Lora J. Livingston

Three years ago I began my tenure as Chair of the Commission and today it quickly comes to an end. When I began my term, the economy was in decline and with it came a down turn in interest rates. [Read more...](#)

Grantee Spotlight:
Massachusetts Law Reform Institute: Tough Advocacy for Tough Times

By Georgia D. Katsoulomitis

Massachusetts Law Reform Institute (MLRI) is a statewide legal services organization whose mission is to promote economic, racial and social justice for low-income people through legal action, education and advocacy. [Read more...](#)

Pro Bono

2012 ABA Pro Bono Publico Award Recipients

On August 6, 2012, the five recipients of the ABA Pro Bono Publico Award were honored at the Pro Bono Publico Awards Assembly Luncheon held during the ABA Annual Meeting in Chicago. [Read more...](#)

From the Chair... **By Larry McDevitt**

Among the many activities of the Standing Committee on Pro Bono, I count the National Celebration of Pro Bono as one of the most important. [Read more...](#)

Policy News

New York Increases CLE Hours Available Through Pro Bono

The rule providing for CLE credit for pro bono service, §1500.22 (j), was amended to allow attorneys to earn 10 credits of CLE every two years by providing pro bono services to low-income New Yorkers. [Read more...](#)

News & Events

- The ABA Center for Pro Bono congratulates the recipients of the 2012 Pro Bono Publico Award.
- NAPBPro Virtual Pro Bono: A DeskTop Conference

[Read more...](#)

LRIS

Unbundled Legal Services and LRIS **By Al Charne**

More than 20 years have passed since Forest Mosten began promoting the unbundling of legal services.¹ The premise for unbundled legal services is that when appropriate, a client and lawyer can agree that the lawyer will provide some, but not all, of the work required for a particular legal matter. [Read more...](#)

From the Chair... **By John Norwine**

In early May I was invited by Louisville Bar Association Executive Director Scott Furkin to address a continuing legal education seminar at their bar headquarters. [Read more...](#)

The New LRIS Competition: Online Directories **By Britt Wegner**

As times and technology change, it's only natural that Lawyer Referral and Information Services change as well. Ten years ago, an LRIS's biggest competitors were in the Yellow Pages, and everyone spent large amounts of money to have the largest ads. Fast forward to the present and now LRISs are competing for the top Google spot on page one of the search results. [Read more...](#)

2012 National Lawyer Referral Workshop

Registration Now Open! October 24-27, 2012 — Las Vegas, Nevada. [Read more...](#)

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2012 Harrison Tweed Awards Presented at ABA Annual Meeting

The San Mateo County Bar Association and the San Antonio Bar Association were each presented a Harrison Tweed Award during the American Bar Association 2012 Annual Meeting in Chicago. [Read more...](#)

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Throughout the course of the past decade, the ABA Standing Committee on Legal Assistance for Military Personnel (LAMP) became increasingly aware that ongoing military conflicts overseas, with their associated, frequent deployments of servicemembers, were resulting in an increasing level of legal needs by military families. The LAMP Committee observed that this escalation in demand for legal services placed an ever-heavier burden on the military services' civil legal assistance programs. And since military legal assistance attorneys are constrained from delivering a full range of legal services for many civil matters—most notably, a general prohibition on in-court representation—these lawyers are today faced with more servicemember clients in need of legal services beyond what the lawyers can provide.

Compounding this problem is the fact that junior-enlisted servicemembers and their families, many of whom constitute low- to moderate-income households, are frequently unable to afford full-cost representation from civilian counsel. Beyond the issue of cost, frequent relocations and deployments leave many servicemembers to grapple with legal issues arising in jurisdictions distant from where they are stationed or deployed, making it difficult to effectively secure counsel in the location where representation is needed. The inability to address legal problems can have a detrimental effect on combat-readiness and can pose a genuine threat to both the servicemember's troop and unit.

Perceiving a growing crisis in the ability of servicemembers to secure access to justice for their civil legal problems, in September 2008 the LAMP Committee launched an initiative to deliver a full continuum of free legal care for servicemembers and their families, beginning in the military legal office and ending with civilian legal representation. This initiative, the ABA Military Pro Bono Project, is an online platform that effectively and efficiently moves civil case referrals for servicemembers and their families from military legal assistance attorneys to civilian pro bono attorney volunteers wherever the representation is needed. The LAMP Committee partnered with the ABA Section of Litigation to fund the creation of the web-based system, at www.militaryprobono.org, and to staff the Project with a part-time attorney director.

Since its launch, the Project has been an unequivocal success: Participation by military and civilian attorneys continues to increase, connections between servicemembers and civilian attorneys and legal resources is expanding, and a significant level of recognition and support provided from both the military and civilian bars has been growing. The Project has become a model public-private partnership, though it continues to face challenges as it meets its mission to deliver access to justice for military families.

An Efficient System for Moving Cases from Military Legal Offices to Pro Bono Volunteers for Serious Civil Legal Problems

The Project's processes and functions were designed in close collaboration with the leadership of all five military branches' legal assistance programs, and the Project continues to solicit and receive guidance and feedback from its military partners and users as it evolves. At its core, the Project is designed to accept case referrals from military legal assistance attorneys, stationed across the country and around the world, from all active-duty military branches, the Reserves, and National Guard. After the referrals are screened by intermediate-level military supervising attorneys to ensure that the Project assists the most deserving cases, the Project Director places these cases with volunteer attorneys anywhere in the United States where the legal assistance is needed.

From the Project's launch to date, it has secured pro bono assistance for over 600 servicemembers in 45 states, averaging about 150 case placements per year. Many of these cases are referred to the Project while the servicemembers are deployed in combat zones. Based on closing data provided by the volunteer attorneys, the aggregate value of these referred cases represents about \$3 million in donated billable hours. The total value of donated billable hours represents a return of over eight times the actual cost of the Project's operation.

Every week, the Project posts real-life example cases in an ongoing blog linked through its website. These stories illustrate the wide range of case types referred to the Project—including family, consumer, guardianship, housing, and trust and estate law—and how these matters are successfully resolved through the dedicated efforts of the Project volunteers.

ABA Home Front Expands the Continuum of Legal Care Built by the Project

While pro bono representation is an essential component in the continuum of legal care, the Project is designed first and foremost as a resource for military legal assistance attorneys to find private pro bono counsel for their cases—the Project cannot be accessed directly by individual servicemembers without a military attorney's referral. Recognizing that military families may also need a place to turn where they can find easily understandable legal information and referral resources focused on their unique needs, the ABA launched a new web-based legal center for military families at www.ABAHomeFront.org. The LAMP Committee, in partnership with the ABA Division for Public Education, ABA Division for Bar Services, ABA Section of Family Law, and ABA Young Lawyers Division, established the ABA Home Front website utilizing existing funding and staffing resources, and with responsibility for the site's ongoing maintenance and operation shared by the LAMP Committee and Public Education.

ABA Home Front has three primary components: (1) *Information Center*, which includes articles and FAQs written for nonlawyers on a variety of civil legal topics especially geared toward military families, covering their available special rights and protections; (2) *Directory of Programs*, which includes contact information and descriptions for programs and services, organized by state, that can provide assistance to military families, including military legal assistance offices; and (3) *Military Pro Bono Center*, where attorneys can volunteer to provide pro bono representation to military families through the Project, and attorneys can join the new Operation Stand-By, through which they may provide attorney-to-attorney consultations to military attorneys.

By ensuring that military families are able to easily find military-specific legal information and resources, ABA Home Front expands the legal continuum of care so that a servicemember can (1) determine if he or she has a legal issue; (2) locate appropriate, free in-person legal help from a military legal assistance attorney; and (3) receive further counsel and representation, when necessary, from a civilian attorney through the Project or another resource in the Directory of Programs.

Operation Stand-By has existed for years as a Section of Family Law Military Law Committee program, but it was adopted by the Project as a part of the ABA Home Front initiative and expanded beyond the sole focus on family law. Attorneys who register to join Operation Stand-By agree to make themselves available by phone or email to military attorneys in need

of attorney-to-attorney consultations, giving military attorneys a place to turn when seeking jurisdiction-specific substantive and procedural information which, in turn, aids their servicemember clients. Military attorneys registered with the Project can find the attorneys' contact information and areas of expertise on a password-secured list on the Project's website. Participation gives civilian attorneys an opportunity to help our servicemembers with a very small time commitment, as participation with Operation Stand-By itself does not entail client representation. Over 350 attorneys in 47 states have registered to participate with Operation Stand-By, and military attorney-users view it as an invaluable resource to support their work on behalf of their clients.

The Project Is a High-Visibility, Public-Private Partnership that Reflects Positively on the ABA and the Legal Community

The Project has earned a significant level of credibility throughout the military legal community, and it is well-known as an effective collaboration between the military and civilian bars to meet military families' legal needs. Since 2008, over 1,600 civilian attorneys and pro bono coordinators have registered with the Project's roster with an interest in accepting pro bono cases and/or participating with Operation Stand-By. Over 1,400 military attorneys worldwide have registered to use the Project's referral system, Operation Stand-By and other website resources.

It is important to note that while the ABA, through the LAMP Committee, has taken a leadership role in creating this successful, national program, none of its success would be possible without the selfless efforts of volunteer attorneys. As noted above, these attorneys have given thousands of hours, valued at literally millions of dollars, to ensure that military members and their families do not go without the legal services that they need. The contributions of the private bar in this regard cannot be overstated.

Helping our Servicemembers Requires Ongoing Participation, Publicity, and Financial Support

The Project's success over the past four years has, understandably, resulted in ever-increasing demands for pro bono help through the resources it provides. Thus, in coming years, the Project will continue to work on meeting these challenges. The Project has an ongoing need for increasing volunteer attorney involvement. Continuing communication and maintaining relationships with existing legal aid, pro bono, and state and local bar programs will be essential in raising awareness of our servicemember's legal needs and how legal communities can help by volunteering with the Project.

