Nevada Supreme Court Access to Justice Commission
Date: Friday, October 19, 2012
Time: 9 am – 11:30 am
Three main video-conference locations

Las Vegas	*Carson City*	*Reno*
Regional Justice Center	*Supreme Court*	*2nd Judicial District Court*
17th Floor, Conf. Rooms A&B	*Law Library Room #107*	*Judges Conference Room 200-A*
200 Lewis Ave., Las Vegas, 89101	*201 S. Carson Street, Carson City, 89701*	*75 Court Street, Reno, 89501*

Conference Call: 1-877-594-8353 Passcode 35688281

AGENDA

Items may be added or deleted at time of meeting at the discretion of the Co-Chairs

1. **Opening comments from Co-Chairs**
2. **Statewide Legal Services Delivery**
   a. Executive Directors Report
   b. Individual program reports
   c. Rural Services Delivery-special report, NLS
   d. Funding updates
   e. Legislative items 2013
3. **IOLTA and NLF**
   a. Nevada Law Foundation Report
   b. Fundraising & Development
   c. IOLTA management & grants
   d. Participating bank communications updates
   e. NLF monthly reports
   f. State Bar IOLTA Compliance Review
4. **Emeritus**
5. **Special Projects**
   a. Public Speakers Bureau
   b. Project Salute
6. **Communications and marketing**
   a. Pro Bono PR/Marketing firm finalized
   b. ATJC Video
   c. Say Yes to Pro Bono State Bar Campaign
   d. Pro Bono Week
7. **PRO BONO week**
8. **Other business & Informational items**
   a. Draft minutes 6.29.12
   b. Set next meeting
   c. National ATJC news and recent articles

To the Members of the Access to Justice Commission:

As part of the Commission's ongoing dialogue and commitment to address the specific civil legal needs in the rurals, Kristina Marzec and I felt it would be beneficial for NLS to prepare a report about the services that Nevada Legal Services has provided to residents of the rural counties in 2012.

As you know, part of the challenge we face in the rurals is the perception of need versus the statistical realities of need. Balancing the argument of dollar per person in poverty over the plight of the smaller populations in the rurals is not new, and it warrants discussion on more than an anecdotal level.

Nevada Legal Services understands there is a perception that there is a disproportionate service gap in the rurals, which continues despite all the outreach, clinics, and classes being provided in the rural counties. It seems that all the education and information we provide may still not be reaching the right people, and perhaps this can be a goal for 2013 with which the Commission can assist.

This report will address the nuts and bolts reality of the real need for our services in rural Nevada, broken down by county. First, a review of the NLS case work done in 2012. (*See* Exhibit 1.)

Summary of Total Cases in the Rural Counties January 1, 2012 – Sept. 21, 2012: **711**

Total Cases in the Same Period in Washoe County: **761**

Total Cases in the Same Period in Clark County: **845**

During the period of January 1, 2012, - September 21, 2012, NLS has conducted **232 clinics and outreaches** in all the rural counties except Esmeralda County. We used to schedule clinics and outreach in Esmeralda County, but no one would attend. We ended the trips because they seemed a waste of time and resources. The topics of the clinics are bankruptcy, foreclosure, sealing of records, family law, guardianship, a general legal forms clinic, and landlord/tenant.

The eight (8) attorneys in the Reno office serve all of Washoe, Carson City, Douglas, Churchill, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey and White Pine Counties, plus all of the Indian Reservations in Nevada. The seven (7) attorneys in the Las Vegas office serve Clark, Nye, Lincoln, and Esmeralda Counties.

During the August meeting of the Legislature's Interim Finance Committee, the IFC was reviewing the proposal put forward by the Attorney General for using the settlement funds from the national foreclosure case against the five major banks. Part of the Attorney General's proposal included funding for legal services. There was quite a bit of opposition to funding legal

services and comments were made that there are no services in the rural counties and the members making the complaints didn't think this funding would be used any differently.

As I stated in my testimony before the Interim Finance Committee in August, NLS turns away on average 3,000 people per month who are completely qualified for our services. In some months, the number turned away is over 5,000. This is a statistic that we are required to keep by our federal funder. These numbers are not estimates made by us. These people are turned away because NLS simply does not have the staff resources to assist all of those who qualify for our services.

Between the years 2001 and 2011, Nevada doubled the percentage of residents living in poverty- 1,010,385 Nevadans qualify for legal aid

As you were made aware, the US Census Bureau released the 2011 poverty statistics on September 20th. Between the years 2001 and 2011, Nevada doubled the percentage of residents living in poverty. In 2001, the percentage of Nevadans living in poverty was 8%. The 2011 numbers show that 16% of Nevadans now live in poverty (measured as those living at or below 100% of the federal poverty guideline). Not surprisingly, all of this growth took place in the years 2007 to 2009. Nevada Legal Services uses the 200% of the federal poverty level as our income guideline for accepting cases. If you look at the number of Nevadans who live at or below 200% of the federal poverty guidelines, 1,010,385 Nevadans qualify for assistance from us. That is an astonishing number! Thirty-seven percent (37%) of the residents of the State of Nevada qualify for assistance from Nevada Legal Services and we have been able to help only 5,013 of them. That comes out to be 0.005% of the total number of people eligible for our services. And Nevada Legal Services turns away over 36,000 people a year who come to us for help and who qualify for our services.

Of the 1,010,385 people who qualify for assistance from Nevada Legal Services, 73% live in Clark County

Now let us look at where this tremendous need lies in Nevada. Of the 1,010,385 people who qualify for assistance from Nevada Legal Services, 73% live in Clark County. Washoe County has 15% of the low-income residents. That means that all of the rest of the counties in Nevada has only 12% of total low-income residents. And the current recession has not hit Nevada counties in equal measure.

Did you know Elko County only has 800 households that qualify for legal aid, and a 4% unemployment rate?

For example, Elko County has weathered the recession comparatively well. Unemployment in Elko County has only been 4% compared to the statewide 12.1%. The total number of Elko County households that qualify for assistance from Nevada Legal Services is approximately 800.[1] **So far this year, we have provided assistance to 104 of those 800 households or 13% of those who qualify for our services.** Compare that to the services NLS has provided in Clark County. There 742,423 residents qualify for our services and we have assisted 845 residents or

[1] These numbers are based on 2010 statistics and are measured at 125% of the Federal Poverty Guideline.

0.001% of those who qualify for our services. The services NLS provides to Elko County far exceeds that which we provide in any other county in Nevada as a percentage of total residents who qualify for our services. Yet, NLS still receives complaints that we are not serving the poor in Elko County.

Private Attorney Case Placement tops 300 cases so far this year

In addition to our in-house services, we have placed over 300 cases to date in the rural counties, the substantial majority of those in Washoe County. (*See* Exhibit 2.)

Working poor vs. indigent

The distinction must be made between those who cannot afford to hire a private attorney to assist them and those who are poor enough to qualify for services from NLS. NLS has people contact us all the time who tell us that they were referred to us by a private attorney or by the courts with the statement, "don't worry, NLS can take your case." It is always frustrating for the client and for us when we have to tell them that their income is too high for us to help them. While we sympathize and agree that they cannot afford what private attorneys charge per hour, they are not poor as defined by the federal government. This is a problem in the balance of the state as well, but it seems to be magnified in the rurals because we are starting with a smaller total population.

Federal funders claim NLS is providing too much service to the rurals

Over the past four years, Nevada Legal Services responded to the concerns of the Access to Justice Commission that there was an apparent lack of services in rural Nevada by increasing our presence in the rural counties. You may be surprised to hear this response has come back to haunt and hurt us with our federal funders. We have been told that we receive funding to serve the entire State and that we are expected to allocate our resources in proportion to serve the communities in most need (*i.e.* those counties where the majority of the people who qualify for our services are located receive the greater proportion of resources).

NLS was told that we should cut back our outreach and presence in the rural counties and we were given a number of suggestions such as using our video conferencing systems to conduct clinics or recording our clinics and sending out recordings to partners in the rural counties. We were also told that we needed to increase our financial resources in order to increase the staff available to provide services in Clark County, which, it was pointed out, we are woefully under serving.

So, NLS is caught between a rock and a hard place. We truly listen to the long-standing concerns of some regarding rural counties and in response, allocate resources in excess of actual need in those counties. The response from our federal funders tells us that we are not allocating our resources correctly and we need to make changes, with no regard for political considerations or team play among the continuum of care with the core legal aid providers. What are we as a program to do? Until a perfect world where NLS (and all the legal aid providers for that matter) has the ability to serve absolutely everyone in the State who qualifies for our services, NLS is

going to have to allocate our resources to best serve the majority of the poor in Nevada in the best manner that we can.

NLS Rural Case Statistics January 1, 2012 – September 21, 2012.

Carson City County – 150 Total

12	Consumer Cases
1	Taxes
29	Family Law
2	Juvenile
2	Health
66	Housing
19	Income Maintenance
18	Elder Law

Churchill County – 24 Total

5	Consumer Cases
3	Family Law
10	Housing
2	Income Maintenance
2	Criminal – Tribal Court
2	Elder Law

Douglas County – 75 Total

12	Consumer
16	Family
34	Housing
1	Income Maintenance
12	Elder Law

Elko County – 104 Total

15	Consumer
23	Family
1	Health
22	Housing
11	Income Maintenance
13	Criminal – Tribal Court
19	Elder Law

Esmeralda County – 0 Cases

Eureka County – 1 Consumer Case

Humboldt County – 47 Total

1	Consumer
11	Family
4	Housing
1	Immigration
24	Criminal – Tribal Court
5	Elder Law

Lander County – 1 Family Case

Lincoln County – 0 Cases

Lyon County – 197 Total

20	Consumer
2	Taxes
21	Family
2	Juvenile
6	Health
35	Housing
15	Income Maintenance
1	Immigration
1	Criminal – Tribal Court
94	Elder Law

Mineral County – 12 Total

1	Employment
2	Family
4	Housing
1	Income Maintenance
3	Criminal – Tribal Court
1	Elder Law

EXHIBIT 1
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Nye County – 56 Total

8	Consumer
15	Family
1	Juvenile
24	Housing
2	Income Maintenance
1	Immigration
5	Elder Law

Pershing County – 13 Total

1	Consumer
1	Family
1	Housing
2	Income Maintenance
5	Criminal – Tribal Court
2	Elder Law

Storey County – 2 Total

1	Consumer
1	Housing

White Pine County – 29 Total

4	Consumer
7	Family
12	Housing
1	Income Maintenance
5	Elder Law

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PRO BONO CASES ACCEPTED BY PRIVATE ATTORNEYS
January 1, 2012 – September 21, 2012

Carson City – 30 Cases

3	Consumer
27	Family
1	Minor Guardianship
1	Income Maintenance
1	Elder Law

Churchill County – 3 Cases

1	Consumer
2	Family

Clark County – 68 Cases

12	Consumer
1	Employment Discrimination
1	Taxes
32	Family
1	Minor Guardianship
10	Housing
8	Income Maintenance
2	Immigration
2	Elder Law

Douglas County – 12 Cases

1	Consumer
10	Family
1	Elder Law

Elko County – 4 Cases

3	Family
1	Non-Profit Group Incorporation

Esmeralda – 0 Cases

Eureka – 0 Cases

Humboldt – 2 Cases

2	Family

Lander – 0 Cases

Lincoln – 0 Cases

Lyon – 30 Cases

6	Consumer
18	Family
1	Immigration
5	Elder Law

Mineral – 0 Cases

Nye County – 19 Cases

3	Consumer
12	Family
1	Housing
1	Income Maintenance
1	Immigration
1	Elder Law

Pershing County – 0 Cases

Storey County – 0 Cases

White Pine County – 0 Cases

Washoe County – 225 Cases

3	Consumer
1	Employment Discrimination
151	Family
3	Housing
3	Income Maintenance
1	Immigration
23	Elder Law

EXHIBIT 2

AMERICAN FactFinder

S1701 | POVERTY STATUS IN THE PAST 12 MONTHS

2011 American Community Survey 1-Year Estimates

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Data and Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

Subject	Nevada				
	Total		Below poverty level		Percent below poverty level
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate
Population for whom poverty status is determined	2,684,536	+/-3,072	426,741	+/-20,552	15.9%
AGE					
Under 18 years	653,766	+/-3,236	144,440	+/-10,197	22.1%
Related children under 18 years	649,377	+/-3,738	140,087	+/-10,455	21.6%
18 to 64 years	1,694,606	+/-1,723	250,685	+/-12,663	14.8%
65 years and over	336,164	+/-1,524	31,616	+/-3,802	9.4%
SEX					
Male	1,344,710	+/-3,222	200,293	+/-10,800	14.9%
Female	1,339,826	+/-2,967	226,448	+/-12,787	16.9%
RACE AND HISPANIC OR LATINO ORIGIN					
One race	2,579,770	+/-10,578	412,293	+/-20,544	16.0%
White	1,924,277	+/-15,881	272,366	+/-15,686	14.2%
Black or African American	213,849	+/-5,179	54,509	+/-7,512	25.5%
American Indian and Alaska Native	32,039	+/-3,167	9,279	+/-2,086	29.0%
Asian	193,804	+/-5,927	22,452	+/-5,336	11.6%
Native Hawaiian and Other Pacific Islander	16,181	+/-1,583	6,009	+/-3,161	37.1%
Some other race	199,620	+/-14,146	47,678	+/-7,935	23.9%
Two or more races	104,766	+/-10,615	14,448	+/-2,792	13.8%
Hispanic or Latino origin (of any race)	727,390	+/-1,837	167,934	+/-15,068	23.1%
White alone, not Hispanic or Latino	1,438,185	+/-2,030	159,182	+/-9,372	11.1%
EDUCATIONAL ATTAINMENT					
Population 25 years and over	1,789,679	+/-2,702	225,269	+/-11,101	12.6%
Less than high school graduate	284,366	+/-10,554	67,463	+/-6,463	23.7%
High school graduate (includes equivalency)	520,260	+/-14,064	67,407	+/-4,961	13.0%
Some college, associate's degree	580,081	+/-13,682	65,953	+/-5,080	11.4%
Bachelor's degree or higher	404,972	+/-12,640	24,446	+/-3,615	6.0%
EMPLOYMENT STATUS					
Civilian labor force 16 years and over	1,378,508	+/-11,717	144,407	+/-9,338	10.5%
Employed	1,204,028	+/-12,062	93,214	+/-7,418	7.7%
Male	642,596	+/-9,486	46,756	+/-4,992	7.3%
Female	561,432	+/-10,110	46,458	+/-4,669	8.3%
Unemployed	174,480	+/-8,644	51,193	+/-5,471	29.3%
Male	98,354	+/-6,248	26,847	+/-3,566	27.3%
Female	76,126	+/-6,289	24,346	+/-3,543	32.0%
WORK EXPERIENCE					