In addition to the work of its volunteers, the Project's successes have been built and maintained by financial contributions from Project partners, law firms, corporations, and private individuals. Financial support from current and new Project sponsors is vital for the Project's ongoing maintenance, as the Project receives no general dues revenue from the ABA to support its operations.

The legal needs of our servicemembers are real and growing. With the continued participation of the military and civilian bars, along with support from financial sponsors, the ABA will continue to be a national leader in helping meet the civil legal needs of our servicemembers who sacrifice so much for us all.

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From the Chair...

By David G. Ehrhart, Brig Gen, USAF (Ret.)

Standing Committee on Legal Assistance for Military Personnel

One of the privileges of the LAMP Committee is the opportunity to formally recognize the exemplary work performed by military legal assistance offices and individual attorneys in meeting the civil legal needs of our service men and women stationed around the world. Each year the LAMP Committee solicits nominations from the legal leadership of the five military service branches for our Distinguished Service Award, and from these nominations the Committee selects those offices and individuals that have gone above and beyond in providing outstanding legal assistance services.

The nominations for our 2011 Distinguished Service Award tell stories of service that are truly inspiring, and they reflect the high level of professionalism and commitment by the lawyers—both Judge Advocate General (JAG) and civilian—working in military legal assistance. I can't think of a better use of my column or this issue of *Dialogue* than to share some of these stories with you.

From the nominations for exceptional work done in 2011, we gave out four Distinguished Service Awards to military legal assistance offices:

- **35th Fighter Wing, Office of the Staff Judge Advocate, Misawa Air Force Base, Japan.** This office faced enormous challenges associated with the 2011 earthquake, massive tsunami, and subsequent nuclear disaster, and the office emerged from that experience with a renewed emphasis on quality and efficiency in its legal assistance program. After the quake, the Emergency Family Assistance Control Center, JAGs, and paralegals immediately began to provide daily briefings on claims and other legal assistance issues, created handouts with key information, and provided powers of attorney and notary service 24 hours a day. As concerns over the situation at the nuclear plant grew, the State Department authorized the voluntary departure of Department of Defense (DoD) eligible family members from Japan, dubbed Operation Pacific Passage. The office served clients both on the departure processing line and in the Legal Office itself, and it teamed with Navy paralegals assigned to Naval Air Facility Misawa who also provided powers of attorney service and even helped staff the office. Legal office personnel provided 24-hour coverage to the processing line in support of Operation Pacific Passage, assisting with the short notice voluntary departure of over 1,400 dependents from Misawa to the United States, at most times without power and heat, under very austere conditions. Throughout this period, legal office personnel continued to provide up-to-date legal assistance information both directly to the community and to base officials for dissemination via Armed Forces Network television and radio and the Misawa Air Base Facebook page.
- **Naval Legal Service Office Europe, Africa and Southwest Asia.** This legal office's staff was engaged in the delivery of legal services in an intensely active operational environment in 2011. For example, in March 2011 when civil unrest and violent anti-Government protestors threatened security in Bahrain, the office provided the essential legal

services and advice required to effect the voluntary evacuation of servicemembers and their families. Additionally, the office excelled in providing critical, short-fused legal assistance support, including telephonic consultations, to personnel deploying for Operation Odyssey Dawn, the international military operation in Libya to enforce United Nations Security Council Resolution 1973 mandating a no-fly zone over Libya.

- **Coast Guard District Seventeen Legal Office in Juneau, AK.** Along with legal assistance, this office's judge advocates are responsible for providing operational, regulatory and other advice to units in District 17, which consists of the entire state of Alaska. This office's small legal staff of only four lawyers serves over 3,000 Coast Guard and other military personnel eligible for legal assistance within the district. This challenge is combined with Alaska's vast and formidable physical environment: Providing legal assistance to personnel stationed throughout Alaska can be a struggle given the tyranny of distance between legal assistance clients, their legal assistance attorneys, and any third parties. But in overcoming these difficulties, this office's attorneys' dependable efforts improved the quality of life for their fellow shipmates and servicemembers serving throughout the Last Frontier.
- **Marine Corps Joint Legal Assistance Office at Marine Corps Base, Camp Pendleton, CA.** One of this office's many successes in 2011 included a joint effort with the Civil Division of the United States Attorney's Office for the Southern District of California in reaching settlements with three Southern California apartment communities to resolve allegations that they violated the Servicemembers Civil Relief Act.

The LAMP Committee also gave five individual 2011 Distinguished Service Awards:

- **Mr. Terry Spearman, Paralegal, XVIII Airborne Corps, Office of the Staff Judge Advocate, Legal Assistance, Fort Bragg, NC.** Mr Spearman is a retired Army Master Sergeant and civilian paralegal. This experience and background gives him a unique military mentoring role for legal assistance attorneys new to the Army, providing an invaluable role in helping them adjust to their new roles as attorneys and officers, as well as serving as a training resource for new paralegals. Additionally, as a civilian employee, he provides critical continuity and leadership to the office, particularly important in an office that has a high turnover rate for attorneys and paralegals. Further, Mr. Spearman is widely recognized throughout the services as both a tax law and immigration law expert and responsible for the high level of legal services in both areas to the Fort Bragg community.
- **Mr. Michael Archer, Director of Legal Assistance, Marine Corps Installations East, Camp Lejeune, NC.** Of his many notable achievements in 2011, Mr. Archer was very active in the North Carolina legislative debate over House Bill 810, which would have vastly increased maximum interest rates on small loans. As both a military attorney and an active member of the North Carolina LAMP Committee, he prepared written statements concerning the bill, testified before the North Carolina House Banking Committee, and participated in media events. Working with consumer groups, state legislators, representatives of Ft. Bragg, and the Army and Navy Relief societies, these efforts led to significant amendments more favorable to consumers.
- **Ms. Leah Copeland, Legal Assistance Attorney, 633d Air Base Wing, Office of the Staff Judge Advocate, Joint Base Langley-Eustis (JBLE), VA.** Ms. Copeland came aboard at JBLE in January 2011 after working as a civil litigation attorney in the private sector and hit the ground running. Her prior experience led her to quickly become the most prolific legal assistance attorney at JBLE, which already serves more legal assistance clients than any other Air Force Base. In 2011, she personally assisted over 1,000 clients, over twice

as many as the average for JBLE legal assistance providers. Additionally, her private practice background led her to develop several new programs and initiatives that streamlined and improved service delivery in domestic relations and will drafting matters.

- **Lieutenant Andrew Coffin, JAGC, USN, Naval Legal Service Office Pacific (Guam).** LT Coffin has provided expert advocacy in landlord tenant, consumer law, and family law matters, which has earned him a reputation as a tenacious legal advocate across the entire island community. When faced with an epidemic of local landlords unlawfully withholding sailors' security deposits, he engaged directly with the landlords through negotiation and litigation to recover over \$20,000 in withheld deposits on behalf of his clients and gained an overall improvement in landlord practices. In the consumer law area, he took on a number of debt collectors violating the Fair Debt Collection Practices Act against his clients, and he developed educational materials on the Act to inform commands who might be contacted by unscrupulous debt collectors.
- **Ms. Elizabeth K. Fuglestad, Legal Assistance Attorney, Thirteenth District Legal Office, Seattle, WA.** In 2011 Ms. Fuglestad helped prepare the 120 members and families of Port Security Unit 313 of Everett, WA, for a six-month deployment to the Middle East, executing numerous wills, establishing trusts, executing powers of attorney, and resolving many other matters. She also made 26 on-site visits to field units within the District and maintained legal assistant services even during a one-month convalescent period for major surgery. As a deployment to the Middle East is not a routine mission for the Coast Guard, her dedication and commitment to legal assistance delivery provided a significant degree of comfort and assurance to those affected by the mission, knowing their legal affairs were in order prior to the deployment.

These offices and individuals are a reminder of the dedicated, tireless efforts of the uniformed and civilian attorneys in our armed forces, and they serve as an inspiration to us all through the work they do. I encourage you to visit our [Distinguished Service Award page on our website](#) where you can view the long history of our award and those who have won it. As the American Bar Association, we are uniquely positioned to highlight and celebrate the outstanding achievements of our military legal assistance attorneys and offices around the world, and we will continue our commitment to drawing attention to their work in the years to come.

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Partnership Bank Programs

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From the Chair

With short term interest rates expected to remain historically low well into 2014, IOLTA leaders are trimming expenses and abandoning any lingering hopes for a "magic bullet" that would restore IOLTA revenues to the peak levels seen just a few years ago.

Grantee Spotlight

Yet the impact of low interest rates has been less dramatic in some states than others. Although revenues everywhere continue to be well below "normal," some IOLTA programs have managed to keep rates substantially above those being paid by banks to their best non IOLTA customers — i.e. above "comparability." What explains that phenomenon?

Pro Bono

Success with Partnership Bank programs in Oregon and Texas provide an important insight: savvy bankers are willing to pay 70 to 100 more basis points in IOLTA interest in return for something every IOLTA program potentially can offer: visibility and promotion in the lucrative law firm market. This article outlines factors which can motivate a big bank to say "Yes" to a Partnership Bank Program, even at a time when doing so might cost the bank tens or hundreds of thousands of dollars annually.

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Oregon's "Leadership Banks" Program

For many years, the staff and board of the Oregon Law Foundation (OLF) have worked hard to maintain positive relationships with the largest banks holding the bulk of IOLTA deposits. As a result, Oregon has historically enjoyed some of the highest average net yields on IOLTA accounts in the country.

In 2005, state supreme courts and legislatures began following Florida's example of authorizing rule changes allowing for IOLTA rate comparability. OLF's staff and board decided to take a hard look at its preferred approach for getting banks to pay premium IOLTA rates on a strictly voluntary basis. A Revenue Enhancement Committee was formed to develop a comprehensive strategy and track results. A new initiative called the "Leadership Bank" program was a centerpiece of the approach they created.

Under the Leadership Banks program, banks qualify for "Visionary Bank" status by agreeing to pay 1.0 percent interest on IOLTA accounts.

The Oregon "Leadership Banks" Program At a Glance

Participation:

- 20 banks – One out of every three Oregon banks
- Five of 10 biggest banks are participants

IOLTA Rates:

- 1.00% ("Visionary Bank")
- 0.70% ("Advocacy Bank")

Impact:

- 69 percent of all IOLTA deposits are in Leadership Banks, paying average net yield of 0.71%, compared with 0.10% estimated yield that these banks pay their non IOLTA customers holding comparable accounts.

Alternatively, institutions can qualify for "Advocacy Bank" status by paying 0.7 percent. In return, they receive a stream of benefits, including:

- Prominent listing on the OLF website — the go to place for lawyers seeking information about the IOLTA requirements for eligibility to practice law in Oregon.
- Recognition at dozens of statewide and local bar events throughout the year such as the Campaign for Equal Justice Annual Luncheon. Materials included in New Member Packets distributed to new admittees to the bar.
- Articles such as "Leading the Way" in the Oregon State Bar *Bulletin* describing the impact of the Leadership Banks program on access to justice across the state.
- OLF cooperation with marketing efforts such as a mailing by Wells Fargo Bank to lawyers in the state, expressing the bank's pride in being a Leadership Bank supporting access to justice.

The Impact on IOLTA Revenues

A feasibility study commissioned by OLF in 2011 to assess the potential of a comparability requirement had results that were surprising. Oregon IOLTA was receiving more revenue under its Leadership Banks program than it would under a comparability rule. Moreover, not only would it continue to do so in the current environment when rates are low, but also in the future when rates are expected to be higher.

The OLF's overall IOLTA net yield is 0.57 percent for all deposits. According to the rigorous quantitative models applied in the feasibility study, this yield is over five times the rate that Oregon banks, as a whole, would pay on comparable accounts for their non IOLTA customers.

Under the Leadership Banks program, 29 percent of total IOLTA deposits are in Visionary Banks paying a rate of 1 percent. Another 40 percent of deposits are in Advocacy Banks paying 0.7 percent. The net result is that 69 percent of IOLTA deposits are in banks paying an average net yield of 0.71 percent compared with an average of less than 0.10 percent paid by banks to their non IOLTA customers holding comparable accounts.

The Leadership Bank program has achieved its goal of maximizing IOLTA revenue while also maintaining the excellent working partnership of the banking and legal communities. It builds on the positive banking relationships that Oregon IOLTA has developed through its sustained efforts over many years.

The experience of the Oregon IOLTA program demonstrates that a Partnership Bank program can offer a great opportunity in a small to medium sized state, where it is feasible (albeit not easy) for an IOLTA program to maintain face to face relationships with decision makers, Oregon's program demonstrates that these relationships can even be forged with large banks like Wells Fargo and US Bank that hold the bulk of IOLTA deposits. With a strong strategic vision and sustained effort, the Oregon Leadership Bank program is able to generate significantly higher yields than other states are able to receive from comparable IOLTA deposits.

The Texas "Prime Partners" Program

Like many IOLTA programs, for many years Texas had published an Honor Roll on its website listing banks that paid preferential rates or waived service fees on IOLTA accounts. In 2007, shortly after the Supreme Court of Texas adopted an IOLTA rate comparability requirement, the staff and board of the Texas Access to Justice Foundation (TAJF) saw an opportunity to generate even more income. Reviewing the experience of Florida and other states, TAJF knew

The Texas "Prime Partners" Program At a Glance

Participation:

- 70 banks – One out of every seven Texas banks
- Two top-tier banks and several 2nd-tier banks are participants

that implementation of the new rule would mean intense interactions with banks in the months ahead. TAJF crafted a bold proposition: *Pay more than required under comparability and your bank will be highly publicized in the legal community as a "Prime Partner," willing to comply and to go above and beyond for the benefit of low income people who need access to our civil justice system.*

Surprisingly, many banks accepted the proposition. Bankers saw an opportunity: *We have to pay more under comparability; why not pay a little extra and stand out from the crowd?* Within four months, many banks, including five institutions holding the largest total IOLTA deposits, became Prime Partners. This shift provided a clear signal that TAJF was striking a resonant chord. Although bankers tend to be cautious when it comes to spending money, they saw an opportunity to gain an edge over the competition in a market that matters.

In the beginning, Prime Partner banks agreed to pay 70 percent of the Federal Funds Target Rate (the "Fed Rate"), compared with the 60 percent required under the benchmark ("safe harbor") provision in the rule. However, after 2009 when rates dropped below 1.0 percent, TAJF revised the Prime Partner rate to a flat 1.0 percent, where it remains today.

In return for paying this rate, Prime Partner banks receive benefits including:

- Prominent listing on the TAJF website with active hyperlinks to the bank's website and cross links with partners such as the Texas Access to Justice Commission, State Bar of Texas Litigation Section, and TAJF grantees.
- Prime Partner information included in every issue of the "Update" newsletter mailed quarterly to all licensed Texas attorneys (approx. 86,000).
- Presentation of awards to Prime Partner Banks at local bar association meetings/events.
- Prominent mention in 3–6 promotional activities each month, such as an article in Texas Young Lawyers Association *eNews*, reaching 20,000 young lawyers in Texas.
- Announcement on TAJF's Facebook page which now encompasses 1,500 "fans" including lawyers, judges, and media.

A key strategic element is TAJF's focus on keeping Prime Partner banks informed about the promotional efforts being conducted every month on their behalf. An annual report lists in detail the scores of presentations, publications, and other ways in which Prime Partner banks are promoted continuously in efforts that reach every lawyer in Texas several times a year.

Impact on Revenues

In 2007, when the Fed Rate was still at 5.25 percent, TAJF estimated that the Prime Partner banks were paying \$4 million per year more than required under comparability. After the Fed Rate dropped to near zero, three of the five biggest banks dropped out of the program. Although a significant loss, it still left two top tier banks and several second tier banks among the 70 still in the program. Today the 1.0 percent paid by the Prime Partner banks represents a bonus of \$1.5 million in IOLTA revenues. This revenue is sufficient to fund 30 additional legal aid lawyers at the national average salary of \$50,000 per year.

Operating in a large state with over 500 banks, Texas IOLTA has proven that even in the current economy, banks can be persuaded to pay premium rates on IOLTA accounts. These rates can elevate IOLTA revenues by millions of dollars and can be obtained with a proactive approach.

IOLTA Rates:

- 1.00% ("Prime Partner")

Impact:

- Estimated \$1.5 million annually above what banks are required to pay under IOLTA interest rate comparability – enough to fund 30 legal aid lawyers.

Lessons Learned: Five steps for Boosting IOLTA Revenue

The key to a successful Partnership Bank program is linking the bank's need — for differentiation in the competitive law firm market — with the advantage an IOLTA program can offer, visibility and promotion. Both Oregon and Texas have been successful at not only delivering the promised advantage, but in letting bankers know they are getting what they are paying for. Similarly, IOLTA programs can use these five steps in varying combinations to launch a Partnership Bank program.

Step One: Develop the business proposition

It's all about how participation in a partnership program can help a bank be the "bank of choice" for law firms. Both Oregon and Texas laid out clear propositions: *Here is what we can deliver that will provide a clear competitive benefit in this market. Here is the IOLTA rate premium we seek in return.*

Step Two: Enroll some market leaders

Bankers are competitive; they want to be the best in the game. With an initial focus on quietly enrolling one or two banks in each market segment, an IOLTA program is able to foster a competitive vibe as the program is rolled out to other banks. A large bank that joins will get the attention of its peers. Smaller banks are welcome, but enrolling one or two big players in each tier of banks will build momentum for the program's success.

Step Three: Run a strong campaign

Recruit and deploy spokesperson such as lawyers who are significant customers of the bank being approached. Members of an IOLTA or legal aid board who are bankers and can speak the language can be effective spokesperson for the program. Deploy the leadership of the state legal community to let banks know that lawyers support the program.

Step Four: Sustain the program

Network marketing is more than a cliché; it really works in this situation. Personal relationships are imperative. Meet and greet bankers on their own turf at industry gatherings or meet bankers over breakfast. Give awards at industry events and bar gatherings. Get articles published in bar and banking periodicals and send a copy to every banker on your list.

Step Five: Deliver the product

Make sure that Partnership Banks get the results they are promised and make sure they know they are getting those results. In Texas, this is accomplished by sending an annual report to all banks that lists the benefits and statewide visibility that partner banks receive through participation in the program.

Looking to the Future

The Oregon and Texas examples show that a Partnership Bank program can boost revenues for civil legal assistance in states large and small. Success can mean five to seven times the revenue banks would pay under a less proactive approach.

An even more important result lies in the future. Bank economists believe rates will begin to rise toward more "normal" levels in 2014. With the infrastructure in place, Oregon and Texas will be well positioned to expand their Partnership Bank programs, and therefore the size of the pool of IOLTA deposits on which banks are paying higher than comparable rates. The additional millions of dollars that are generated will go a long way in restoring legal aid funding and replenishing IOLTA reserves.

There still is time to establish a strong Partnership Bank program before rates begin to rise. Doing so will lay the foundation for a much stronger and more effective IOLTA program in the near future. In the process, the stronger links being forged between the legal and banking communities will promote a common interest: strengthening civil justice for those unable to

afford legal assistance. They will make the vision of IOLTA as a *partnership of lawyers and bankers* a reality, not just a slogan.

Ken Smith, Ph.D., has been a consultant to IOLTA programs for 28 years. His firm, *The Resource for Great programs*, assisted Texas IOLTA with implementation of rate comparability and prepared the Oregon feasibility study cited in the article.

Betty Balli Torres, J.D., has been Executive Director of the *Texas Access to Justice Foundation* since 2001 and is a former legal aid program director and staff attorney.

Judith Baker, J.D., has been Executive Director of the *Oregon Law Foundation* since 2005 and was previously a legal aid staff attorney.

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From the Chair...