Subject	Nevada				
	Total		Below poverty level		Percent below poverty level
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate
Population 16 years and over	2,104,992	+/-3,205	298,362	+/-13,927	14.2%
Worked full-time, year-round in the past 12 months	839,894	+/-15,211	26,831	+/-3,860	3.2%
Worked part-time or part-year in the past 12 months	516,521	+/-12,868	94,339	+/-7,558	18.3%
Did not work	748,577	+/-13,849	177,192	+/-10,531	23.7%
All individuals below:					
50 percent of poverty level	194,328	+/-14,553	(X)	(X)	(X)
125 percent of poverty level	562,216	+/-24,087	(X)	(X)	(X)
150 percent of poverty level	719,943	+/-27,180	(X)	(X)	(X)
185 percent of poverty level	918,413	+/-31,181	(X)	(X)	(X)
200 percent of poverty level	1,010,385	+/-30,510	(X)	(X)	(X)
Unrelated individuals for whom poverty status is determined	536,204	+/-15,934	134,978	+/-7,290	25.2%
Male	289,871	+/-10,946	63,981	+/-5,613	22.1%
Female	246,333	+/-10,126	70,997	+/-5,477	28.8%
Mean income deficit for unrelated individuals (dollars)	7,161	+/-254	(X)	(X)	(X)
Worked full-time, year-round in the past 12 months	233,328	+/-11,033	8,379	+/-2,526	3.6%
Worked less than full-time, year-round in the past 12 months	132,577	+/-7,632	45,764	+/-4,888	34.5%
Did not work	170,299	+/-7,861	80,835	+/-5,121	47.5%
PERCENT IMPUTED					
Poverty status for individuals	27.3%	(X)	(X)	(X)	(X)

Subject	Nevada	Clark County, Nevada			
	Percent below poverty level	Total		Below poverty level	
	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Population for whom poverty status is determined	+/-0.8	1,946,168	+/-3,704	327,962	+/-17,765
AGE					
Under 18 years	+/-1.6	481,848	+/-2,890	113,249	+/-9,002
Related children under 18 years	+/-1.6	478,858	+/-3,200	110,295	+/-9,021
18 to 64 years	+/-0.7	1,235,430	+/-2,161	192,290	+/-10,970
65 years and over	+/-1.1	228,890	+/-789	22,423	+/-2,953
SEX					
Male	+/-0.8	975,526	+/-2,653	157,597	+/-9,700
Female	+/-1.0	970,642	+/-2,158	170,365	+/-10,695
RACE AND HISPANIC OR LATINO ORIGIN					
One race	+/-0.8	1,861,933	+/-9,637	316,786	+/-18,132
White	+/-0.8	1,318,804	+/-13,089	198,952	+/-13,321
Black or African American	+/-3.5	200,403	+/-4,920	50,418	+/-7,013
American Indian and Alaska Native	+/-6.0	11,689	+/-2,200	4,114	+/-1,737
Asian	+/-2.7	167,603	+/-4,989	20,845	+/-5,245
Native Hawaiian and Other Pacific Islander	+/-17.5	13,136	+/-1,469	5,843	+/-3,160
Some other race	+/-3.4	150,298	+/-11,731	36,614	+/-6,450
Two or more races	+/-2.5	84,235	+/-9,423	11,176	+/-2,544
Hispanic or Latino origin (of any race)	+/-2.1	577,753	+/-1,773	139,560	+/-12,686
White alone, not Hispanic or Latino	+/-0.7	924,306	+/-1,688	101,181	+/-8,847
EDUCATIONAL ATTAINMENT					
Population 25 years and over	+/-0.6	1,287,902	+/-1,939	172,115	+/-9,838
Less than high school graduate	+/-2.2	215,149	+/-9,171	54,078	+/-5,320
High school graduate (includes equivalency)	+/-1.0	381,787	+/-12,232	51,285	+/-4,494
Some college, associate's degree	+/-0.9	404,100	+/-13,334	48,091	+/-4,880
Bachelor's degree or higher	+/-0.9	286,866	+/-11,990	18,661	+/-3,190
EMPLOYMENT STATUS					
Civilian labor force 16 years and over	+/-0.7	1,001,296	+/-10,353	112,724	+/-8,082
Employed	+/-0.6	869,247	+/-10,509	70,956	+/-6,461
Male	+/-0.8	462,523	+/-8,046	36,174	+/-4,532
Female	+/-0.8	406,724	+/-8,178	34,782	+/-4,211
Unemployed	+/-2.7	132,049	+/-7,630	41,768	+/-4,579
Male	+/-3.1	74,467	+/-5,188	21,788	+/-2,972
Female	+/-4.0	57,582	+/-5,567	19,980	+/-3,046
WORK EXPERIENCE					
Population 16 years and over	+/-0.7	1,516,394	+/-3,326	226,893	+/-12,051
Worked full-time, year-round in the past 12 months	+/-0.5	613,641	+/-13,763	20,454	+/-3,657
Worked part-time or part-year in the past 12 months	+/-1.3	362,708	+/-12,199	71,194	+/-6,563
Did not work	+/-1.2	540,045	+/-12,286	135,245	+/-8,710
All Individuals below:					
50 percent of poverty level	(X)	147,938	+/-12,512	(X)	(X)
125 percent of poverty level	(X)	424,201	+/-20,401	(X)	(X)
150 percent of poverty level	(X)	545,269	+/-21,454	(X)	(X)
185 percent of poverty level	(X)	681,089	+/-25,742	(X)	(X)
200 percent of poverty level	(X)	742,423	+/-25,989	(X)	(X)
Unrelated individuals for whom poverty status is determined	+/-1.2	387,861	+/-13,921	97,955	+/-5,805
Male	+/-1.8	211,359	+/-9,596	47,151	+/-4,850
Female	+/-1.9	176,502	+/-8,336	50,804	+/-4,541
Mean income deficit for unrelated individuals (dollars)	(X)	7,270	+/-305	(X)	(X)
Worked full-time, year-round in the past 12 months	+/-1.1	173,167	+/-9,827	6,505	+/-2,436
Worked less than full-time, year-round in the past 12 months	+/-3.1	93,431	+/-6,509	32,006	+/-3,901
Did not work	+/-2.0	121,263	+/-7,016	59,444	+/-4,947
PERCENT IMPUTED					
Poverty status for individuals	(X)	30.5%	(X)	(X)	(X)

Subject	Clark County, Nevada		Washoe County, Nevada		
	Percent below poverty level		Total		Below poverty level
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate
Population for whom poverty status is determined	16.9%	+/-0.9	419,333	+/-2,443	55,009
AGE					
Under 18 years	23.5%	+/-1.9	98,293	+/-822	16,201
Related children under 18 years	23.0%	+/-1.9	97,498	+/-1,094	15,406
18 to 64 years	15.6%	+/-0.9	267,833	+/-2,549	33,237
65 years and over	9.8%	+/-1.3	53,207	+/-871	5,571
SEX					
Male	16.2%	+/-1.0	209,741	+/-2,723	24,664
Female	17.6%	+/-1.1	209,592	+/-1,212	30,345
RACE AND HISPANIC OR LATINO ORIGIN					
One race	17.0%	+/-1.0	N	N	N
White	15.1%	+/-1.0	328,975	+/-8,142	38,091
Black or African American	25.2%	+/-3.5	11,164	+/-1,356	3,713
American Indian and Alaska Native	35.2%	+/-12.1	6,635	+/-1,120	1,354
Asian	12.4%	+/-3.1	20,728	+/-2,286	1,299
Native Hawaiian and Other Pacific Islander	44.5%	+/-21.0	N	N	N
Some other race	24.4%	+/-3.6	35,053	+/-8,096	8,440
Two or more races	13.3%	+/-2.7	14,211	+/-3,390	2,021
Hispanic or Latino origin (of any race)	24.2%	+/-2.2	95,804	+/-710	19,710
White alone, not Hispanic or Latino	10.9%	+/-1.0	273,745	+/-1,680	28,244
EDUCATIONAL ATTAINMENT					
Population 25 years and over	13.4%	+/-0.8	279,399	+/-2,025	28,404
Less than high school graduate	25.1%	+/-2.4	41,208	+/-4,061	8,970
High school graduate (includes equivalency)	13.4%	+/-1.2	70,579	+/-5,412	8,491
Some college, associate's degree	11.9%	+/-1.2	89,076	+/-3,905	7,907
Bachelor's degree or higher	6.5%	+/-1.1	78,536	+/-4,893	3,036
EMPLOYMENT STATUS					
Civilian labor force 16 years and over	11.3%	+/-0.8	223,233	+/-5,240	18,597
Employed	8.2%	+/-0.7	200,318	+/-5,567	14,448
Male	7.8%	+/-1.0	105,995	+/-3,941	6,800
Female	8.6%	+/-1.0	94,323	+/-3,640	7,648
Unemployed	31.6%	+/-2.9	22,915	+/-3,028	4,149
Male	29.3%	+/-3.5	13,018	+/-2,235	2,083
Female	34.7%	+/-4.5	9,897	+/-2,263	2,066
WORK EXPERIENCE					
Population 16 years and over	15.0%	+/-0.8	333,745	+/-2,757	41,348
Worked full-time, year-round in the past 12 months	3.3%	+/-0.6	134,285	+/-6,055	3,713
Worked part-time or part-year in the past 12 months	19.6%	+/-1.6	89,263	+/-5,283	13,865
Did not work	25.0%	+/-1.4	110,197	+/-4,833	23,770
All Individuals below:					
50 percent of poverty level	(X)	(X)	26,746	+/-5,082	(X)
125 percent of poverty level	(X)	(X)	78,278	+/-8,099	(X)
150 percent of poverty level	(X)	(X)	100,540	+/-8,700	(X)
185 percent of poverty level	(X)	(X)	137,414	+/-9,328	(X)
200 percent of poverty level	(X)	(X)	154,356	+/-9,657	(X)
Unrelated individuals for whom poverty status is determined	25.3%	+/-1.3	92,382	+/-6,213	23,345
Male	22.3%	+/-2.0	47,999	+/-4,725	10,644
Female	28.8%	+/-2.2	44,383	+/-4,057	12,701
Mean income deficit for unrelated individuals (dollars)	(X)	(X)	6,738	+/-497	(X)
Worked full-time, year-round in the past 12 months	3.8%	+/-1.4	38,216	+/-4,179	1,208
Worked less than full-time, year-round in the past 12 months	34.3%	+/-3.5	26,274	+/-4,045	8,921
Did not work	49.0%	+/-2.5	27,892	+/-2,714	13,216
PERCENT IMPUTED					
Poverty status for individuals	(X)	(X)	18.8%	(X)	(X)

Subject	Washoe County, Nevada		
	Below poverty level	Percent below poverty level	
	Margin of Error	Estimate	Margin of Error
Population for whom poverty status is determined	+/-6,673	13.1%	+/-1.6
AGE			
Under 18 years	+/-3,853	16.5%	+/-3.9
Related children under 18 years	+/-3,951	15.8%	+/-4.0
18 to 64 years	+/-4,046	12.4%	+/-1.5
65 years and over	+/-1,309	10.5%	+/-2.4
SEX			
Male	+/-3,879	11.8%	+/-1.9
Female	+/-4,111	14.5%	+/-2.0
RACE AND HISPANIC OR LATINO ORIGIN			
One race	N	N	N
White	+/-5,499	11.6%	+/-1.6
Black or African American	+/-1,833	33.3%	+/-14.8
American Indian and Alaska Native	+/-650	20.4%	+/-9.9
Asian	+/-1,059	6.3%	+/-5.0
Native Hawaiian and Other Pacific Islander	N	N	N
Some other race	+/-3,814	24.1%	+/-10.4
Two or more races	+/-1,001	14.2%	+/-6.5
Hispanic or Latino origin (of any race)	+/-5,433	20.6%	+/-5.7
White alone, not Hispanic or Latino	+/-4,281	10.3%	+/-1.6
EDUCATIONAL ATTAINMENT			
Population 25 years and over	+/-3,475	10.2%	+/-1.2
Less than high school graduate	+/-2,029	21.8%	+/-5.0
High school graduate (includes equivalency)	+/-1,895	12.0%	+/-2.5
Some college, associate's degree	+/-1,900	8.9%	+/-2.1
Bachelor's degree or higher	+/-843	3.9%	+/-1.0
EMPLOYMENT STATUS			
Civilian labor force 16 years and over	+/-2,892	8.3%	+/-1.3
Employed	+/-2,475	7.2%	+/-1.3
Male	+/-1,746	6.4%	+/-1.7
Female	+/-1,762	8.1%	+/-1.8
Unemployed	+/-1,325	18.1%	+/-5.6
Male	+/-859	16.0%	+/-5.9
Female	+/-842	20.9%	+/-9.1
WORK EXPERIENCE			
Population 16 years and over	+/-4,434	12.4%	+/-1.3
Worked full-time, year-round in the past 12 months	+/-1,206	2.8%	+/-0.9
Worked part-time or part-year in the past 12 months	+/-2,615	15.5%	+/-2.6
Did not work	+/-3,325	21.6%	+/-2.7
All Individuals below:			
50 percent of poverty level	(X)	(X)	(X)
125 percent of poverty level	(X)	(X)	(X)
150 percent of poverty level	(X)	(X)	(X)
185 percent of poverty level	(X)	(X)	(X)
200 percent of poverty level	(X)	(X)	(X)
Unrelated individuals for whom poverty status is determined	+/-3,284	25.3%	+/-3.2
Male	+/-2,353	22.2%	+/-4.3
Female	+/-2,485	28.6%	+/-4.7
Mean income deficit for unrelated individuals (dollars)	(X)	(X)	(X)
Worked full-time, year-round in the past 12 months	+/-747	3.2%	+/-2.0
Worked less than full-time, year-round in the past 12 months	+/-2,164	34.0%	+/-6.0
Did not work	+/-2,238	47.4%	+/-6.4
PERCENT IMPUTED			
Poverty status for individuals	(X)	(X)	(X)

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

While the 2011 American Community Survey (ACS) data generally reflect the December 2009 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2000 data. Boundaries for urban areas have not been updated since Census 2000. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

Source: U.S. Census Bureau, 2011 American Community Survey

Explanation of Symbols:

1. An '**' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
2. An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
3. An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
5. An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
6. An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
7. An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
8. An '(X)' means that the estimate is not applicable or not available.