By Lora Livingston

Commission on Interest on Lawyers' Trust Accounts

Three years ago I began my tenure as Chair of the Commission and today it quickly comes to an end. When I began my term, the economy was in decline and with it came a down turn in interest rates. At the time, it seemed the situation could not get worse, but as we are all painfully aware, the recession and record low interest rates persist.

Over these years, the Commission and the IOLTA community have shown exemplary resilience and have risen to become leaders in the national collaboration of the access to justice movement. This work was readily seen at the Equal Justice Conference and Access to Justice (ATJ) Chairs Meeting in Jacksonville, Florida this May. There I had the opportunity to take part in several programs. I joined a distinguished panel including Jim Sandman, Don Saunders, Robert Stein and Ann Carmichael on hot topics affecting legal aid. I led a break out discussion among ATJ leaders from various states and, with Bev Groudine, facilitated a table talk highlighting issues facing IOLTA today.

At the Access to Justice Chairs Meeting, many members of the IOLTA community, including Jon Asher, Jane Curran, Bob LeClair, Betty Balli Torres and Lonnie Powers, led break out sessions and table talks. They discussed important issues such as economic impact studies, fund raising, access to justice programs in their regions, and how to engage members of the bar in these important issues. Additionally, many more from our community attended to learn and find ways to bring access to justice issues to the forefront in their states.

In considering the future of IOLTA and the Commission, there are undeniable challenges ahead. In December, the amendment to Dodd Frank granting unlimited FDIC insurance to IOLTA accounts is scheduled to sunset and IOLTA programs throughout the country continue to face record low income as the need for legal services grows. At the same time, an exciting project is underway. The Commission and National Association of IOLTA Programs, along with U.S. and Canadian IOLTA programs are collaborating on a video chronicling the history of IOLTA.

With this work at hand, Penina Leiber has been appointed Chair of the Commission for the coming year. Penina has shown a commitment to access to justice issues and advancing IOLTA. I offer her my sincerest congratulations and am confident she will be an effective leader.

The Commission bids farewell to members Darrell Jordan and Arley Harrel. Darrell served for two years and in that time he co-chaired the Meetings Committee and was a member of the Technical Assistance Committee. Arley served for one year and participated on the Communications and Banking Committees. I am grateful for their time and service to the Commission and wish them the very best in their future endeavors.

Finally, I would like to thank Tamaara Piquion, LaVernis Hall and Susan Updike for all that they do and offer a special note of gratitude to Bev Groudine for her tireless effort and commitment to the work of the Commission.



I am grateful for the opportunity to have served as Chair and to have worked with so many in the IOLTA community who inspire me with their ongoing dedication to advancing equal access to justice.

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Grantee Spotlight: Massachusetts Law Reform Institute: Tough Advocacy for Tough Times

By Georgia D. Katsoulomitis

Massachusetts Law Reform Institute (MLRI) is a statewide legal services organization whose mission is to promote economic, racial and social justice for low-income people through legal action, education and advocacy. MLRI advocates for systemic reforms to policies and practices that harm people living in poverty and works to ensure that the fundamental needs of traditionally underserved, low-income populations are met. MLRI also serves as the central support center for local and regional legal services providers and advocacy organizations across the state so they may best serve the needs of their individual clients.

Along with support from individual and institutional donors and foundations, our work would not be possible without IOLTA funding. MLRI receives this funding through grants from the Massachusetts Legal Assistance Corporation, the Massachusetts Bar Foundation and the Boston Bar Foundation. In addition, the Massachusetts IOLTA Committee continually works to identify new sources of funding for legal services programs.

MLRI at Work

Since 1968, MLRI has played a leading role in advancing groundbreaking policies, reforms and regulations that benefit low-income individuals and families in Massachusetts, including:

- Changes to local zoning regulations which have created 58,000 units of affordable housing;
- Class action relief safeguarding the right of persecution victims to work and obtain permanent immigration status;
- Enhanced protections for victims of domestic violence;
- Policies designed to protect people against unfair denials and terminations of their benefits;
- Reforms to the state's criminal records system so ex-offenders are better able to reintegrate into society;
- Litigation saving public benefits and health care programs from cutbacks;
- Advocacy against proposed regulations restricting access to emergency shelter for families with children;
- Stronger laws protecting tenants from eviction following the foreclosure of their rental properties;
- Efforts to greatly expand access to the federal food stamp program.

Large Scale Impact Reform

The concept of "law reform" emerged from the war on poverty, which emphasized the pursuit of aggressive, creative legal advocacy to identify, challenge and change policies that adversely impacted the poor as a group. Law reform recognizes that lawyers, their clients and community groups can be catalysts for social change and that the law can be used as an instrument of reform.

The hallmarks of law reform are impact, efficiency, collaborative relationships, and a large toolbox of strategies, including, class action

litigation, legislative advocacy, administrative advocacy, and educating policymakers and the public. Systemic advocacy addresses widespread problems and achieves long-term reforms. As the late Sargent Shriver wrote, "A reform in the law may aid thousands of the poor in the time it takes to solve a hundred individual problems." ¹ Impact advocacy is a more efficient and effective means to address the root causes of poverty or to correct a policy or action affecting a large number of low income people.

As a law reform center, MLRI rarely represent individual clients (unless doing so would have a larger impact). Our work focuses on achieving systemic changes that benefit people in Massachusetts living in poverty. We work with state agencies, the state Legislature, local legal services providers and national and local community-based advocacy organizations to promote positive reforms or to address harmful government policies or actions in a number of areas, including housing, family law, child welfare, immigration, health care, employment, public benefits and racial equity.

An Example of Law Reform at Work: Advocacy to Preserve Affordable Housing

The History

Massachusetts operates a 50,000 unit state-funded public housing program which is a critical and scarce housing resource in a high-rent state. The demand for affordable housing in Massachusetts is much greater than the supply and, as a result, local housing authorities have long waiting lists of applicants and many have partially or completely stopped taking applications at all. Therefore, when a city proposes to demolish public housing that can be renovated, it is a serious move.

Built in 1950 and named after a public housing activist, the Julian D. Steele ("JDS") complex in Lowell, Massachusetts was a state funded development that provided 284 units of affordable housing to very low income families and children. JDS residents had a median annual income of approximately \$11,715, and most families were wage earners.

MLRI was alerted to the city's proposal to demolish the JDS housing development by local community organizations who asked for our assistance in halting those plans. We began working to protect the rights of JDS tenants, arguing that the destruction of JDS was unnecessary and violated fair housing laws. We also recognized the counterproductive precedent such a demolition would set for public housing developments statewide.

MLRI worked with local groups, churches, tenant organizations, homelessness advocates and other grassroots organizations. Together they worked with local authorities and disseminated correct and factual information to the local press, which was hostile to JDS residents and supportive of the demolition. In these early stages, MLRI's Senior Housing Attorney, Judith Liben, testified at public hearings, wrote editorials and other press pieces and started to compile data to use in administrative advocacy.

Despite our efforts, in August 2000, the Massachusetts Legislature passed legislation allowing the Lowell Housing Authority ("LHA") to demolish the development. The LHA relocated residents of JDS from 2000 through 2002, after which the property was transferred and demolished. The city's desire to empty JDS as quickly as possible resulted in a hasty and poorly planned relocation process. Not only were the majority of tenants placed in substandard housing in undesirable neighborhoods, but this action also further contributed to the racial segregation of the city.

The Litigation

In 2001, MLRI, in partnership with Neighborhood Legal Services, the local legal services program covering Lowell, and the law firm of Foley Hoag LLP, which provided *pro bono* services as trial counsel, brought a civil rights lawsuit in federal court against the LHA and the City of Lowell challenging the relocation of the public housing tenants. The lawsuit *Melissa Mendonsa et. al. v. Lowell Housing Authority and City of Lowell* was brought on behalf of two classes of plaintiffs: One class was comprised of hundreds of families

from the Julian D. Steele (JDS) public housing complex in Lowell who were relocated to other housing to make way for the demolition. The other class included thousands of extremely low-income applicants on the waiting lists of the Lowell Housing Authority (LHA).

The lawsuit alleged that the LHA relocated the JDS tenants to the more racially-segregated areas of Lowell and that the City of Lowell sited "replication" housing required by a special 2000 law in higher minority, higher-crime and less desirable areas. The plaintiffs claimed that the City's and LHA's actions perpetuated segregation throughout Lowell and did not affirmatively further fair housing as required by state and federal civil rights laws.

Results of Litigation

After a protracted legal battle, a unique and innovative settlement, one of the first of its kind in the state, was reached in 2008. It followed several months of negotiation and collaboration between the parties and mediation with the Department of Housing and Community Development (DHCD), the state's public housing agency.

The settlement created a Mobility Program to help the dislocated former JDS residents move to decent, safe, and sanitary housing in neighborhoods of their choice, including in "opportunity areas" that are racially integrated and have other positive attributes, and the City agreed to provide replication units in these "opportunity areas." After the settlement, MLRI has assumed a lead role in ensuring this "second move" is conducted in a fair and timely manner, and that families who wish to participate can relocate to better housing in high-opportunity areas.

Our litigation directly impacted the former JDS residents who were given the opportunity to participate in an innovative "second move" fair housing mobility program. However, the indirect impact of this case goes much farther. This case was significant because it encouraged policymakers to view relocation laws from a fair housing perspective. In addition, the JDS demolition proposal, the subsequent legislative and legal battles were highly publicized in the state. The JDS case highlighted the very costly and time-consuming process of destroying viable public housing that could have been renovated, and it served as a powerful deterrent to other unnecessary and ill-conceived public housing demolitions.

The Value of Experience, Relationships and Reputation

MLRI was uniquely positioned to undertake this effort because we have decades-long history of working on public housing issues. Our housing lawyers helped to draft many of the statutes and policies that were involved in this case. We had experience working in the state Legislature and at DHCD. We have a track record of successful civil rights housing litigation and a deep knowledge of the arcane public housing rules and possible settlement scenarios.

Our relationships and reputation also mattered. We had contacts and roots at the community-level, a very close and collaborative partnership with Neighborhood Legal Services, and we are well-known and well-respected so that we could attract Foley & Hoag LLP, a prestigious litigation firm, to work pro bono on a lengthy and protracted lawsuit.

Conclusion

The Julian Steele case is just one of many examples demonstrating the impact achieved through strategic, multi-pronged, collaborative law reform. In this case, MLRI may have been unsuccessful in stopping the initial action, but in the end, we were successful in mitigating the harm and developing an innovative resolution that can be applied to future actions.

Systemic advocacy, by its nature, is not and cannot be one-dimensional. Changing a law, a policy, or a proposed government action that is harmful to low income people or communities often involves educating and influencing multiple agencies and multiple people through various channels. The tactics used depend upon the unique circumstances and different stakeholders involved. Though litigation was necessary in this case, a

systemic change will often not require it. The same result can be achieved through legislative or administrative advocacy. However, having the ability to litigate, to use the hammer of the law, can be a very powerful catalyst for positive change. "The ultimate purpose of what we set upon here is not litigation, it is not court battle... The end purpose is justice. The end purpose is dignity." ¹

For more information about the Massachusetts Law Reform Institute, please visit www.mlri.org.

Georgia D. Katsoulomitis joined MLRI as Executive Director in March 2011. Her experience includes a White House appointment in the U.S. Department of Labor as a Special Assistant to Labor Secretaries Robert B. Reich and Alexis Herman, Vice President at the national strategic communications firm of Robinson, Lerer & Montgomery, Managing Director of the Boston Bar Foundation and Assistant Executive Director of the Boston Bar Association. Georgia is a graduate of Tufts University and the Catholic University School of Law.

¹ Shriver, Sargent, *Law Reform and the Poor*, The American University Law Review, Vol. 17, No. 1, p. 7

² Shriver, Sargent, *Law Reform and the Poor*, p. 11, citing, Goldberg, *Law Day—U.S.A.—1965*, 36 Conn. B.J. 209 (1965).

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Pro Bono Feature

LAMP

2012 ABA Pro Bono Publico Award Recipients

IOLTA

On August 6, 2012, the five recipients of the ABA Pro Bono Publico Award were honored at the Pro Bono Publico Awards Assembly Luncheon held during the ABA Annual Meeting in Chicago. In this issue, we highlight how this year's recipients became involved in pro bono and the contributions they have made to serve the poor.

Pro Bono

2012 ABA Pro Bono Publico Award Recipients

Neal Minahan

In only eight years of practice, Neal Minahan has accomplished an extraordinary amount of pro bono for a young lawyer. In particular, Minahan has devoted over 2,500 hours of pro bono service to a series of landmark civil rights cases affecting institutionalized people in Massachusetts. His successful pro bono representations have resulted in broad institutional reforms and have set important precedent for the rights of incarcerated people.

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Minahan's pro bono cases have ranged from fighting for the religious rights of Muslim inmates serving life sentences, to securing medical care for a transgender person who was civilly committed as a sex offender. As with many prison cases, his clients' pro se complaints languished for years before they found pro bono representation. In each case, Minahan was able to secure his clients' rights despite fierce opposition and the unpopularity of the cause.

SCLAID

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One of Minahan's landmark cases spanned half a decade and sparked statewide prison reform. The case involved two Muslim inmates who had filed a pro se complaint to secure their right to daily Halal meals (meals that meet the dietary requirements of Islam). At the end of trial, the Court issued a decision requiring the Massachusetts Department of Corrections (DOC) to provide Minahan's clients with Halal meals and access to religious services. The ruling led to the DOC revisiting its religious policies and providing Halal meals and religious services to Muslim inmates on a system-wide basis.

Minahan also represented a civilly committed, transgender inmate in her suit to secure prescribed medical treatment for her gender identity disorder. This case was unpopular due to the nature of the treatment and the plaintiff's underlying criminal offense. After years of litigation with complex constitutional issues, Minahan was able to obtain access to treatment for his client. The decision was upheld by the U.S. Court of Appeals for the First Circuit where it was a case of first impression; the case significantly advanced the rights of transgender people and those seeking medical care while incarcerated.

Aside from his pro bono representation of disenfranchised populations, Minahan serves as President and Chair of the Board of the Boston Alliance of Gay, Lesbian, Bisexual and Transgender Youth, Inc. (BAGLY), a 30 year old nonprofit organization promoting educational, social and leadership opportunities for lesbian, gay, bisexual and transgender (LGBT) youth in Massachusetts, as well as spearheading state and national advocacy around LGBT youth issues.

Amy Lorenz-Moser

Amy Lorenz-Moser has been a tireless and extremely effective advocate for

victims of domestic violence for most of her adult life. Her advocacy began in college when she tried to assist a cafeteria worker who she observed being beaten by her abuser. She became a legal advocate when she entered law school at the University of Missouri in Columbia and enrolled in the Domestic Violence Clinic. The Clinic was involved with the Missouri Battered Women's Clemency Project, a collaborative effort of a wide range of organizations. The Clemency Project was working to obtain clemency for 11 battered women and, as a law student, Lorenz-Moser represented one of these women. Her client was granted clemency by the Governor.

The Clemency Project arose out of injustices that occurred in domestic violence influenced murder convictions. Most of the women convicted received sentences of life without the possibility of parole for 50 years. Through the efforts of Lorenz-Moser and others in the Clemency Project, several women obtained their freedom through pardon, parole, or clemency.

Lorenz-Moser did not stop there. She is now representing two other women who faced unspeakable abuse, feared for their lives, and murdered their abusive husbands. For one of these women, she is garnering public support for clemency through a video explicating the horrendous abuse and the woman's lack of options.

Lorenz-Moser has conducted her advocacy for women victims of domestic violence who have been convicted of murder pro bono (often covering the court costs), while simultaneously carrying a demanding private practice caseload and raising a family. She epitomizes the best a lawyer can be – zealously representing those who have few resources and have faced terrible injustice in their lives, and assisting them in finally finding some justice.

Howard Goffen

The Legal Assistance Foundation of Metropolitan Chicago (LAF), the largest provider of free legal services to low-income individuals in the Chicago area, refers to Howard Goffen as its most committed, talented, dedicated and selfless pro bono volunteer. Goffen became a pro bono attorney with LAF in 2005 after an illustrious 40 plus year career in the private sector. Over the last seven years, Goffen has given more than 7,000 hours of pro bono legal services to individuals and families from across the Chicago region through his work with LAF. Each week Goffen spends between 20–30 hours working with LAF clients and staff, all of it uncompensated. He has also provided countless mentorship and professional development opportunities for LAF staff.

Goffen increases LAF's capacity to provide quality representation and legal services to Chicago's neediest individuals. He has been primary counsel or co-counseled more than 120 cases with LAF, many of them complicated and time-intensive consumer matters. He has also reached countless numbers of other clients either through the intake process, or by providing advice and brief services.

Recently, LAF underwent a strategic multiyear reorganization. As a result, Goffen is now assigned to the Consumer Practice Group in an office farther from home. He attends meetings, trainings, task force meetings and maintains a full caseload. Goffen also agreed to learn bankruptcy law even though he had very little familiarity with it in his prior practice, because of the great need for bankruptcy attorneys. Since the time of his training, Goffen has filed over 40 bankruptcies.

Goffen treats each client with whom he works with dignity and respect. He speaks to his clients as partners in solving their legal problem, and with an eye toward empowering them with the tools necessary to avoid consumer fraud and personal debt in the future. The only complaint that LAF has about Goffen is that "there is only one of him." He is described as the embodiment of a model pro bono attorney.

Akin Gump Strauss Hauer & Feld LLP

In 2011, Akin Gump's lawyers, advisers, paralegals and summer associates devoted more than 67,000 hours to the firm's pro bono clients, spread

among 815 active pro bono matters. On average, lawyers in the firm's U.S. offices worked 84 hours for pro bono clients in 2011. While the firm's pro bono practice spans many different areas, from representing charter schools and other nonprofit entities to counseling international development organizations, its primary focus is on low-income individuals, both in traditional poverty law matters and in immigration. The firm has shown extraordinary dedication to the most vulnerable members of society, improving its pro bono commitment from 38 hours per U.S. attorney in 2006 to more than 80 hours per U.S. attorney in each of the past four years, with a substantial pro bono practice in each U.S. office.

Walmart's legal department has worked closely with Akin Gump over the past two years to develop the first corporate counsel medical-legal partnership (MLP) in the United States. Akin Gump not only helped Walmart structure its in-house pro bono program, but also identified legal services partners and trained Walmart lawyers to serve pediatric patients and their families at Arkansas Children's Hospital. Akin Gump did not limit itself to helping Walmart develop the MLP at Arkansas Children's Hospital. The firm also used what it learned through this experience to develop MLP programs in its New York and Dallas offices.

The firm's marquee pro bono practice is in immigration, working with legal services providers such as the Tahirih Justice Center (DC/Houston), American Gateways (Austin), Human Rights First (NY/DC), Human Rights Initiative (Dallas), Immigration Equality (NY) and the Scholar Rescue Fund (NY). The firm's immigration practice focuses on Violence Against Women Act petitions and asylum. The firm is particularly known for taking on difficult asylum cases, including representing individuals potentially barred from asylum for allegedly providing material support for terrorism. In recognition of the firm's efforts, each of the above organizations has honored Akin Gump for its commitment to refugees in the past three years.

Several of Akin Gump's pro bono efforts have expanded legal services to help underserved communities. The firm's work has allowed life-changing organizations such as the Knowledge in Power Program (KIPP) charter schools to obtain valuable legal counsel on a wide range of complex issues and has provided help to members of the U.S. armed forces, who are typically unable to access traditional legal services. Akin Gump has provided more than 13,500 hours of free legal services to KIPP, and through its amazing efforts, has helped to ensure that all children, particularly those from disadvantaged communities, gain access to high quality community schools.