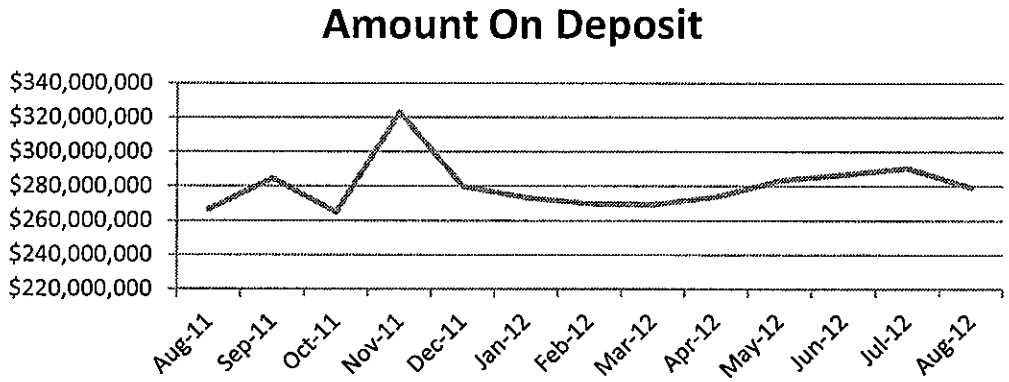
Memorandum

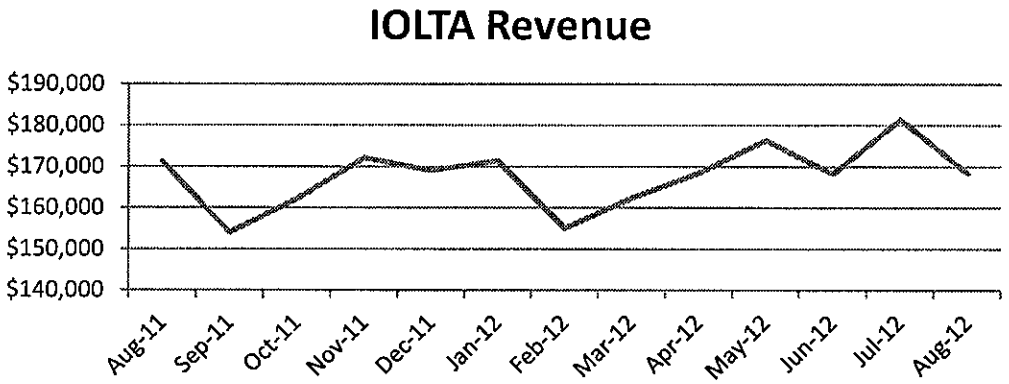
To: Access to Justice Commission and State Bar of Nevada
From: Justice League of Nevada (formerly Nevada Law Foundation)
Date: September 30, 2012

Re: Monthly IOLTA Update

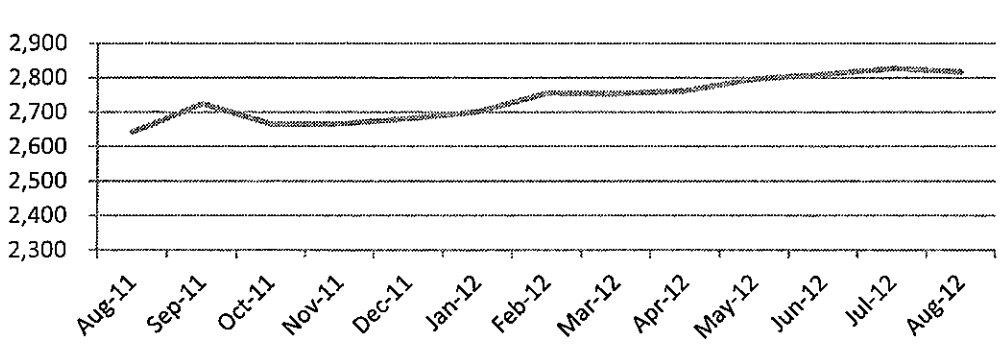
I. August 2012 IOLTA at-a-glance

	2012	2011
Total number of IOLTAs[1]	2,817	2,642
Amount on deposit[2]	$ 279,132,254	$ 266,318,719
Total reported interest accrued[3]	$ 168,306	$ 171,134
Year-to-date remittance	$ 1,351,469	$ 1,154,194





[1] Number of IOLTAs reported by financial institutions meeting the requirements set forth in Rule 217.
[2] Average amounts on deposit fluctuate from month to month, making projecting IOLTA revenue unreliable.
[3] Formula: average amount on deposit * .0075 * number of days in month / 365 = remittance.



II. Financial institutions meeting requirements set forth in Rule 217

A. Financial Institutions with *greater than* 25 IOLTAs

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
Bank of America	550	0.7	$ 34,835,879.09	$ 20,707.24
Bank of George	28	0.75	$ 4,596,500.49	$ 2,685.33
Bank of Nevada	317	0.75	$ 57,399,038.32	$ 36,363.31
Bank of the West	50	1.08	$ 4,120,116.86	$ 3,299.94
Citibank[4]	41	0.7	$ -	$ -
City National Bank	90	0.7	$ 28,127,965.00	$ 16,823.61
First Independent Bank of Nevada	33	0.75	$ 7,061,279.14	$ 4,497.83
Heritage Bank	32	0.75	$ 4,647,281.97	$ 2,935.56
Mutual of Omaha Bank	27	0.7	$ 2,983,822.00	$ 1,773.83
Nevada State Bank	437	0.75	$ 43,712,032.04	$ 27,080.79
U.S. Bank	265	0.75	$ 20,419,298.37	$ 11,680.29
Wells Fargo	824	0.75	$ 55,430,317.35	$ 30,583.49
TOTAL	**2,694**		**$ 263,333,530.63**	**$ 158,431.22**

[4] As of September 28, 2012, JLN had not received a remittance or report from Citibank.

B. Financial institutions with *fewer than* 25 IOLTAs[5]

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
Financial Horizons Credit Union[6]	1	0.349		
First Savings Bank	3	0.75		
First security Bank of Nevada	0	0.75		
M & I Bank	3	0.698		
Meadows Bank	13	0.7		
Nevada Bank & Trust	3	1.25		
Northern Trust Bank, FSB	3	0.75		
Plaza Bank	5	0.7		
Royal Business Bank	3	0.75		
Service First Bank of Nevada	18	0.75		
Silver State Schools Credit Union	0	1.25		
Town and Country Bank	2	0.7		
Umpqua Bank	7	0.7		
Valley Bank of Nevada	6	0.7		
TOTAL	**67**		**$ 15,759,202.63**	**$ 9,825.85**

III. Financial institutions *not* meeting requirements set forth in Rule 217

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
JP Morgan Chase Bank[7]	56	0.08	$ 39,521.00	$ 49.30

IV. Community investment Update

JLN grant applications are due on October 1, 2012. On October 2, 2012, the Community Investment Committee will distribute the applications for review by Committee members. On November 1, 2012, the Committee will formulate a recommendation for the Board of Trustees meeting on November 12, 2012.

[5] JLN does not report IOLTA remittance or average amount on deposit for financial institutions with fewer than twenty-five IOLTAs to maintain attorney-client and financial institution-attorney confidentiality.
[6] Member or member's law firm does not maintain an office within twenty miles of a financial institution meeting Rule 217 requirements.
[7] JP Morgan Chase Bank contacted JLN and ATJC in September 2012 to announce its intent to meet the requirements set forth in Rule 217.

The recommended grant amounts will be based on a total amount of funds available for granting in 2013, to be determined by the Finance Committee on October 31, 2012, after quarter 3 financials are complete.

V. Resource development update

Major changes have taken shape at the Nevada Law Foundation. The Foundation changed its name to the Justice League of Nevada and is developing a new logo, a potential advertising icon in the form of a cartoon version of Lady Justice, and a new website. The Justice League established lines of communication with many of the legal service providers in the state and had a presence at The State Bar of Nevada's annual conference in San Diego.

The Justice League developed giving groups for the Justice League and entered over 1,000 prospects, including Colleagues, Young Lawyers, and Exempt Lawyers, into a new donor software program, GiftWorks. The Board of Trustees has had training in solicitation and the development process and the Board campaign kicked off with pledges in excess of $17,000 (including a $5,000 challenge pledge). Development materials are used to assist in the solicitation process that has recently been initiated at the Justice League.

The next steps for the Justice League include the transition to the new website and a solicitation effort to seek donations.

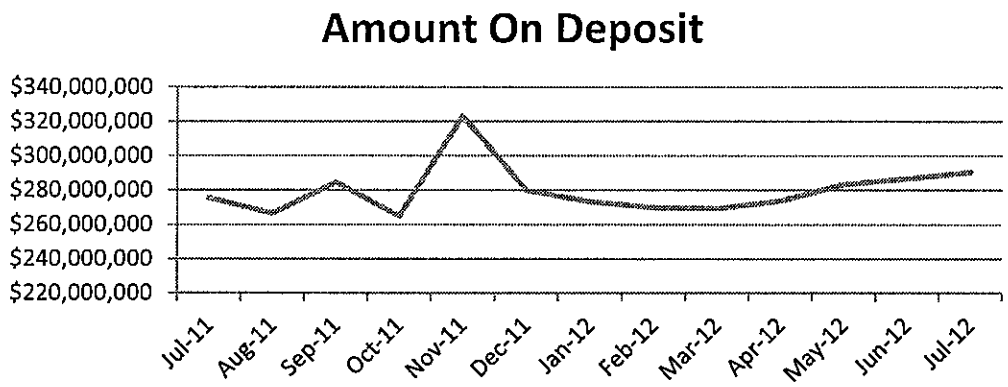
Memorandum

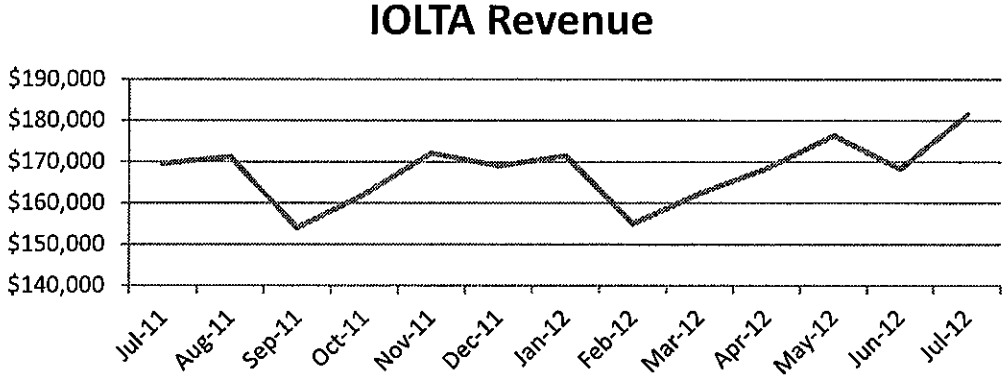
To: Access to Justice Commission and State Bar of Nevada
From: Justice League of Nevada (formerly Nevada Law Foundation)
Date: August 30, 2012

Re: Monthly IOLTA Update

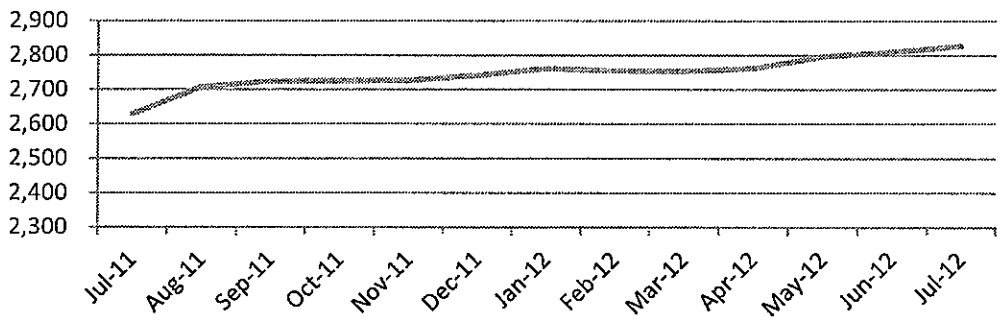
I. July 2012 IOLTA at-a-glance

	2012	2011
Total number of IOLTAs	2,827	2,326
Average amount on deposit[1]	$290,466,071	$275,414,349
Total reported interest accrued[2]	$181,463	$169,500
Year-to-date remittance	$1,183,163	$983,059





[1] Monthly revenue should not be used to project income, as IOLTA revenue has the ability to significantly fluctuate from month-to-month.
[2] Formula: average amount on deposit * .0075 * number of days in month / 365 = remittance



II. Financial institutions meeting requirements set forth in Rule 217

A. Financial Institutions with *greater than* 25 IOLTAs

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
Bank of America	548	0.75	$ 34,327,947.05	$ 21,852.47
Bank of George	26	0.75	$ 4,609,742.59	$ 2,937.11
Bank of Nevada	317	0.75	$ 56,961,637.03	$ 37,458.35
Bank of the West	49	1.05	$ 4,241,024.39	$ 3,317.56
Citibank	50	0.7	$ 2,741,627.51	$ 1,508.66
City National Bank	90	0.75	$ 28,003,028.00	$ 18,414.04
First Independent Bank of Nevada	33	0.75	$ 9,351,714.78	$ 6,189.02
Heritage Bank	32	0.75	$ 4,454,066.66	$ 2,901.68
Mutual of Omaha Bank	27	0.7	$ 3,143,944.00	$ 1,546.73
Nevada State Bank	438	0.75	$ 45,275,432.71	$ 29,077.09
U.S. Bank	260	0.75	$ 20,391,412.12	$ 11,665.20
Wells Fargo	821	0.75	$ 58,334,419.66	$ 32,875.02
TOTAL	**2,691**		**$ 271,835,996.50**	**$ 169,742.93**

B. Financial institutions with *fewer than* 25 IOLTAs[3]

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
Financial Horizons Credit Union	1	0.2		
First Savings Bank	3	0.75		
First security Bank of Nevada	10	0.75		
M & I Bank	3	0.747		
Meadows Bank	13	0.75		
Nevada Bank & Trust	3	1.25		
Northern Trust Bank, FSB	3	0.75		
Plaza Bank	5	0.75		
Royal Business Bank	2	0.75		
Service First Bank of Nevada	18	0.75		
Silver State Schools Credit Union	5	1.25		
Town and Country Bank	1	0.75		
Umpqua Bank	7	0.7		
Valley Bank of Nevada	7	0.75		
TOTAL	**81**		**$ 18,260,925.07**	**$ 11,671.45**

III. Financial institutions *not* meeting requirements set forth in Rule 217

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
JP Morgan Chase Bank	55	0.154	$ 369,149.00	$ 48.41

[3] JLN does not report IOLTA remittance or average amount on deposit for financial institutions with fewer than twenty-five IOLTAs to maintain attorney-client and financial institution-attorney confidentiality.