Supreme Court of the State of New York, Appellate Division, Fourth Department

Judicial promotion and support of pro bono can lead to greater access to the court system and a willingness of more attorneys to involve themselves in pro bono. In a time when many judges feel constrained by an erroneous assumption that ethics rules prevent them or their employees from becoming involved in pro bono, the Appellate Division's Fourth Department has set a new model of pro bono engagement. In 2009, the judges of the Fourth Department, under the leadership of Presiding Justice Henry J. Scudder, established the Fourth Department's Policy Statement on Pro Bono Legal and Volunteer Services, the first pro bono policy for appellate court attorneys and staff in New York State. The policy encourages appellate court attorneys to set a personal goal of at least 20 hours of pro bono service per year, in accordance with Rule 6.1 of the New York State Rules of Professional Conduct.

Since the time the policy was implemented, Appellate Department, Fourth Division Court attorneys have provided pro bono service to over 200 low income clients through Volunteer Legal Services Project's (VLSP) Family Law Clinic, Pro Se Divorce Clinic, Alternatives for Battered Women Clinic, Wills Clinic, and Consumer Law Hotline. Court attorneys have also accepted full case referrals in employment insurance benefit denials and wills for seriously ill clients.

The justices of the Appellate Division, Fourth Department timed the implementation of the new pro bono policy with the ABA's first National

Celebration of Pro Bono in October 2009. That year, and each year subsequently, the court's judges and lawyers have participated in various ways in this annual event.

The dedication demonstrated by the Appellate Division, Fourth Department attorneys is all the more impressive because they are government attorneys. In general, recruitment of government attorneys is difficult because there is a prevailing attitude that government attorneys cannot do pro bono. There is no doubt that volunteering at VLSP clinics and accepting pro bono cases pose challenges. However, the Appellate Division, Fourth Division Department Attorneys make pro bono a priority.

In addition to developing and implementing New York State's first pro bono policy for appellate court attorneys, Justice Scudder promoted innovative approaches to pro bono delivery by working with the local county attorney to develop a pro bono policy for Monroe County attorneys. In addition, Justice Scudder, as well as senior members of the Court's staff, readily accept offers to serve as ethics CLE presenters, despite the demands of their schedules. For these reasons, in 2011 the New York State Bar Association presented its prestigious President's Pro Bono Service Award to Presiding Justice Henry J. Scudder and the attorneys and staff of the Appellate Division, Fourth Department.

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From the Chair...

By *Larry McDevitt*

Standing Committee on Pro Bono and Public Service

Among the many activities of the Standing Committee on Pro Bono, I count the National Celebration of Pro Bono as one of the most important. The Pro Bono Celebration has a simple premise: by designating a one week period each year in which to focus on the value of volunteer lawyer contributions, bar associations, law schools, law firms, courts and other institutions in the legal profession have an opportunity to expand and improve their pro bono efforts. Designed to be a grassroots event – building from the ground up, not the top down – the Pro Bono Celebration has seen amazing growth each year with increasing numbers of sponsors, CLE programs, recognition events, clinics, community education events and much more.

The National Celebration of Pro Bono is scheduled for the last full week of October each year. For 2012, mark your calendars for **October 21-27**, and start your planning now. Your assignment is to join the hundreds of other groups across the country that are committed to celebrating how much pro bono means in their communities. Our job is to ensure that your assignment is easily achievable.

A guiding principle of the Pro Bono Committee is to support your Pro Bono Celebration planning efforts by providing information, planning guides, resources, and consultation services. Check out the extensive array of information we have available on our website at www.celebrateprobono.org. The legal needs of the poor are local issues, and although nationwide, the Pro Bono Celebration is intended to have a local focus and impact.

From the Pro Bono Committee's perspective, Pro Bono Celebration goals include:

- Recruiting more pro bono volunteers and increasing legal services to poor and vulnerable people
- Mobilizing community support for pro bono
- Fostering collaborative relationships
- Recognizing the pro bono efforts of America's lawyers

Any of these might be relevant to you as a motivator for participating in the event but let me suggest one other motivator: participation is just the right thing to do!

In North Carolina, where I practice, a coalition of participants has come together to organize events, coordinate activities and celebrate together. The legal community is already planning for the 2012 Pro Bono Celebration and I am looking forward to doing what I can to be fully engaged to spread the word about the importance of lawyer pro bono work.

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Policy News

New York Increases CLE Hours Available Through Pro Bono

[The rule providing for CLE credit for pro bono service, §1500.22 \(j\)](#), was amended to allow attorneys to earn 10 credits of CLE every two years by providing pro bono services to low-income New Yorkers. Each credit equals six hours of pro bono service. Credit may be earned by assignment by a court or through a program, accredited by the CLE Board, of a bar association, legal services provider or other entity. To learn more, contact Elise Geltzer at 212/428-2795.

Cayman Islands Considering Mandating Pro Bono

The Cayman Islands' government is considering requiring all private attorneys to provide at least 25 hours of pro bono services a year or pay an annual fee if they want to opt out. The proposed bill comes amidst proposed cuts to the legal aid budget and a rise in attorney fees. Government officials are accepting public comments through July 2012. Attorneys who decide to take on pro bono cases and do not follow through would face disciplinary measures. Those who opt out would be required to pay nearly \$3,000 a year.

New York's New Lawyer Admittees have 50 Hour Pro Bono Requirement

New York's Chief Judge has announced a new requirement: Would-be lawyers will have to perform 50 hours of pro bono before they can get a law license. New York will be the first state with the pro bono requirement, the New York Times reports. Chief Judge Jonathan Lippman said the change will help those with unmet legal needs. A New York Times editorial endorses the approach, saying it will ensure that new lawyers have real-world experience while helping hundreds of thousands of people in the civil justice system that do not have a lawyer.

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The ABA Center for Pro Bono congratulates the recipients of the 2012 Pro Bono Publico Award.

- Akin Gump Strauss Hauer & Feld – Washington, DC
- Howard Goffen – Chicago, IL
- Amy J. Lorenz–Moser – St. Louis, MO
- Neal Minahan – Boston, MA
- Supreme Court of the State of New York, Appellate Division, Fourth Department – Rochester, NY

They exemplify the significant role volunteers play in the delivery of legal services to those who are vulnerable and in need.

The ABA Standing Committee on Pro Bono and Public Service would like to sincerely thank the following major sponsors of the 2012 Pro Bono Publico Awards.

Akin Gump
Strauss Hauer & Feld LLP

McDermott
Will & Emery

National Association of Pro Bono Professionals Virtual Pro Bono: A DeskTop Conference

The National Association of Pro Bono Professionals, Inc. (NAPBPro) is proud to present the first annual **NAPBPro Virtual Pro Bono: a Desktop Conference**. This conference will be an excellent training event for people interested in and working with Pro Bono efforts throughout the United States—all in the convenience of the one's own office. There will be speakers and presentations on the basics of pro bono as well as innovative new ideas. Hear what others are doing! Share what you are doing! Ask questions and evaluate! All while you sit at your desk. Save your Wednesdays in October: October 3rd, 10th, 17th and 24th.

Go to www.napbpro.net for more information and to register. Don't delay! Registration is limited!

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DIALOGUE

Summer 2012

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News and Perspectives from the ABA Division for Legal Services

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LRIS Feature

LAMP

Unbundled Legal Services and LRIS

IOLTA

By Al Charne

Pro Bono

More than 20 years have passed since Forest Mosten began promoting the unbundling of legal services.¹ The premise for unbundled legal services is that when appropriate, a client and lawyer can agree that the lawyer will provide some, but not all, of the work required for a particular legal matter.

LRIS

**Unbundled
Legal Services
and LRIS**

Outside of litigation, unbundled services are nothing new. Clients hire lawyers to review and provide advice on leases, to write letters, to review employment contracts and severance agreements, to draft contracts after terms are negotiated, to review marital settlement agreements after successful mediation or negotiation between the parties themselves, etc. Lawyer Referral and Information Services (LRISs) have always referred these matters to panel members.

From the Chair

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The ABA Model Rules of Professional Conduct allow lawyers to provide unbundled legal services. Rule 1.2(c) provides: ***A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances, the client gives informed consent and where necessary notice is provided to the tribunal and/or opposing counsel.*** Forty-one of the fifty states have adopted Rule 1.2(c); other states have modified and added requirements to those rules to further embrace the unbundled concept.

SCLAID

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As far back as 2001, Justice Fern A. Fisher, Deputy Chief Administrative Judge for Courts within New York City and her Chief Counsel, Rochelle K. Klempner, wrote about the efficacy, difficulties, and practical and ethical issues of unbundled legal services in New York.² In 2006, believing the time had come to test the value of limited legal services in New York; a pilot project was instituted in the Housing Court of the Civil Court of the City of New York, co-sponsored by the New York City Bar Association. The model was applied only in nonpayment proceedings, and only landlords of buildings with three units or fewer were eligible on the landlord side. Although there was no income test, only 15% of litigants had annual incomes above \$40,000.

The program was modeled after a successful unbundled lawyer-for-the-day program in San Francisco. A joint report on this program was prepared by Judge Fisher and Judge Juanita Bing Newton.³

The report concluded that although full legal services in litigated matters is preferable, the unbundled legal services offered in this program benefitted the litigants, judge and courtroom staff. Both this and many other successful pro bono projects have made good use of unbundled legal services. At the same time, law clinics, bar associations, court-sponsored programs and pro bono agencies have been forced to increasingly provide limited services in response to budget cuts and ever growing demands for services.

Can LRISs, which are "in the business of public service," incorporate unbundled services as a meaningful addition to the services they provide to the public?

In the litigation context, unbundled legal services may include:

- Document Review
- Preparation of Documents and Legal Forms
- Drafting of Pleadings or Orders/Ghost writing
- Legal Research
- Negotiating
- Preparation of Exhibits and Evidence
- Court Coaching
- Limited Court Appearances

On its Pro Se/Unbundled Resource page, the ABA Standing Committee on the Delivery of Legal Services created a well-stocked library of resources on unbundling. In November 2009, the committee published a white paper entitled: "An Analysis of Rules that Enable Lawyers to Serve Pro Se Litigants." Much of this information is available on the ABA's website.⁴

Courts in New York, Washington, California and Florida have established offices for the self-represented, and courthouse facilitators who assist with procedural information and form preparation. Numerous pro bono agencies and bar association services throughout the country help large numbers of clients with form preparation and brief services due to the limited capacity of providers.

Many state courts provide downloadable forms and extensive information on how to complete them through the internet. The website www.lawhelp.org, in addition to listing the pro bono services available in most states, also has extensive information about legal rights and court procedures in many languages. These pro bono programs provide substantial help to litigants and to the courts, often through volunteer lawyer-for-a-day and clinical programs.

What about risks to the lawyer? Won't the lawyers be reluctant to offer unbundled services?

There have been a few cases in which courts have held that a lawyer may be sanctioned for rendering what the lawyer claimed to be an unbundled or limited legal service. The following matters involved private lawyers that charged fees for their services:

In *Nichols v. Keller*, 15 Cal.App.4th 1672 (1993), a firm that limited its practice to workers compensation was found to have breached the duty to inform his client of a possible third party claim.

In *Hale v. U.S.*, 509 F.3d 1139 (9th Cir. 2007), the lawyer prepared the bankruptcy petition and exhibits for the client to file pro se. The agreement with the client provided that the representation did not include any representation other than preparation, assistance, pro se advice and counsel, pre-filing. The client did not sign the petition. In upholding the sanctioning of Hale, the Court of Appeals held that he failed to obtain informed consent to his limited representation and that the bankruptcy court should not countenance Hale's exclusion of critical and necessary services, or endorse the pretense of adequate advice and informed consent.

And, in a disciplinary matter, *People v. Stevens*, 10PDJ002 (Colo.O.P.D.J. 10-7-2010), the lawyer was suspended for representation in a criminal case that the lawyer claimed was limited representation on a rape charge. There was no limited engagement retainer agreement. The disciplinary body found that the client and the client's parents (who paid the fees) did not understand the representation to be limited, and that the representation was not competent.

From this brief survey of cases one can surmise that problems are most likely to arise when the communication between lawyer and client is less than absolutely clear. It is the lawyer's responsibility to ensure that the client not only understands the responsibilities s/he undertakes, but is capable of following through on those responsibilities. It is preferable to have such communication in writing, and a number of states require this. When the limited service or representation has ended, the client should be clearly informed and, if necessary, so should the court.

Some states provide suggested or mandatory engagement forms for unbundled or limited legal services. Iowa requires written consent, with several specific exceptions. Maine, Missouri and Wyoming require that the client and attorney define the scope of representation and the specific limitations of service by using a designated form that is appended to their rules of professional conduct.

Maine's rules include an attachment headed, "Limited Representation Agreement," which provides a checklist of services the lawyer may agree to perform. As part of the agreement, the client must indicate that s/he understands the attorney has not promised any outcome, the lawyer is relying on the client's disclosure of facts, and the lawyer's obligation is limited to those items designated in the agreement.

The LRIS Experience

Many LRIS directors have found establishing regular fee paying unbundled legal services in litigation matters to be challenging. However, there have been some successes and interesting niche markets.

The main area in which unbundled legal services have success is family law. The LRIS of the Contra Costa County Bar Association is an example of a successful program, fueled by its enthusiastic support and leadership role in promoting unbundled services. Visitors to the Contra Costa Superior Court website see the message: *If you feel that you cannot afford to hire a lawyer to handle your whole court case, you can consider hiring a lawyer to help you with just parts of the case (such as checking over court forms, attending a court hearing, or attending a deposition). This kind of legal help is sometimes called "unbundled legal services."* Visitors then see a link to the LRIS, which has lawyers specifically listed for unbundled services. On the ABA's LRIS list serve very few respondents reported substantial numbers of unbundled panel members or retained matters, and those programs seem to be limited to family law.

The New York City Bar Association LRS's experience has been somewhat different from that of other bar associations in that it has had some limited success in more general civil matters, including consumer-related complaints and defenses. A few panel members have handled many matters in which they drafted complaints and answers, interrogatories and other discovery demands, prepared clients for depositions and prepared a checklist for the client to use in presenting his/her case in court. LRS panel members have also provided unbundled services to clients who received "excess letters" from their insurance company after the insurance company notified the client that potential liability might exceed policy limits. In such matters the panel member often just continued to advise the client, weighing both liability and the likelihood of an actual excess award. Similarly, the LRS referred a number of unbundled matters where the clients were professionals who were capable of handling various aspects of a lawsuit themselves with the advice of counsel.

An interesting additional unbundled service was recently started as a cooperative effort between the New York City Bar Association LRS and the bar association's Small Law Firm Committee. Less experienced attorneys handling matters for which they need advice and direction were referred to experienced panel members for a set fee of \$100 per hour, with a minimum of just \$100. Most of these requests dealt with trust and estate issues, although some involved matrimonial, employment, and entertainment law.

Do Unbundled Legal Services Fit the 'Business of Public Service' Model?

Unbundled legal services are mainly used for two reasons: The client cannot afford the cost of full legal representation, and the particular matter can be segmented such that a pro se client can reasonably handle those aspects not requiring a lawyer. And, sometimes, a third reason comes into play: The client wants and is capable of exercising control over the case.

LRISs have for years struggled with the connotation that a bar association referral service is one step above Legal Aid and that its lawyers are newly admitted or ready to retire. LRISs have worked hard to develop

qualifications standards and objective experience requirements, and paid diligent attention to client feedback and areas of improvement, in order to counter the belief that those who can actually afford to pay a lawyer should seek counsel elsewhere.

In turn, experienced panel members — many of whom have been in practice for more than 20 years — may fear that advertising the lowest cost service will hurt their reputation and harm the reputation of the LRIS. Moreover, they may feel that limiting legal services demeans the professionalism these lawyers associate with assuming the responsibilities attendant to full representation.

Lawyers often join a lawyer referral service to enhance their practice with clients that can pay reasonable fees for services the lawyer provides. To make an unbundled practice financially viable may require a much greater number of clients and that the lawyer provide a very different set of services than would be involved in traditional full representation.

A panel member may be concerned if a client wants to hire her for a limited court appearance. This may confuse the court with respect to roles: Who is the responsible party for the case? With whom should the opposing party communicate? Panel members may also have questions: What is the lawyer's duty when receiving motion papers from the opposing party with a short return date, when the limited services the lawyer agreed to were already completed? These can be strong disincentives for lawyers to venture into providing unbundled legal services.

However, on the plus side of the unbundled equation is the opportunity for the lawyer to greatly expand his/her client base, and to collect fees on short duration matters for which the client pays a reasonable fee for the actual service provided and time involved. Many unbundled services are not particularly labor intensive and an opportunity for cost capitalization — partially automated document compilation based upon factual input from the client and the lawyer's analysis. Some clients who seek unbundled services may decide that full representation is more appropriate. And, of course, those who are well served will spread the word to family and friends.

Unbundled Competition

Pro se litigants also have access to a form of unbundled services through some commercial online services. One such service is LegalZoom, an online service that offers a way for pro se litigants to prepare documents for their case. Very basic questions are answered online and LegalZoom mails the appropriate documents with instructions on how to complete them.

Although, LegalZoom makes it clear that it is simply a document assembly service, and does not provide legal advice, the company is now also offering a "personal legal advisor," who is an attorney, for a fee. LegalZoom states that the attorney would "advise you and answer all the questions" that you may have. This may otherwise seem like a full-fledged service, but questions abound as to whether attorneys will be available in all states and if those attorneys will compete directly with LRISs.

A great many "paralegal services" and other document preparation services are available to anyone with access to the internet. Storefront offices for such services also exist. While the legality and question of unauthorized practice of law remains, it is clear that there is a market for these services as some lawyers continue to price themselves beyond the means of even middle income consumers.

Conclusion

For complex matters and for clients who can afford full representation, the preferred model is the one that LRISs will continue to provide. By setting meaningful experience requirements and monitoring client satisfaction, LRISs will remain a wise choice for consumers of legal services. And, knowledgeable LRIS staff will continue to help guide the public to the legal services that they require.

It is time for LRISs to consider providing a range of unbundled legal services, perhaps even developing online forms or helping the public with

court–provided forms. LRISs may well be able to provide new services that increase access to justice by recruiting and training panel members who want to provide the more limited services that are increasingly in demand. However, deciding how to do this, and maintaining our reputation as the appropriate place for clients who have serious, complex, substantial legal matters remains a challenge worthy of ongoing analysis, discussion, and innovation.

Al Charne is Executive Director of the New York City Bar Association LRS.

[1](#) How To Deliver Legal Services a la Carte For Improved Service And Profits
Forrest S. Mosten, Unbundling Legal Services (2000, ABA Section on Law Practice Management)

[2](#) Unbundled Legal Services in New York State: Untying the Bundle, 29
Fordham Urb.
L.J. 1107 (2002)

[3](#) [Volunteer Lawyer for a Day Project Report, a Test of Unbundled Legal Services in the New York City Housing Court](#). February 2008

[4](#)
http://www.americanbar.org/groups/delivery_legal_services/resources.html

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From the Chair...

By John Norwine

Standing Committee on Lawyer Referral and Information Service

In early May I was invited by Louisville Bar Association Executive Director Scott Furkin to address a continuing legal education seminar at their bar headquarters. This was part of a two-hour seminar that their LRS panel members could attend for free. The seminar was followed by a reception and then an award presentation. The awards were the idea of the Kentucky Lawyer Referral Service's Director, Debbie Dye, and were based on greatest number of cases handled in various practice areas, and highest fees generated. The recipients of the awards were obviously pleased to receive them and to be recognized by the bar and their peers.

All of this got me thinking: What do some services do for their panel members beyond making referrals? Should we be doing more for them? Or is our only function with respect to our panel members to refer clients to them? I asked several other bars what they do and received a variety of responses.