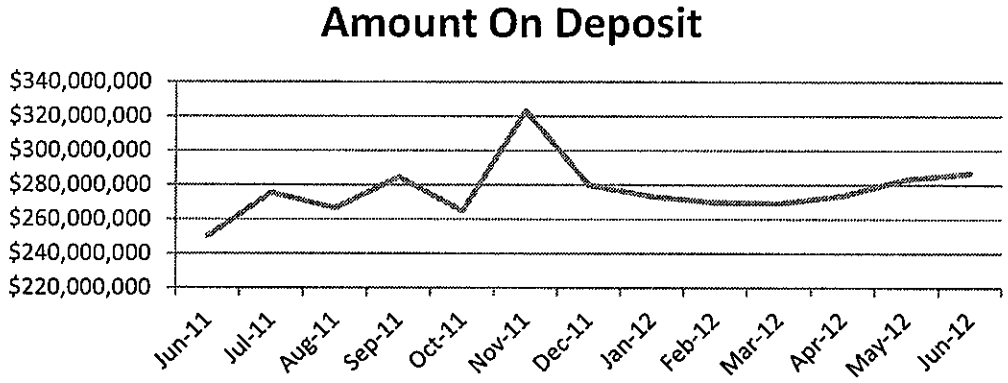
Memorandum

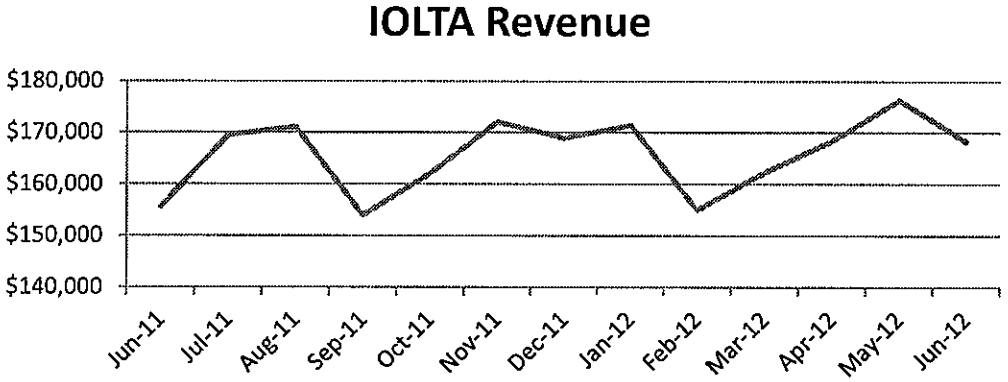
To: Access to Justice Commission and State Bar of Nevada
From: Justice League of Nevada (formerly Nevada Law Foundation)
Date: July 31, 2012

Re: Monthly IOLTA Update

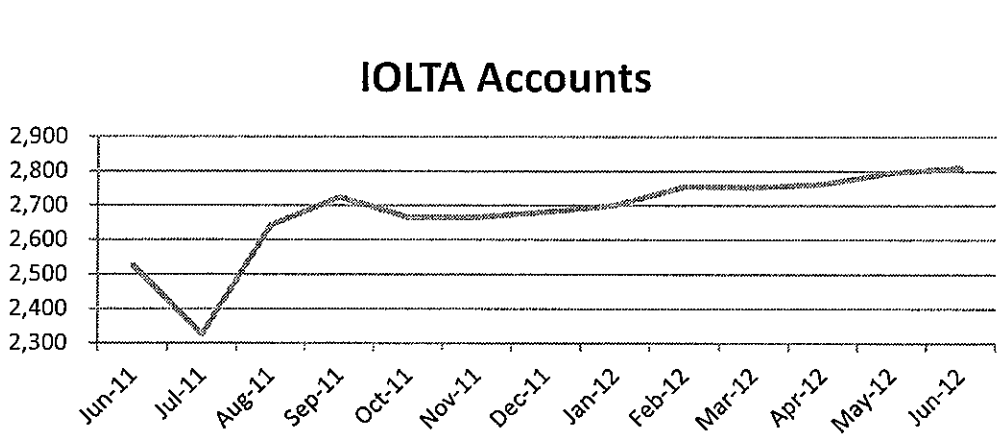
I. June 2012 IOLTA at-a-glance

	2012	2011
Total number of IOLTAs	2,810	2,526
Average amount on deposit[1]	$286,729,654	$250,000,407
Total reported interest accrued[2]	$168,239	$155,337
Year-to-date remittance	$1,007,842	$872,182





[1] Monthly revenue should not be used to project income, as IOLTA revenue has the ability to significantly fluctuate from month-to-month.
[2] Formula: average amount on deposit * .0075 * number of days in month / 365 = remittance



II. Financial institutions meeting requirements set forth in Rule 217

A. Financial Institutions with *greater than* 25 IOLTAs

Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
Bank of America	548	0.75	$ 33,081,207.54	$ 20,390.28
Bank of George	26	0.75	$ 5,195,225.95	$ 3,160.07
Bank of Nevada	316	0.75	$ 56,171,865.28	$ 33,490.89
Bank of the West	46	1.08	$ 4,788,980.65	$ 3,911.32
Citibank	50	0.75	$ 2,765,826.87	$ 1,490.94
City National Bank	89	0.75	$ 25,740,730.00	$ 15,339.79
First Independent Bank of Nevada	33	0.75	$ 10,677,939.16	$ 6,349.91
Heritage Bank	32	0.75	$ 4,280,415.99	$ 2,528.24
Mutual of Omaha Bank	27	0.25	$ 2,275,330.00	$ 561.26
Nevada State Bank	438	0.75	$ 43,448,335.41	$ 25,325.84
U.S. Bank	258	0.75	$ 19,068,208.65	$ 10,560.51
Wells Fargo	812	0.75	$ 58,802,409.61	$ 32,250.48
TOTAL	**2,675**		**$ 266,296,475.11**	**$ 155,359.53**

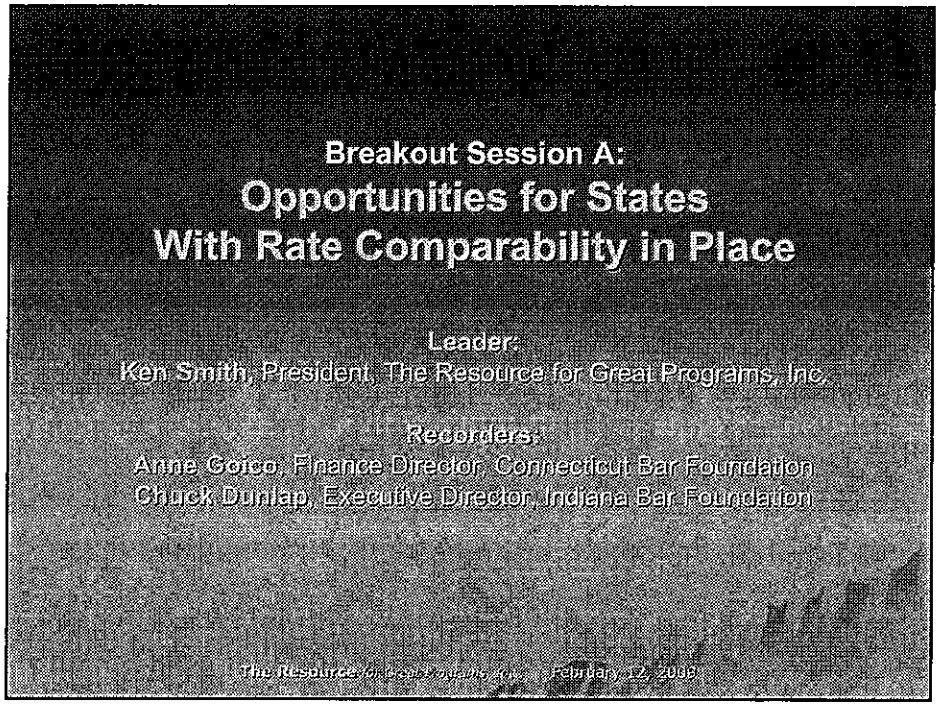
B. Financial institutions with *fewer than* 25 IOLTAs[3]

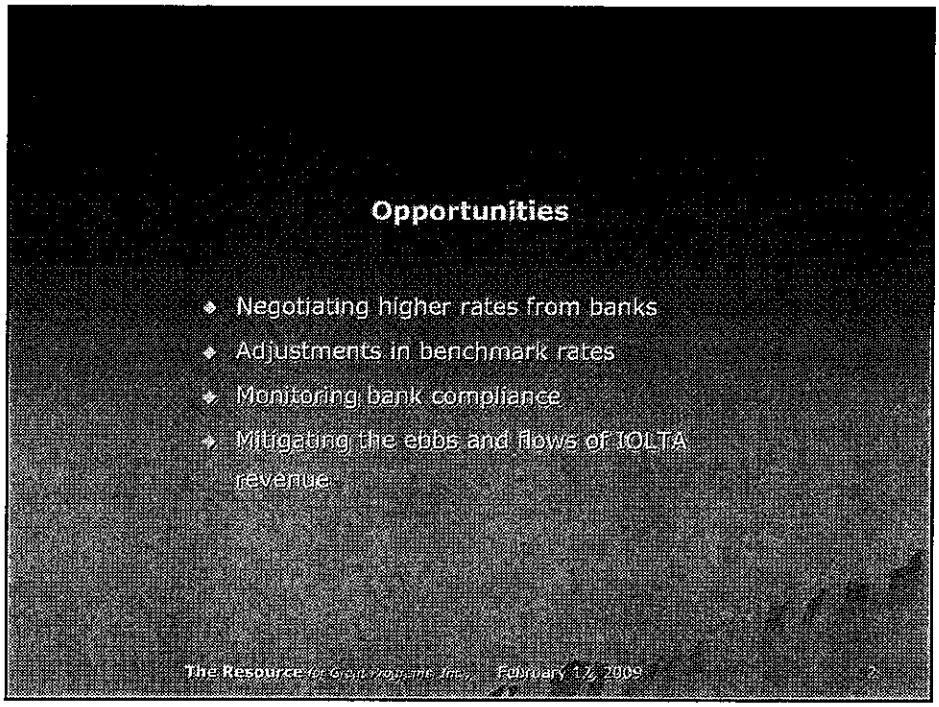
Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
Financial Horizons Credit Union	1	0.2		
First Savings Bank	3	0.75		
First security Bank of Nevada	9	0.75		
M & I Bank	3	0.747		
Meadows Bank	13	0.75		
Nevada Bank & Trust	3	1.25		
Northern Trust Bank, FSB	3	0.75		
Plaza Bank	5	0.75		
Royal Business Bank	2	0.75		
Service First Bank of Nevada	18	0.75		
Silver State Schools Credit Union	5	1.25		
Town and Country Bank	1	0.75		
Umpqua Bank	7	0.75		
Valley Bank of Nevada	7	0.75		
TOTAL	**80**		**$ 20,080,472.36**	**$ 12,837.64**

III. Financial institutions *not* meeting requirements set forth in Rule 217

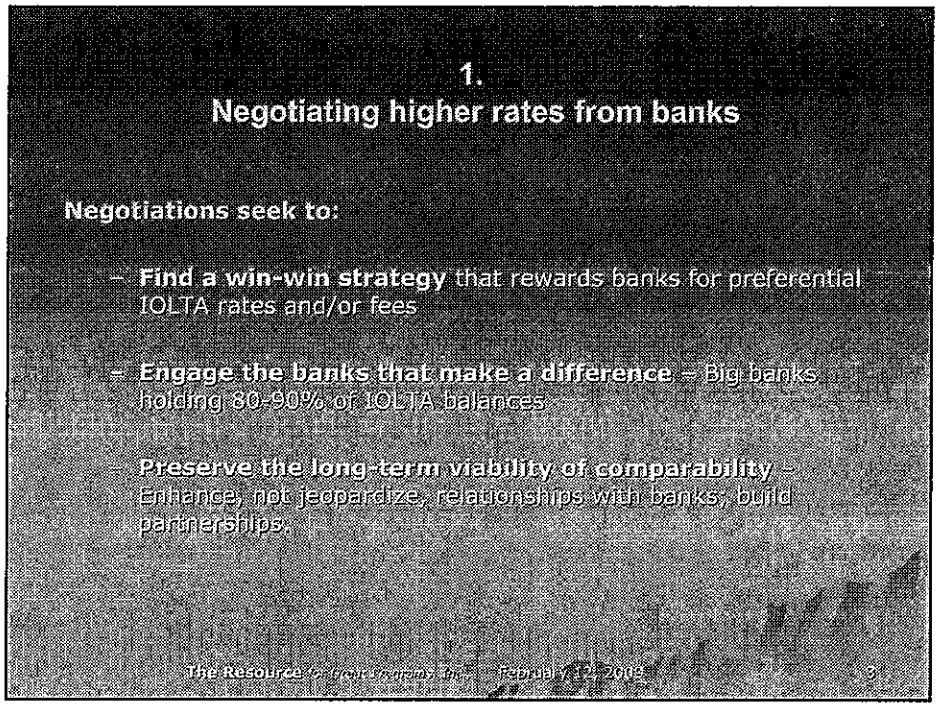
Financial Institution	Accounts	Interest Rate	Total Bank Principal Balance	Remittance
JP Morgan Chase Bank	55	0.15	$ 352,707.00	$ 41.93

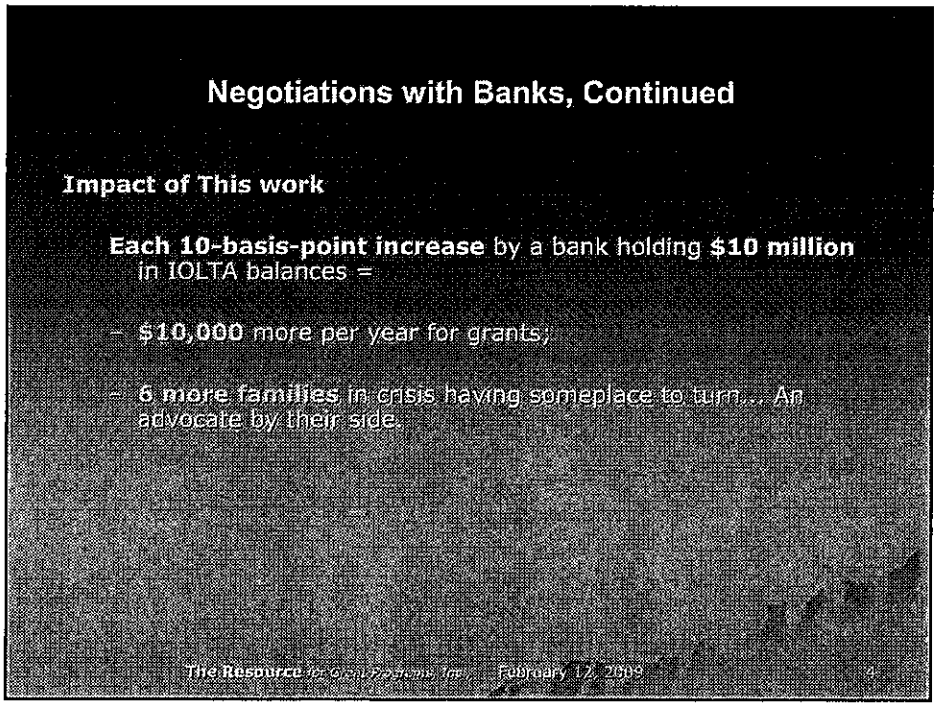
[3] JLN does not report IOLTA remittance or average amount on deposit for financial institutions with fewer than twenty-five IOLTAs to maintain attorney-client and financial institution-attorney confidentiality.





Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org





Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org

Principles for Bank Negotiations

1. **Revisit the basics...**
   - **Things that work.** Review and apply the successful methods of your own and other states.
2. **Focus on incentives...**
   - **Marketing benefits.** Offer banks high visibility in the lucrative law firm market – e.g., articles in Bar News.
   - **Big customers get a hearing.** Deploy big law firm customers of the bank to deliver your message.
   - **Good publicity.** Some banks will resonate with opportunities for polishing community image.
3. **Campaign strategies work!**
   - **Use your access to the press.** Bar publications... Local media... Stories about the gaps in your grantee programs and their clients.
   - **Target the big banks.** Focus your limited resources where they will have the greatest dollar impact.
   - **Deploy your partners...** Supportive law firms... Prominent judges... Board members... Grantee board members... Media contacts...

Negotiations with Banks, Continued

- **Methods include:**
  - **General solicitation** letters, followed by telephone calls
  - **Face-to-face meetings**
    - Using Board members, lawyers or other key contacts as negotiators
    - It's harder for banks to say "no" in person
  - **A specific rate request, based upon:**
    - What other "leadership" banks are paying or
    - What rate comparability would require, if it were in place
    - Could be a flat-rate request or a rate that floats, for ex., with the Federal Funds Rate

Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org

Negotiations with Banks, Continued

- **Methods include (cont.):**
  - **An offer or incentive:**
    - Inclusion on Honor Roll
    - Invitation to annual gala for recognition
    - Marketing & promotion such as TX "Prime Partner"
      - Highly attractive to some banks competing to keep, attract lawyer/law firm customers
      - Builds reputation as good corp. citizen
      - Builds familiarity & partnerships
- **Programs reporting some success in past year:**
  - Arizona, Georgia, Idaho, Minn., N. Carolina, Nebraska, Nevada, NY, S. Carolina, Washington

2.
Adjustments in benchmark rates
(AKA "safe harbor")

- **Special focus for "comparability" programs.**
  - At least 17 "comparability" states have a benchmark rate & virtually all are considering a revision
- **Perceived problem:**
  - Fed Rate is at historically low level & a range (0.00% - 0.25%), raising uncertainty about how to apply the benchmark
  - Very low yield:

    Example: 0.25% X 60% benchmark = 0.14%

Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org

Adjusting the Benchmark Rate (Continued)

- **Perceived solution: Set a "floor" rate.**
  - **Examples:** Maryland, Massachusetts, Missouri & Texas (see "Benchmark Rates" handout)
  - **Risk/reward:**
    - Reward – Might gain additional revenue
    - Risk – Banks might opt out of benchmark & pay even less now (& in future)
    - Risk – Does a "floor" compromise the underlying simplicity and fairness of comparability?

3.
Monitoring Bank Compliance

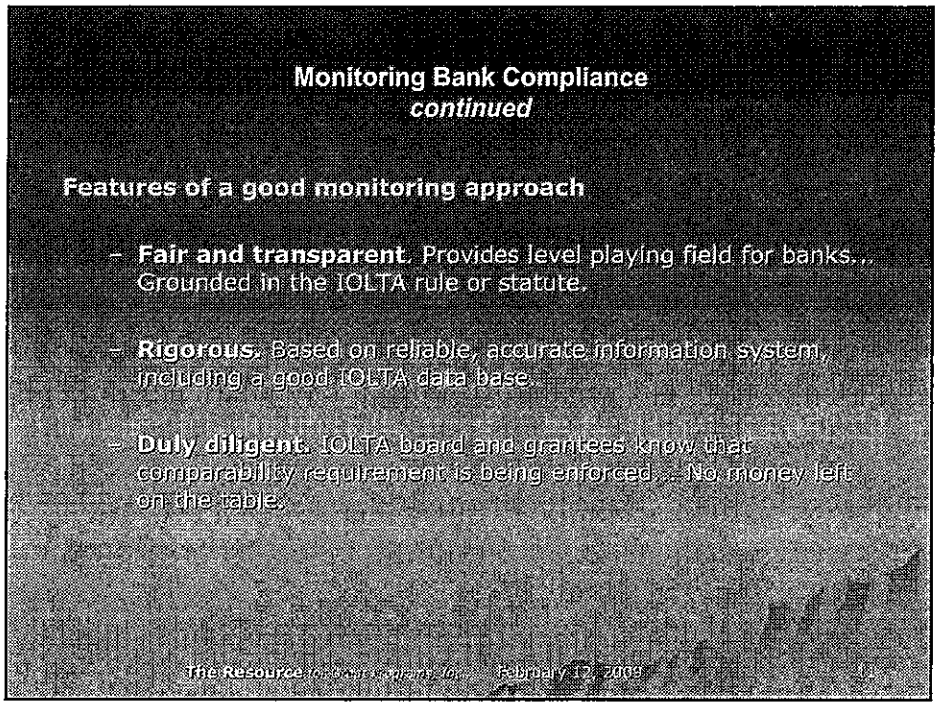
Monitoring seeks to:

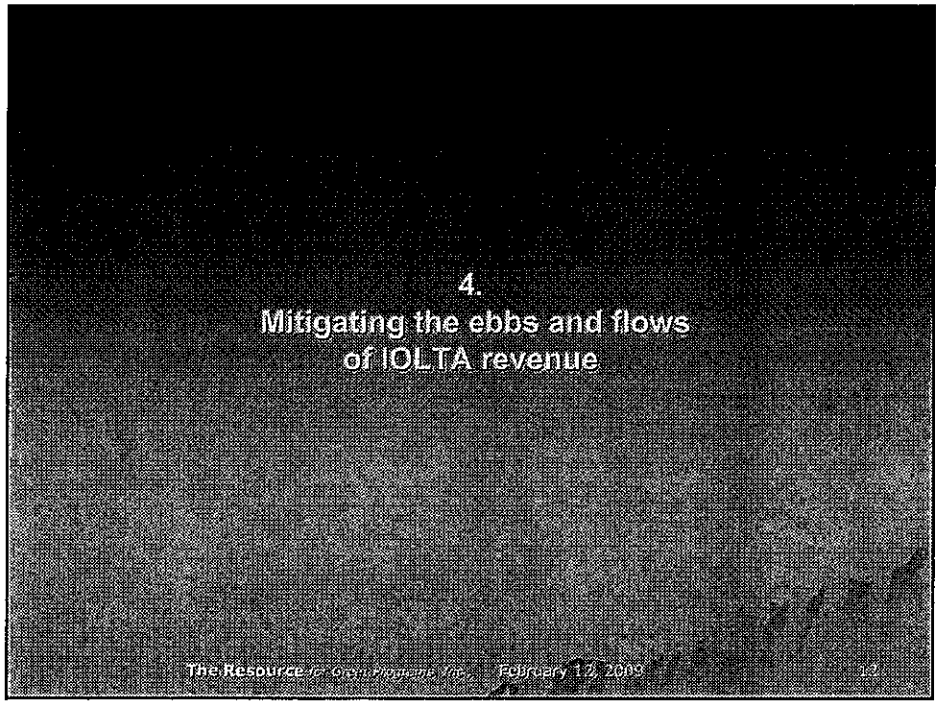
- Keep banks in alignment with comparability
- Flag "comparability gaps" before IOLTA revenue is lost
- Quickly steer banks back into compliance

There's real money on the table.

- **Bank A** - $86 million in IOLTA principal, 52-basis point (bp) comparability gap; IOLTA revenue impact: **$450,000 per year** underpayment to IOLTA
- **Bank B** - $43 million in IOLTA principal, 47-bp comparability gap; IOLTA revenue impact: **$200,000 per year** underpayment to IOLTA
- **Bank C** - $55 million in IOLTA principal, 28-bp comparability gap; IOLTA revenue underpayment: **$155,000 per year** underpayment to IOLTA

Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org





Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org

- **The Problem: The "Boom or bust" cycle of IOLTA grant-making...**
  - In the boom years: Grantees hire lawyers; expand services
  - In the bust years: Grantees lay off staff; close offices
  - Cost: $39,000 per lawyer in lost hiring & training investment
  - Cost: Lost productivity, quality, morale
- **Strategic opportunities**
  - Grant Reserves
  - Multi-year grants
  - New revenue streams...

Grant Reserves

- **Technical considerations:**
  - Constraints of IOLTA rules or statutes
  - Computing the size of reserve needed
- **How do we get a strong policy in place?**
  - Get support from grantees and other stakeholders
  - Best practices – review policies and lessons from other states
- **Resources:** *See **IOLTA.org** for copies of states' reserve policies*

Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org

Multi-Year Grants

- Opportunities versus risks
- Will it work?
- How much do we need?
- How do we implement it?

Summary: Opportunities... Short, Mid and Long Term

Short term – next 12 months: *While rates are low*

- **Negotiate with banks...** *Offer incentives for banks in return for preferential IOLTA rates... Priority on biggest 5-15 banks.*
- **Prepare...** *Put in place your bank monitoring systems, grant reserve policies, multi-year grant-making policies.*
- **Explore new revenue streams...** *In partnership with the Access to Justice community in your state.*

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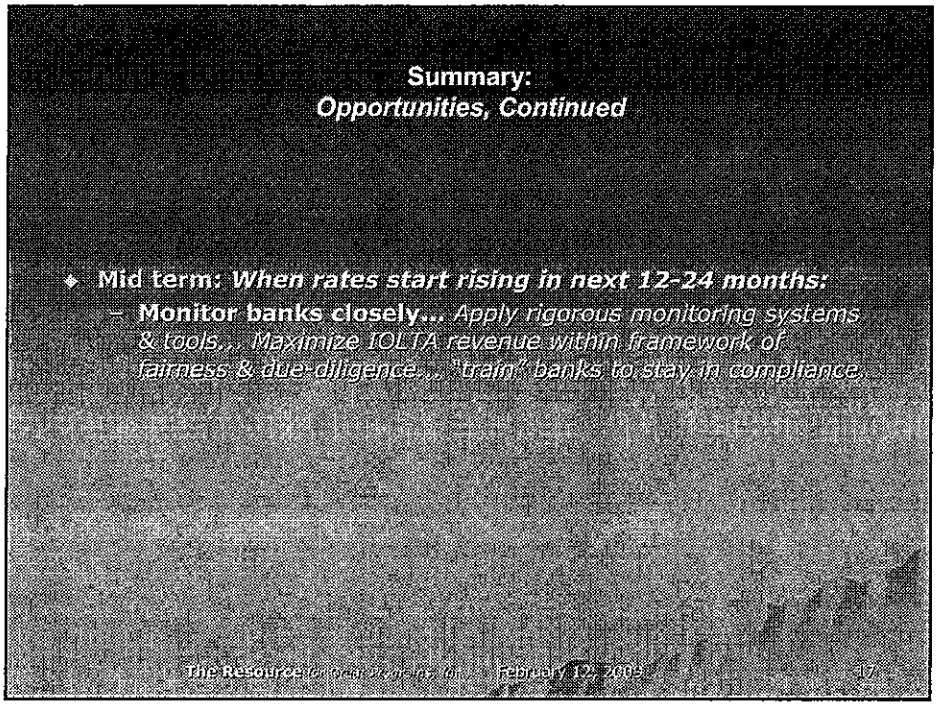
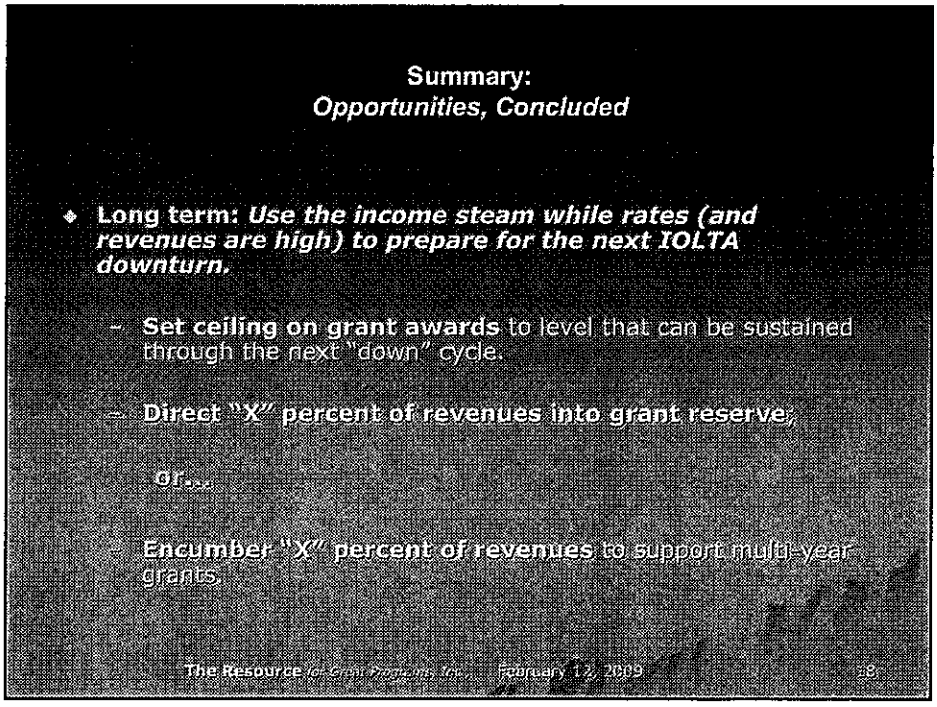




Ken Smith, *The Resource for Great Programs, Inc.*
Phone (231) 947-3280; E-mail: Ken@Greatprograms.org

NEVADA SUPREME COURT
ACCESS TO JUSTICE COMMISSION

Executive Director:

Kristina Marzec
State Bar of Nevada
600 E. Charleston Blvd.
Las Vegas, NV 89104

Kristinam@nvbar.org
(702) 317-1404
www.nvbar.org

By requesting certification as an emeritus attorney under the Emeritus Attorney Pro Bono (EAPB) program, you tell the world much about yourself. I thank you personally for giving of your time and talents to this critical program.

Emeritus attorneys assist low-income clients through an approved legal services (EAPB) provider by either providing direct legal representation and advice or by participating in clinics and ask-a-lawyer programs throughout the state.

Complete instructions accompany the two-page application included in this packet. The Emeritus Rule, SCR 49.2, is a limited certification, and is granted directly by the Admissions Department of the State Bar.

This certification is open to all inactive attorneys from any state (including Nevada), as well as active attorneys in all jurisdictions except Nevada. Ineligible for certification are those currently suspended, disbarred, or resigned with charges pending, or with public discipline within the past ten years.

We'll ask you for three items in addition to your application: (1) a current certificate of good standing from one jurisdiction where you are admitted; (2) statements of discipline history for *all* jurisdictions where you have been admitted; (3) and a one-page declaration from the EAPB Provider you've selected to work with on your pro bono matters.