The most common form of recognition is to feature panel members in speaking roles of some kind. In Cincinnati, we send LRS panel members out to high schools to address seniors and (at times) their parents on their legal responsibilities when turning eighteen. We also have panel members present one hour programs for the public on various topics at our county law library. The Columbus (Ohio) LRS has four of their panel members answer callers' questions on a weekly TV show and makes sure the panel members' names and firms are displayed. The LRS of Central Texas similarly sponsors a monthly call-in program, LegalLine, and has panel members answer questions. Central Texas also recently partnered with the Service Core of Retired Executives (SCORE) to present a program to entrepreneurs on the importance of protecting their brand.

In Oregon, panel members receive personal thank-you cards and coffee mugs when participating in a focus group or taking on a significant number of Modest Means Program cases. Columbus sent flowers to a panel member's assistant for some significant organizational help. In the past, the New Haven County Bar Association LRS sponsored a free lunch for panel members in order to thank them for participating.

The New York City Bar Association LRS goes a bit further as they sponsor two parties a year for panel members: one during the December holidays and one in the summer. Executive Director Al Charne noted that despite the fact that panel members do pay in order to cover the costs of the parties about one hundred attorneys attend these events. This gives bar staff a chance for face-to-face interaction with panel members, and has been very well received. The New York City Bar Association LRS also sponsors a CLE each year that panel members can attend for a reduced fee.

So, the ideas are out there, but I would like to hear more of them. If you do have a special way of showing your appreciation for panel members, please send me your ideas at jcnorwine@cincybar.org and I will circulate a summary of them.

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The New LRIS Competition: Online Directories

By *Britt Wegner*

As times and technology change, it's only natural that Lawyer Referral and Information Services change as well. Ten years ago, an LRIS's biggest competitors were in the Yellow Pages, and everyone spent large amounts of money to have the largest ads. Fast forward to the present and now LRISs are competing for the top Google spot on page one of the search results. And, who are LRISs competing against? Not only lawyers — as they did in the Yellow Pages — but also Online Lawyer Referral directories.

When I recently typed "Lawyers in Milwaukee, WI" into Google, the first three paid advertising spots were three Milwaukee area law firms. One can surmise that they are spending a lot of money to have this placement. Attorneys are now investing as much in online advertising and keyword placement as they do for Yellow Page ads and television commercials. Lawyers have come to realize that if you are going to be competitive in this already saturated market you have to spend a significant amount of money to appear in the places where people look for help. While LRISs may be envious of lawyers' marketing budgets, it is at least a small comfort to know that most often they are reputable local law firms which are advertising. As Director of their local LRIS, if I make these law firms aware of our services I may reap some of the benefit of their spending by encouraging them to send business they are unable to service to their local LRIS.

However, reputable local law firms are not the only ones which come up in the search results. Now there are online directories: Findlaw, Lawyers.com, LegalMatch, etc. These directories vary in design, ability, and user-friendliness, but they all basically provide the same service: Once the potential client types in an area of law and a location/zip code s/he is presented with a list of lawyers in the field of practice specified. Lawyers pay to be on the list that is generated. It's fast, easy and the potential client receives a list of prospective attorneys to choose from.

So how does an LRIS compete with online directories?

There are a few different options. Milwaukee Bar Association (MBA) LRIS Committee Chair Ann Jacobs suggests a few things:

- Don't panic. Just because there is a new online directory or several competing online referral services does not automatically make LRISs obsolete.
- Watch them closely. When a new for-profit online referral service popped up in Milwaukee, it seemed untouchable. It appeared to have unlimited funds to advertise on television, radio and internet. Upon checking out their site, however, it turned out that the company claimed that *their attorneys* were in "ABA Compliance." The ABA was contacted and the company was immediately forced to take that claim off of their website. It is also worthwhile to check each company out and make sure they are in compliance with your state's regulations as a whole. Some providers are skirting the edges of ethics without crossing them, but still appear to be walking a very fine line.
- Ask what the online directories are doing that might make them

appear to be more attractive to the potential client, or how an LRIS can differentiate itself to make the potential client come to it instead. A large concern of mine was that many of these online directories were providing "lists" of attorneys that matched the area of law and location that had been put into the search field. Many LRISs (the MBA included) only provide one name per potential client. The MBA LRIS has often received complaints about this policy since the general public likes to have choices and wants to be presented with options — so that they feel that they made their own educated choice in retaining legal services. The MBA LRIS still wants to be as fair as possible to every panel attorney, so we continue to only provide one name at a time. However, I can easily understand how this could make the MBA LRIS less attractive to some potential clients.

If LRISs are not willing to change their rules and provide more referrals per potential client, then they will have to find other ways to compete with these fast and easy directories that provide lists of attorneys, and sometimes even answers to legal questions.

The MBA LRIS created a blog where the public could submit legal questions at no cost. The questions are sent to MBA panelist attorneys to see if anyone could offer a basic answer, and the answer is posted to the blog. And, if no one posts questions, panel attorneys post basic questions and answers that they may have often encountered.

The Human Touch

The MBA LRIS's ABA Approval, A+ Better Business Bureau rating, affiliation with the Milwaukee Bar Association and the 154 years the MBA has been in existence all make a difference, but even more so is the "human touch." In the online realm, it's going to be our quality factors that distinguish us. An automatic, free online referral (even if only one name is provided) does seem helpful, since some directories do charge for a name or answer. However, there are other stand-out high-quality, high-touch factors: the personal instant chat option and the telephone conversation with a real, live, trained person especially if the potential client is not comfortable discussing his/her specific situation online or prefers more privacy.

No matter how tech savvy someone is, s/he still wants to know that the attorney or information provided comes from a reputable source and many still want that human-to-human contact that many online directories do not offer. As a point of differentiation and competitive edge, LRIS's high level of customer service becomes as important as the money spent on a quality website. LRISs can learn from many other businesses — insurance and credit card companies, for example which constantly repeat the message that there is a live person there for the client when s/he needs help.

Some online directories try to stand out by offering users other services, such as reviews of attorneys and appointment scheduling. While LRISs do not offer any sort of "review" or "rating" of attorneys, each LRIS should tell potential clients about its attorney vetting process and requirements: panel eligibility screening and experience requirements; mandatory insurance; absence of current disciplinary actions; agreement to arbitrate fee disputes, etc. Although no LRIS wants to highlight the possibility that an attorney may overcharge, it can be considered as part of a broader message — the LRIS is there for the client from start to finish.

Another online directory focuses on sole practitioners and targets potential clients that want to set their own rate for legal services. This reverse auction model is an interesting outgrowth of consumer-driven downward pressure on attorney hourly rates, and even the concept of the billable hour itself. LRIS's programs, however, such as Modest Means panels, unbundled legal services referrals, etc., may be just as effective, and would likely provide better vetting of its attorneys.

The reality is bar-sponsored LRISs cannot compete financially with any type of private company that has substantial advertising funds. This will likely cause LRISs to be shoved to the 10th page of a Google search, making it even more difficult to sustain the vital public services LRISs provide. One possible suggestion would be to raise panel member dues and specifically



allocate every dime collected to specific marketing campaigns, e.g., ad word marketing, public service announcements, etc. This could be a relatively easy sell to panel members as an aggregated advertising buy on their behalf.

When the online directories are neck-and-neck, however, it's all going to come down to differentiating LRISs by providing the best customer service possible. As I like to say: "Whatever it takes!"

Britt Wegner is Director of the Milwaukee Bar Association Lawyer Referral & Information Service.

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Las Vegas Strip

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2012 Harrison Tweed Awards Presented at ABA Annual Meeting

The San Mateo County Bar Association and the San Antonio Bar Association were each presented a Harrison Tweed Award during the American Bar Association 2012 Annual Meeting in Chicago. This award, created in 1956, recognizes the extraordinary achievements of state and local bar associations that develop or significantly expand projects or programs to increase access to civil legal services for poor persons or criminal defense services for indigents. It is named for a leader in the promotion of free legal services to the poor and is co-sponsored by the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and the National Legal Aid and Defender Association (NLADA).

The activities of this year's winners demonstrate the wide range of activities that bars engage in to promote access to justice. SCLAID and NLADA congratulate both winning bar associations for their achievements and hope they will inspire other bar associations to increase their commitment to the provision of free legal services to those in desperate need of assistance.

San Mateo County (CA) Bar Association

The San Mateo County Bar Association (Association) was honored for its Private Defender Program (PDP), a highly successful assigned counsel program that is the indigent defense system for the county. This program provides an excellent example of the integration of the private bar and the indigent defense function and has been a model for other programs across the country.

The Association established and has operated the PDP with funding from the county since 1969. Its success is due in part to the importance it places on: representation early and throughout the criminal process; auxiliary defense services such as the use of investigators and experts; and the use of attorney performance measures. The program is known for its quality, client-centered representation resulting in part from the extensive training and support services provided to panel attorneys.

Through its PDP, the Association has demonstrated its commitment to the holding of *Gideon v. Wainwright*. As we approach the 50th Anniversary of that landmark decision, it is most fitting that the San Mateo County Bar Association be recognized for its efforts.

San Antonio Bar Association

The San Antonio Bar Association's (SABA) Community Justice Program (CJP) provides free neighborhood-based legal services to the indigent in San Antonio. This pro bono program offers legal services at afternoon and evening clinics in the heart of San Antonio's low income community in a wide range of civil matters.

One of the innovative features of the CJP is that it brings the courthouse to the community. This is achieved by having volunteer attorneys, law students, district clerks, notaries, interpreters, and judges all take part so that a client's matter can be disposed of the same day the client appears at the clinic. If that is not possible due to the nature of the matter presented, the client can be provided necessary advice on the spot or representation in the courts at a later date.



The CJP is a collaborative effort with Texas RioGrande Legal Aid, which screens clients and provides malpractice insurance for volunteer attorneys. The CJP has served over 6,000 clients in its ten years of existence. It has been a model for the development of similar projects in several Texas counties and represents an innovative, client-centered approach to serving those in need of free civil legal services.

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