Submitting everything together with your application will speed processing time. But if you can't, don't worry; we'll simply hold your application until we receive all required items.

Take note you will be required to annually recertify. While certified under this rule, your services are limited to no-fee legal aid services with an approved EAPB provider (such as Legal Aid Center of Southern Nevada or Washoe Legal Services). CLE and training requirements, if any, are determined by the EABP Provider you have selected, and will be based on considerations such as the type of work you will undertake and your individual skills and experience.

If you submit the completed application and all enclosures together (and meet all eligibility requirements), processing should take approximately two weeks.

Please keep a copy of your application and certification (it will also make annual renewal a snap).

Call me with any questions along the way, or to simply say hello. I look forward to greeting you as a certified emeritus attorney in the near future.

And sincerely, THANK YOU.

EMERITUS PRO BONO ATTORNEY (SCR 49.2)
CERTIFICATION APPLICATION INSTRUCTIONS

1. GENERAL INSTRUCTIONS:

(a) Please read the application carefully and typewrite or legibly write your answers.

(b) Be sure that the application BEARS YOUR VERIFIED SIGNATURE and includes the ENCLOSURES required by SCR 49.2 (listed in number 5 below).

2. NUMBER OF COPIES, WHERE SENT: Send the original application with enclosures, plus one (1) copy to:

State Bar of Nevada
Admissions Department
600 East Charleston Blvd.
Las Vegas, NV 89104

It is preferred that all enclosures accompany the original application. If enclosures will be sent directly to the Admissions Department by the issuing agency, please so note on the application so that the review process may begin, pending final review when all required enclosures are received.

Please keep a copy of your application for your records.

3. FEES: Fees are waived for this limited practice certification.

4. ELIGIBILITY: Any inactive member of the State Bar of Nevada in good standing, or, any inactive or active attorney in good standing in another jurisdiction, who meets the requirements of this Rule may apply - 49.2(3).

(a) Exceptions:
Attorneys with a record of public discipline for professional misconduct imposed within the immediate ten years or who resigned from the practice of law with charges pending are not eligible for certification - 49.2(3)(a).

5. ENCLOSURES: The following completed documents must be enclosed with your application:

(a) CERTIFICATE OF GOOD STANDING
Applicant must submit a certificate from the State Bar or Clerk of the Supreme Court or highest admitting court in another state, territory, or insular possession of the United States in which the applicant is a member and in good standing therein - 49.2(4)(b).

(b) STATEMENT(S) OF DISCIPLINE HISTORY
While only one current certificate of good standing is required by this Rule, a statement of disciplinary history is required *from all jurisdictions in which the applicant has been admitted to practice law* - 49.2(4)(b).

(c) **EAPB PROVIDER DECLARATION**

The Emeritus Attorney Pro Bono (EAPB) Provider is the approved legal aid services provider with whom the applicant has selected to provide pro bono services under this Rule.

A blank declaration is included with this packet and must be executed by the EAPB provider and returned with your application. It includes the following information:

(1) The name of the EAPB Provider director or coordinator;
(2) EAPB Provider contact information; and
(3) The dated original signature of the EAPB Provider designated representative.

6. LIMITED PRACTICE: An emeritus attorney certified under this rule may practice only through an approved EAPB provider, and must complete any training required by the EAPB Provider - 49.(7).

7. RENEWAL: Annually, on or before the anniversary date of the filed date of this application, the emeritus attorney must reapply with the Admissions Director of the State Bar of Nevada - 49.2(6).

Renewal applications will be on verification as to the continuing validity and correctness of all enclosures submitted in the original application, with the exception of the EAPB Provider Declaration, which shall be updated annually along with the renewal application.

8. DISCIPLINE AND BAR MEMBERSHIP: Attorneys certified under this rule do not qualify for active membership in the State Bar of Nevada, but may be disciplined or suspended from practice in the manner now or hereinafter provided by rule for discipline or suspension of attorneys generally. Pending final disposition of any such matter, the court or the State Bar may suspend any right to practice that is granted hereunder, without notice of the hearing - 49.2(8).

9. TERMINATION OF CERTIFICATION: Certification to practice under this Rule terminates whenever the emeritus attorney ceases to provide services for an approved EAPB Provider - 49.2(5).

Attorneys certifications under this rule will be terminated exactly one year from the date of the certification.

APPLICATION FOR CERTIFICATION TO LIMITED PRACTICE OF LAW IN THE STATE OF NEVADA UNDER SCR 49.2

***EMERITUS ATTORNEY PRO BONO PROGRAM*:**

Before the State of Nevada Office of Admissions:

PART 1: GENERAL INFORMATION AND BACKGROUND

I hereby furnish the following information under oath. I understand that it is my duty and obligation to answer each question fully and completely, to make full disclosure of any information requested herein, to provide true and correct answers to all questions, to correct any answers that may be misleading or confusing, and to inform the State Bar of any changes to the information provided in connection with my application for certification in order that the information supplied herein shall at all times be true and correct. I further understand that failure to comply with the above representations may result in my application being denied.

_____ APPLICANT'S INITIALS

Full Name_____ Soc. Sec. No._____
(Last)(First)(Middle)

Home Address _____
(Number and Street)

_____
(City) (State) (Zip)

Office Address _____
(Number and Street)

_____
(City) (State) (Zip)

Telephone (___) _____ (___) _____ (___) _____
(Office) (Home) (Message)

Date of Birth _____ E-mail Address _____
(MM/DD/YY) (City) (State) (County)

EAPB Provider Name: _____

Have you previously been licensed under SCR 49.2 in Nevada? Yes _____ No _____

If yes, provide your bar number: _____ Date of last certification: _____
(MM/DD/YY)

Earliest date licensed in any jurisdiction: _____
(MM/DD/YY)

Licensed as an attorney in the following jurisdictions:

_____

_____

_____

Jurisdiction(s) Date(s) Licensed

Licensure status on which application is based: **Initials**

_____ Inactive status with the State Bar of Nevada _____

_____ Active status in the following jurisdiction: _____ _____

_____ Inactive status in the following jurisdiction: _____ _____

I hereby certify that I am not currently on suspension, disbarred or resigned with charges pending in any jurisdiction. _____

I hereby certify that I do not have a record of public discipline for professional misconduct within the preceding ten years. _____

I hereby certify that I agree to be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Nevada. _____

Check one: _____ All enclosures are attached OR ____ Enclosure(s) will be sent separately

VERIFICATION

Copy the following paragraph in your usual handwriting in the space provided before the signature line.

I hereby acknowledge that I have read the foregoing application and its enclosures and that all information provided attendant thereto is complete and true to the best of my knowledge and belief.

_____

_____

_____

_____ _____

Signature of Applicant Date

STATE OF _____

COUNTY OF _____

_____, being first duly sworn says:

Applicant's name

That I have read the foregoing application and that the facts stated in it are complete and true to the best of my knowledge and belief.

_____

Signature of Applicant

STATE OF _____

COUNTY OF _____

On _____ day of _____, _____, personally appeared before me, a notary public, _____, personally known (or proved) to me to be the person whose name is subscribed to the foregoing APPLICATION FOR ADMISSION TO PRACTICE LAW IN THE STATE OF NEVADA UNDER SCR 49.2, who acknowledged to me that he/she executed the foregoing document.

(SEAL)

_____

NOTARY PUBLIC

State Bar of Nevada
EMERITUS ATTORNEY PRO BONO PROGRAM (EAPB)
EAPB Provider Declaration SCR 49.2

Applicant Name: _____ **Date:** _____

Applicant: *Please have an authorized representative of the EAPB program you have selected complete this form and give you to return with your original application for certification as an emeritus attorney to the Admissions Department of the State Bar of Nevada.*

EAPB Provider:

I am an authorized representative of _____, an approved EAPB Provider pursuant to SCR 49.2 on file with the State Bar of Nevada. By signing below, I confirm that the above-named applicant will provide *pro bono* legal services with his EAPB Provider:

Signature: _____ Date: _____

Additional Information:

Name of Director/Coordinator (print): _____

Specific Program, if applicable: _____

Contact information, if different than that on file with the State Bar of Nevada:

Address: _____

Phone: _____ Fax: _____ email: _____

This form is part of the application for certification under SCR 49.2, please return to:

State Bar of Nevada
Attn: Admissions Department
600 E. Charleston Blvd.
Las Vegas, NV 89104

Please direct all questions to Access to Justice Director Kristina Marzec, (702)-317-1404.

P. O. Box 50
Las Vegas, NV 89125-0050
Phone: 702-382-2200
Fax: 702-382-6676

9456B Double R Blvd.
Reno, NV 89521
Phone: 775-329-4100
Fax: 775-329-0522

STATE BAR OF NEVADA

TO: ONLY those applicants applying for admission to the State Bar of Nevada under SCR 49.2 and admitted to the practice of law in another jurisdiction

RE: Request for a Certificate of Good Standing and Discipline History Report

The State Bar of Nevada requires that an applicant admitted to the practice of law in any other jurisdiction(s) obtain **at least one** Certificate of Good Standing and **ALL** Discipline History Report from those jurisdictions(s).

The top portion of the attached form must be completed by the applicant for **each** jurisdiction where the applicant has been admitted to the practice of law. Download any additional forms as necessary for **each** jurisdiction.

Upon completion of the attached form, send it to the proper agency that handles disciplinary matters for that jurisdiction. Please include the required payment, if any, to the jurisdiction that you have requested information.

It is the applicant's sole responsibility to request both a Certificate of Good Standing and a Discipline History Report and have it timely sent to the State Bar of Nevada. Failure to do so will result in the applicant being placed on hold until the proper documentation is received by the State Bar of Nevada.

P. O. Box 50
Las Vegas, NV 89125-0050
Phone: 702-382-2200
Fax: 702-382-6676

9456B Double R Blvd.
Reno, NV 89521
Phone: 775-329-4100
Fax: 775-329-0522

STATE BAR OF NEVADA

DATE: _____

TO: _____

_____

_____

REQUEST FOR
Certificate of Good Standing and/or Disciplinary History

Applicant's Name: _____ Social Security #: _____

Applicant's Address: _____ Date of Birth: _____

_____ Date of Admission: _____

_____

To whom this may concern:

I am applying for special admission to the State Bar of Nevada. I would appreciate it if you would complete this request form for a Certificate of Good Standing and/or Discipline History. Please mail the following documents to the Admissions Office of the State Bar of Nevada at the PO Box listed above:

_____ Certificate of Good Standing

_____ Disciplinary History Report

I have included the required payment, if any, for this request to be completed. Please contact me should you have any questions. Thank you.

Sincerely,

_____

Applicant's Name Date

Rule 49.2. Limited practice for emeritus pro bono attorneys.

1. **Emeritus Attorney Pro Bono Program.** The Emeritus Attorney Pro Bono Program (EAPB) is hereby created to assist low-income clients through approved legal services providers as defined below.

2. **Approved EAPB providers.** An approved legal services EAPB provider for the purposes of this rule is a not-for-profit legal assistance provider which is approved by the Access to Justice Commission or its designee.

(a) **Minimum requirements for approval as an EAPB provider:**

(1) Provides legal services in civil matters, without charge only, to indigent persons; or

(2) Provides legal training, legal technical assistance, or advocacy support, without charge only, to qualified legal services projects; and

(3) Files a completed application with the State Bar of Nevada Access to Justice Coordinator, on a form to be provided by the State Bar, which includes:

(i) The contact information required by SCR 79; and

(ii) Whether the EAPB provider maintains professional liability insurance and, if so, the name and address of the carrier.

(4) The commission or its designee may establish additional rules and procedures for approving EAPB providers under this rule as it deems necessary and proper.

(b) Court awarded fees. An approved EAPB provider is entitled to receive all court awarded attorney fees arising from representation provided by emeritus attorneys under its services.

3. **Requirements to apply for certification as an emeritus attorney.** Any inactive member of the State Bar of Nevada in good standing, or any active or inactive attorney in good standing in any other jurisdiction, who meets the requirements of this rule may apply for certification as an emeritus attorney.

(a) **Exceptions.** Attorneys with a record of public discipline for professional misconduct imposed within the immediately preceding ten years or who resigned from the practice of law with charges pending are not eligible for certification under this rule.

4. **Application.** Application for certification to practice law in this state under the provisions of this rule shall be filed with the admissions director of the state bar on forms provided by the state bar and shall be accompanied by:

(a) A completed EAPB application and EAPB provider declaration;

(b) A certificate of good standing indicating that the attorney has been admitted to practice law in another jurisdiction and is a member in good standing in such jurisdiction;

(c) A statement of discipline history from the jurisdiction(s) in which the attorney has been admitted to practice; and

(d) Any other information deemed necessary and proper to the administration of this rule.

5. **Termination.** Certification to practice under this rule shall terminate whenever the attorney ceases to provide services for an approved EAPB provider. When an attorney certified under this rule ceases to provide services for an approved EAPB provider, a statement to that effect shall be filed immediately with the admissions director of the state bar by the EAPB provider.

6. **Renewal of certification.** On or before the anniversary date of the original filing for certification under this rule, an attorney shall reapply annually with the admissions director of the state bar.

7. **Limited practice.** An emeritus attorney certified under this rule may practice law only through an approved EAPB provider under subsection 2 and must complete any training required by the EAPB provider.

8. **Discipline; bar membership.** Attorneys certified under this rule do not qualify for active membership in the State Bar of Nevada, but may be disciplined or suspended from practice in the manner now or hereinafter provided by rule for discipline or suspension of attorneys generally. Pending final disposition of any such matter, the court or the state bar may suspend any right to practice that is granted hereunder, without notice or hearing.

State Emeritus Pro Bono Practice Rules

Updated April 4, 2011

American Bar Association
Commission on Law and Aging
David Godfrey
Senior Attorney
David.Godfrey@Americanbar.org

Emeritus pro bono practice rules encourage retired and inactive attorneys to volunteer to provide pro bono assistance to clients unable to pay for essential legal representation. At last count 35 jurisdictions have adopted emeritus pro bono rules waiving some of the normal licensing requirement for attorneys agreeing to limit their practice to volunteer service. The following chart contains essential details of the current rules.

For More information see:

No Longer on Their Own: Using Emeritus Attorney Pro Bono Programs to Meet Unmet Civil Legal Needs

http://www.abanet.org/aging/docs/V2_pro_bono_emeritus_brochure_3-5.pdf

and

Emeritus Attorney Programs: Best Practices and Lessons Learned

http://new.abanet.org/aging/PublicDocuments/emeritus_best_practices_9-27.pdf

State (adopted/Amended)	Age	Years of practice	Retired Inactive other	Out of State License Allowed	Waive dues	MCLE Waived	Certified legal services program	Direct supervision required	Malpractice Insurance mentioned in the rule	Contact
Alabama (2008) Rule 6.6 http://www.alabar.org/ogc/PDF/03052009_6-5_6-6_rule.pdf Special Membership	No	No	Inactive	No	Reduced	No	Yes	No	Required	Linda L. Lund, Director Volunteer Lawyers Program Alabama State Bar P. O. Box 671 Montgomery, Alabama 36101 (334) 269-1515 linda.lund@alabar.org
Alaska (2007) Alaska Bar Rule 43.2	No	No	Retired or inactive	No	Yes	n/a	Yes	No	Legal Service organization must provide malpractice coverage	Krista Scully Pro Bono Coordinator Alaska Bar Association 907-272-7469 scullyk@alaskabar.org
Arizona (1987) (2009) Arizona Rules of the Supreme Court Supreme Court Rule 38(e). Emeritus Attorneys Pro Bono Participation Program	No	5	Retired	Yes	Yes	Yes	Yes	Yes	Disclosure of existence	Lara Slifko Resource Development Director Arizona Foundation for Legal Services and Education 602-340-7235 Lara.Slifko@azflse.org
California (1987/2008) Pro Bono Practice Program Title 3 Division 2 Chapter 8	No	At least 5 and 3 of last 5 in Calif.	Inactive	No	Yes	No	Yes	Adequate supervision	No mention	Rodney Low Program Developer State Bar of California 415-538-2219 Rodney.Low@calbar.ca.gov
Colorado (2007) Colorado Court Rules 223	No	No	Inactive for in state license Active or inactive for out of state license	Yes	Yes (Out of state attorneys must pay one time administrative fee of $50)	No mention	No Must work under the auspices of a non-profit legal aid or pro bono program. Does not require approval of program by	no	No mention	Kathleen M. Schoen Director Local Bar Relations & Access to Justice Colorado Bar Association 303-824-5305 kschoen@cobar.org

							Bar.			
Connecticut Emeritus Project	No	No	Active	No	Occupational Tax is waived if attorney is only performing pro bono work	No Mention	Yes	No	Provided by Agency	Melissa Dewey Law-Related Outreach Specialist Connecticut Bar Association mdewey@ctbar.org
Delaware (1987/2003) Supreme Court Rule 69 www.delaware.gov/rules Supreme Court Rule 69	65	No	Inactive	No	Waived	Yes	Non profit legal aid and other listed services	No	No mention	Cathy Howard Clerk Delaware Supreme Court 302-739-4155 Cathy.Howard@state.de.us
District of Columbia (1982) Ct. App. Rules 49(c)(9)(10) www.dcappeals.gov/dccourts Court of Appeals Rule 49 (c)(9) & (10)	No	No	Inactive for DC license	Exception for the first 90 days if licensed in any jurisdiction, working for legal aid	No	N/A	No	No Out of state license must be supervised	No mention	Maureen Syracuse Pro Bono Program Director The District of Columbia Bar 202-737-4700 ext. 290 msyracuse@dcbar.org
Florida (1985/2006) Bar Rule 12 www.flabar.org Bar Rule 12	No	10 of last 15	Retired	Yes	No	No Limited exception for "certification reporting."	Yes	Yes	No mention	Terry Hill Pro Bono Programs Florida State Bar 850-561-5700 thill@flabar.org
Georgia (1995) Bar Rule 1-202 (d) Applies to all Emeritus Attys www.gabar.org Bar Rule 1-202 (d)	70	25	Retired	No	Yes	Waived at age 70	Yes Pro Bono agency or Non-profit Legal Services	No	No mention	Michael Monahan Pro Bono Project State Bar of Georgia 404-527-8762 mike@gabar.org
Hawaii (2002/2007) Supreme Court Rule 20 www.courts.state.hi.us Supreme Court Rule 20. Pro Bono Publicus Attorney	No	No	Inactive	No	Yes, Reduced to inactive rate	N/A	Yes	No	Legal Service organization must provide malpractice coverage	James Branham Staff Attorney Hawaii Supreme Court 808-539-4747 James.L.Branham@courts.state.hi.us Lyn Flanigan Esq. Executive Director Hawaii State Bar Association 808-537-1868 lflanigan@hsba.org
Idaho (1990) Bar Rule 228 http://isb.idaho.gov/general/rules/ibcr.html	No	10 of last 15	Retired or not engaged in the active	Yes	Reduced	No	Yes	Yes	LS must disclose existence and extent	Diane Minnich Executive Director Idaho State Bar 208-334-4500

			practice of law						of coverage	dminnich@isb.idaho.gov
Illinois (2008) Supreme Court Rule 756 https://www.iardc.org/rulesSCT.html#Rule%20756	No	No,	Retired or Inactive	No	Waived for retired Reduced for inactive	yes Must agree to participate in training by sponsor	Yes	No	Must be provided by the LS agency	Kelly Tautges Director of Pro Bono The Chicago Bar Foundation 312-554-8356 ktautges@chicagobar.org
Maine (2/1/2005) Bar Rule 6(d) http://www.mebaroverseers.org/ Bar Rule 6 (d)	No	No	Inactive (filed notice to discontinue the practice of law)	No	Reduced	No	Yes	No	Not mentioned	Jackie Rogers Executive Director Maine Board of Overseers of the Bar 207-623-1121 board@mebaroverseers.org
Maryland (1/1/97) Ct. App. Rules 16-811 (e)(2); 1-312 http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp= http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=	No	No	Retired Inactive	No	Waiver of client protection fund	N/A	Yes	No	Not mentioned	Sharon Goldsmith Executive Director Pro Bono Resource Center of Maryland 410-837-9379 sgoldsmith@probonomd.org
Massachusetts (1/1/05) Sup. Jud. Ct Rule 4:02(8) http://www.lawlib.state.ma.us/source/mass/rules/sjc/sjc402.html Supreme Judicial Court Rule 4:02 (8)	No	No	Retired Inactive	Yes	Yes for retired Reduced for inactive	N/A	Yes	No	Not mentioned	Office of Bar Counsel Mass. Board of Bar Overseers 617-728-8749
Michigan (2004) Bar Rule 3(F)	70 or Member of the State Bar for 30 years	70 or Member of the State Bar for 30 years	Active or Inactive	No	Waived	N/A	N/A	N/A	N/A	Robert Mathis Pro Bono Service Counsel (517) 346-6412 rmathis@mail.michbar.org
Mississippi (2007) Mississippi Rules of Appellate Procedure Rule 46 (f) http://www.mscra.org/rules_of_appellate_procedure.pdf	No	No	Inactive or Licensed in another state	Yes	No	No	Yes	Yes	Required	Adam Kilgore General Counsel Mississippi Bar Association 601-948-4471 ogc@msbar.org Shirley Williams Executive Director Miss. Volunteer Lawyers Project swilliams@msbar.org
Montana (2005/2006) Bar Rule Art. 1, §3 (g)	No	10 of last 15	Retired or inactive and	No	Yes	10 hours	Yes 25 hour	No	Not mentioned	Janice Doggett Equal Justice Coordinator

www.montanabar.org			must complete 25 hours of pro bono per year				minimum per year			State Bar of Montana 406-442-7660 jdoggett@montanabar.org
Nevada (2008) Supreme Court Rule 49.2, Limited practice for emeritus pro bono attorneys	No	No	Inactive in state Active or inactive out of state Clinical Law Professors	Yes	Based on inactive status	Yes Waived for inactive and retired members (214)	Yes	No	Disclosure if they have coverage	Kristina Marzec Director, Access to Justice Commission State Bar of Nevada 702-317-1404 800-254-2797 Toll Free kristinam@nvbar.org
New Hampshire (2003) By-Laws of the New Hampshire Bar Association Article II Section 8	No	No	Not otherwise engaged in the practice of law	No	Reduced at least 90%	Yes	No	No	Not mentioned	Ginny Martin Legal Services Director New Hampshire Bar Association 603-224-6942 gmartin@nhbar.org
New Mexico (2008) Rule 15-301.2	No	20 years instate and out of state license	Inactive in state Active or inactive if licensed in another state	Yes	Reduced	No	Yes	No	Not mentioned	Sarah Singleton Co-Chair, New Mexico Access to Justice Commission ssingleton@montand.com (505) 986-2648
New York (2003) (2010) 22 NYCRR § 118.1(g) *Age, years of service, minimum hours, and malpractice coverage are detailed on the approved attorney registration (license renewal) form and are not specified in the text of the rule.	55*	10*	Retired Commit to minimum 30 hours per year of probono	No	Yes	Yes – any* necessary training to be provided by sponsor without charge	Volunteer lawyers program on the Court System	Yes	Provided	Fern Schair, Chair of the Attorney Emeritus Advisory Board, schair@law.fordham.edu
North Carolina (2007) North Carolina – Bar Rule Sub Part A. Sec. 0201(c)(2)(E)	No	No	Inactive	Yes	Yes	Yes	Yes	Yes	No Mention	Tom Lunsford Executive Director North Carolina State Bar 919-828-4620 tlunsford@ncbar.gov
North Dakota (2009) Supreme Court Rule 3.1	No	Active 5 years out of past 10	Volunteer practice only	Yes	Yes	No	Yes	Yes	No Mention	Penny Miller Clerk North Dakota Supreme Court 701-328-2221 PMiller@ndcourts.gov

Oregon (1987/2001/2008) Bar Rule 6.1 www.osbar.org Oregon State Bar By-Laws 6.101 (bylaws)	No	No	Volunteer practice only	No	Reduced	Yes	Yes	No	No Mention	Catherine Petrecca Pro Bono Program Developer Oregon State Bar 503-431-6355 cpetrecca@osbar.org
South Carolina (2008) Supreme Court Rule 415 www.judicial.state.sc.us Supreme Court Rule 415	No	Inactive or Retired for less than 7 years	Retired or inactive for not more then 7 years	Yes	Reduced/ Exempt	Yes	Yes	Yes	No Mention	Gayle Watts Deputy Clerk for Bar Admissions South Carolina Supreme Court 803-734-1080 Robin Wheeler, South Carolina Access to Justice Commission, (803) 576-3808, rwheeler@scbar.org
South Dakota (2008) Supreme Court Rule SDCL 16-17.4.1.	No	No	Retired	No	Inactive	No	Yes	No	Not mentioned	Tom Barnett Executive Director State Bar of South Dakota 605-224-7554 Thomas.Barnett@sdbar.net
Tennessee (2010) Supreme Court Rule 50A http://www.tsc.state.tn.us/OPINIONS/TSC/RULES/TNRulesOfCourt/06supct25_end.htm#Rule50A	No	5 out of last 10 or engaged in the active practice of law for 25 years	Inactive	Yes	Yes	No	Yes	Yes	Existence and extent	**Sarah Hayman** Access to Justice/Public Education Coordinator Tennessee Bar Association 221 4th Avenue N. Suite 400 Nashville, TN 37219 Phone: 615.383.7421 shayman@tnbar.org
Texas (1988) Bar Rule Article XIII www.texasbar.com Bar Rule Article XIII	No	5 of last 10	Retired	Yes	If over the age of 70	Yes (XII 4-G)	Yes	Yes	Yes	Texas Lawyers Care 512-427-1859 800-204-2222, ext. 1855 tlcmail@texasbar.com
Utah (1996) Utah Bar Rules Chapter 14 Rule 14-101 et seq. (RIM); Rule 14-203 (Bylaws); Rule 14-401 et seq. (MCLE)	If Retired 75 or 50 years of practice	If Retired 50 years of practice or age 75	Retired active 50 years or 75 years of age Or Inactive	No	Yes	Not waived if you are on Active Emeritus	Yes	Yes	Not mentioned	Karolina Abuzyarova Utah State Bar Pro Bono Department (801) 297-7027 probono@utahbar.org
Virginia (2004) Supreme Court Rule 6:4-3 www.vsb.org	No	10 of last 15	Retired	No	Yes	No	Yes	Yes	Not mentioned	Maureen Petrini Pro Bono Coordinator Virginia State Bar

Supreme Court Rule 6:4-3										804-775-0522 petrini@vsb.org
Washington (1998) Court Rule 8(e) www.wsba.org Court Rule 8 (e)	No	5 of last 10 if in-state; 10 of 15 if out-of-state	Retired from the practice of law	Yes	Reduced	Yes. One-time orientation training required	Yes	No	Not mentioned	Sharlene Steele Access to Justice Programs Liaison Washington State Bar Association sharlene@wsba.org 206-727-8262
West Virginia (2006) Bar Rule Article II §11 www.state.wv.us/wvsca Bar Rule Article II § 11	No	10	Retired Or Inactive	Yes	Yes	Yes	Yes	Yes	Not mentioned	Rory Perry Clerk of the Court West Virginia Court of Appeals 304-558-2601
Wisconsin Membership status and dues http://www.wisbar.org/AM/Template.cfm?Section=Membership_Status_Options&Template=/CM/ContentDisplay.cfm&Contentid=38207#memstatopt	70	n/a	Age only	No	Will pay only for the Wisconsin Lawyers' Fund for Client Protection when there is an assessment ($25)	Yes	No	No	Not mentioned	State Bar of Wisconsin, P.O. Box 7158, Madison WI 53707-7158. (800) 728-7788.

Virginia State Bar
An agency of the Supreme Court of Virginia

PUBLIC RESOURCES

Speakers Bureau

Speaking of the Law:

The Virginia State Bar Speakers Bureau

Adopting a child, buying a home, making a will . . . . Few of us can go through life without facing situations that require further information about the law. As a free public service, the Virginia State Bar offers your school, community group or civic organization an opportunity to listen to a legal expert who will provide general background information on any number of important law-related topics that affect our lives.

At your request, we will match your organization with a volunteer lawyer in your community to speak to your group on any of the topics below, or on a topic of your choice, if available.

Interested in Obtaining a Speaker?

Please review the available topics before requesting a speaker. If you would like to request a topic not listed, please indicate so on the request form, and we will make every effort to accommodate your request.

Topics Suggested for Civic Groups

Topics Suggested for School Groups

Once you've chosen a topic, please fill out the request form (pdf*), providing us with information about your group, the topic you're interested in, and the date you need the speaker. We will make every effort to provide a lively, informative program for your group.

Please allow four weeks notice, at minimum. Members of our Speakers Bureau are available on a first come first serve basis.

Virginia State Bar members:

Interested in becoming a volunteer speaker? Simply fill out the application (pdf*) and mail or fax to the VSB.

Still have questions?

Email Spencer Hall or call 804-775-0512

Please note: Speeches by participants in the Virginia State Bar Speakers Bureau do not necessarily represent the views of the Bar, its Board of Governors or any of its divisions or committees.

Updated: Dec 21, 2011

Virginia State Bar
An agency of the Supreme Court of Virginia

Speakers Bureau—Suggested Topics for Community Civic Groups

Your Consumer Rights	Marriage and Divorce in Virginia
The New Tax Laws	Purchasing Your Home
Television Trials	Adopting a Child
Your Civil Rights	Writing Your Will & Estate Planning
Filing a Small Claim	Setting up an Adult Guardianship
Immigration and Naturalization	Starting Your Own business
Rights of the Disabled	Workers Compensation
Alternative Dispute Resolution	Employment Discrimination
Insurance Law	Sexual Harassment at the Workplace
Filing for Bankruptcy	Landlord-Tenant Rights
Traffic Law and Traffic Court Procedures	Victims Rights
Legal Issues for Non-profit Organizations	Women's Issues & the Law
Child Custody, Support & Visitation	Patents,Trademarks & Copyright
Death and Dying (Rights)	International Law
The Rule of Law	

Virginia State Bar
An agency of the Supreme Court of Virginia

Speakers Bureau—Suggested Topics for Primary and Secondary Schools

Bill of Rights	What Lawyers Do/Law as a Career
Our Jury System	Drinking, Driving, and Drugs
Our Court System	Our Constitution
What is a Bar Organization?	The Rule of Law

Speakers Bureau Home Page

Suggestions for Civic Groups

back to Public Resources page

Updated: Apr 18, 2011

Virginia State Bar Speakers Bureau

REQUEST FOR SPEAKER

Organization Information

Organization Name: _____

Contact: _____ Phone: ( ) _____

Address: _____

City: _____ State: _____ ZIP: _____

e-mail: _____ Fax: ( ) _____

Meeting Information

Place of Meeting: _____

Date(s) of Meeting: _____ Time of Meeting: _____

Type of group: (students, senior citizen, etc.) _____

Nature of meeting: (e.g. annual, luncheon, etc.) _____

Topic requested: _____

Anticipated Audience Size: _____

Time allowed for speech: _____ For Questions & Answers: _____

Microphone available?	Yes	No
Podium available?	Yes	No
Audio visual available?	Yes	No

How would you describe the meeting setting?

☐	Single Speaker	☐	Formal
☐	Panel	☐	Informal

If YES, then note those that apply:

VHS	Overhead projector
Screen	Slide projector

VSB use only ☐

Please mail or fax this form to:

Virginia State Bar
707 E. Main Street, Suite 1500
Richmond, VA 23219-2800
attn: spencer hall

Fax: (804) 775-0582

MAINEBAR.ORG

Speakers Bureau

The perceived complexity of the judicial system often causes confusion and misinterpretation of the roles of lawyers as officers of the court. Many members of the Maine State Bar Association accordingly volunteer to share their education and experience with groups of students and other residents of Maine to help them better understand subjects ranging from personal rights to the separation of powers to the function of lawyers in American society. Requests for speakers are welcome from businesses, civic groups, community groups and schools. Volunteer speakers stimulate lively discussions in presenting programs that encourage questions and answers.

Specific topics that have been popular with organizations requesting free MSBA speakers include: Adoption, ADR/Mediation, Business Law Issues, Choosing a Lawyer, the Constitution and Bill of Rights, Consumer Rights, Divorce and Separation, Drug Testing and Employment, Environmental Law, the Federal Court System, First Amendment Freedom Guarantees, Hate Crimes, IRS and Tax Laws, Landlord/Tenant Rights and Responsibilities, Law as a Career, Legal Rights of Minors, Liquor Liability and the Dram Shop Law, Living Wills, Locker Searches, the Maine Court System, OUI Laws, Powers of Attorney, Real Estate Transfers, Search and Seizure Issues, Small Claims, Surviving Spouse Matters, Trusts and Estate Planning, and Wills and Probate.

In addition to providing speakers to schools and organizations, the MSBA's Speakers Bureau also sends volunteer lawyers to workplaces around the state in a "Lunch 'n' Learn" program to educate the public about legal issues relevant to their immediate lives. The program takes place at employees' workplaces during the lunch hour to make the program accessible and to accommodate the busy lives of today's working adults. Attendees are also given relevant legal information pamphlets and information about the Lawyer Referral and Information Service. Contact info@mainebar.org.

Maine State Bar ASSOCIATION

The Nevada Supreme Court Access to Justice Commission and the State Bar Board of Governors are pleased to partner in celebrating pro bono and public service during this third annual National Celebration of Pro Bono Week. Help us by attending or volunteering for one of the many events scheduled during the week as we honor those who serve and provide help to our neighbors who so desperately need it.

Schedule of Events

Wednesday, October 10

Virginia City

Free Legal Aid Fair 3 pm to 7 pm
Hosted by Volunteer Attorneys for Rural Nevadans and Nevada Legal Services
Virginia City Community Center
175 E Carson Street

Ask-a-lawyer event for the public in the areas of Family law, bankruptcy, wills & estates, foreclosure, landlord/tenant, debt collection, government benefits, immigration, and more.

Contact: VARN at 775-883-8278

Thursday, October 18

Las Vegas

FREE Pro Bono CLE: Representing Abused & Neglected Children
9:00 am - 12:15 pm
William S. Boyd School of Law, Thomas & Mack Moot Courtroom (4505 South Maryland Parkway)
Learn the basics of representing a child in the abuse and neglect system. All attorneys who attend must agree to take a NEW abuse/neglect pro bono case.
To register: Contact Melanie Kushnir at mkushnir@lacsn.org

Friday, October 19

Reno

CLE Human Trafficking 8:30am -5 pm Presented by Nevada Legal Service
Northern Nevada Bar Center
9456 Double R. Boulevard, Suite B. *Reno*, NV 89521
Contact: Renee Kelly (775) 334-3051 rkelly@nlslaw.net

Las Vegas

Family Law Support Luncheon
12:00 Noon – 1:00 pm
Legal Aid Center of Southern Nevada Satellite Office (610 South 9th St.)
Informal opportunity for family law volunteer attorneys with open cases to ask questions, obtain feedback and share experiences about cases. Complimentary lunch provided.
To register: Contact Sasha Hinkel at SHinkel@lacsn.org

Saturday, October 20

Carson City

Free Legal Aid Fair 10 am- 4 pm
Hosted by Volunteer Attorneys for Rural Nevadans and Nevada Legal Services and sponsored in part by the Carson City Nugget

Carson City Nugget
507 N Carson St

Ask-a-lawyer event for the public in the areas of Family law, bankruptcy, wills & estates, foreclosure, landlord/tenant, debt collection, government benefits, immigration, and more.

Contact: VARN at 775-883-8278

Monday, October 22

Reno

Champions of Justice Awards Luncheon 11:30 -1 Hosted by Nevada Legal Services
Peppermill Resort and Casino
2707 South Virginia Street Reno, NV 89502
Buy tickets: http://www.nlslaw.net/index.html
Contact: Nevada Legal Services (775) 284-3491

Las Vegas

Pro Bono Community Celebration Mixer 6:00 pm to 8 pm
Pyramid Room Clark County Government Center
500 South Grand Central Parkway Las Vegas, NV 89106

Sponsored by: Bank of Nevada, Ballard Spahr, State Bar of Nevada, Access to Justice Commission

Catered by: At Your Service Music By: Bill Swick

This free event is open to the legal community, including law students, paralegals, and anyone interested in supporting pro bono legal services.

Free but you must RSVP to Kristina Marzec kristinam@nvbar.org

Tuesday, October 23

Las Vegas

Pro Bono Celebration Ask-A-Lawyer Event
12:00 pm – 2:30 pm
East Las Vegas Community Senior Center (250 N. Eastern Ave.)
Sponsored by Legal Aid Center of Southern Nevada, Nevada Legal Services and Southern Nevada Senior Law Program, pro bono attorneys are needed to provide FREE 15 – 30 minute consultations in all areas of civil law.
Click here for details about this one day program.
To volunteer: Contact Melanie Kushnir at mkushnir@lacsn.org

Reno

CLE Family Law 101 9-5 Presented by Nevada Legal Services
Northern Nevada Bar Center
9456 Double R. Boulevard, Suite B. *Reno*, NV 89521
Contact: Renee Kelly (775) 334-3051 rkelly@nlslaw.net

Wednesday, October 24

Reno

Family Law Self Help Forms Completion Clinic 10-6 Hosted by Nevada Legal Services
2nd judicial district court, room 116
Educational class setting help for pro-se litigants filling out forms.
Contact: Renee Kelly (775) 334-3051 rkelly@nlslaw.net

Carson City

Ask a lawyer 9-12 Hosted by: Nevada Legal Services
Supreme Court Law Library Carson City
201 S. Carson Street
Carson City NV 89701-4702
Brief consultations available to the public in family law and other areas

Self Help Forms Completion Clinic 10-6 Hosted by Nevada Legal Services
Mortgage Foreclosure Education Clinic 3:30- 5
Carson City Library, 900 Roop Street

For the three events above, **Contact**: Renee Kelly (775) 334-3051 rkelly@nlslaw.net

Las Vegas

Champions of Justice Awards Luncheon 11:30 to 1:30 pm Hosted by Nevada Legal Services
Las Vegas Country Club
3000 Joe W. Brown, Las Vegas, NV 89109
Buy tickets: http://www.nlslaw.net/index.html
Contact: Nevada Legal Services (702) 386-0404

***Federal Court Ask-A-Lawyer Program* 2:00 pm – 5:00 pm**
Lloyd George United States Courthouse, Jury Assembly Room (333 Las Vegas Blvd. South)
Pro bono attorneys are needed to provide FREE consultations to unrepresented individuals with open cases in Federal Court or those contemplating filing in Federal Court.
To volunteer: Contact Melanie Kushnir at mkushnir@lacsn.org.

Family Law Ask-A-Lawyer
2:00 pm – 5:00 pm
Self-Help Center at Family Court (601 N. Pecos Road)
Pro bono attorneys are needed every week to provide brief consultations to pro se family court litigants.
To volunteer: contact Melanie Kushnir at mkushnir@lacsn.org

Thursday, October 25

Ask-A-Lawyer at Family Court 2 pm to 5 pm
Co-sponsored by the Family Court Self-Help Center, Eighth Judicial District
Family Court

Every week the Ask-A-Lawyer program helps many Nevadans in need of help in family law matters. Consider stopping by or volunteering during Pro Bono week. Contact: Self Help Center 702-455-0021 or Legal Aid Center of Southern Nevada 386-1070 ext. 137 or probono@lacsn.org.

Monday Oct 22 through Oct 25 special series daily ask-a-lawyer

Reno

Ask-A-Lawyer Series. Daily 4 pm to 7pm, Washoe County Law Library
Sponsored by VARN and NLS
75 Court St # 101 Reno, NV 89501
Each day will feature a new topic of law available to the general public for brief consultation.

Contact: Nevada Legal Services (775) 284-3491 or VARN at 775-883-8278

Friday, October 26

As we enjoy Nevada Day and many of us have a day off from work, please think of those less fortunate in need of legal assistance. Pledge to take a case, make a donation, volunteer to teach a clinic or class, or volunteer for a day with an Ask-A-Lawyer.

SAVE THE DATE! KEEP PRO BONO CELEBRATION GOING!

October 30, 2012

Business Entities 201: How to Structure & Manage Your Corporation or LLC
6:00 pm to 8:00 pm
Nevada Minority Supplier Development Council (1785 E. Sahara Avenue, Suite 360)
Pro bono attorneys are needed (quarterly) to teach seminars and conduct one-on-one consultations with small business owners.
To volunteer: Contact Melanie Kushnir at mkushnir@lacsn.org

November 1, 2012

CLE: Basics of Family Law Jurisdiction*
1:00 p.m. – 4:15 p.m.
Co-sponsored with The Willick Law Group
*This CLE is $30 with proceeds donated to Legal Aid Center
Zenoff Hall Training Center, 601 N. Pecos Road (located behind Family Court)
Click here for registration information.

NOVEMBER 12 VETERANS DAY PROJECT SALUTE 10:00 am – 2:00 pm

Reno Vet Center, 5580 Mill Street, #600, Reno

Las Vegas Location: Nevada Legal Services, 530 S. Sixth Street, Las Vegas NV

Project Salute Comes to Nevada to Help the State's Veterans on November 12, 2012

The Nevada Supreme Court Access to Justice Commission, the Young Lawyers Section, and Nevada Legal Services are joining forces to bring Project Salute to Nevada. Project Salute is an ABA Young Lawyers Division's project providing assistance to veterans seeking assistance with obtaining VA benefits in a one-on-one Ask-A-Lawyer setting.

The event kicks off on **Monday, November 12** in both Las Vegas and Reno. For more information please contact southern Nevada project chair Kevin Kam at kevinkam777@hotmail.com or northern Nevada project chair Jordan Davis at jadavis@lionelsawyer.com

November 14

FREE CLE: Basics of Family Law
9:00 a.m. - 12:15 p.m.
Co-sponsored with State Bar of Nevada
Lloyd D. George--U.S. Federal Courthouse-Jury Assembly Room
*Attendees must accept one pro bono family law case
Click here for registration information.

*Events may be added or modified after date of publication. Check www.nvbar.org for the current pro bono week calendar or contact Kristinam@nvbar.org 702 317-1404

LEGAL AID CENTER of Southern Nevada
Since 1958

Celebrate Pro Bono
National Pro Bono Celebration
October 21 - 27, 2012

The week of October 22 to October 25 marks the 4th Annual National Pro Bono Celebration. Sponsored by the ABA, the Celebration is a coordinated national effort to showcase the great difference that pro bono lawyers make in our communities and the clients they serve. Legal Aid Center of Southern Nevada wants to and its partner organizations are hosting numerous events throughout the month. To view a full schedule, visit the Supreme Court Access to Justice Mission's website at www.nvbar.org.

Thursday, October 18, 2012

FREE Pro Bono CLE: Representing Abused & Neglected Children

9:00 am - 12:15 pm

William S. Boyd School of Law, Thomas & Mack Moot Courtroom (4505 South Maryland Parkway)

Learn the basics of representing a child in the abuse and neglect system. All attorneys who attend must agree to take a NEW abuse/neglect pro bono case.

To register: Contact Melanie Kushnir at mkushnir@lacsn.org

Friday, October 19, 2012

Family Law Support Luncheon

12:00 Noon – 1:00 pm

Legal Aid Center of Southern Nevada Satellite Office (610 South 9th St.)

Informal opportunity for family law volunteer attorneys with open cases to ask questions, obtain feedback and share experiences about cases. Complimentary lunch provided.

To register: Contact Sasha Hinkel at SHinkel@lacsn.org

Monday, October 22, 2012

Pro Bono Community Celebration Mixer

6:00 pm – 8:00 pm

Clark County Government Building, Pyramid Room (500 S. Grand Central Pkwy.)

Casual evening of cocktails, appetizers, music and great company to kick off Pro Bono Week.

To register: Contact kristinam@nvbar.org

Tuesday, October 23, 2012

Pro Bono Celebration Ask-A-Lawyer Event

12:00 pm – 2:30 pm

East Las Vegas Community Senior Center (250 N. Eastern Ave.)

Sponsored by Legal Aid Center of Southern Nevada, Nevada Legal Services and Southern Nevada Senior Law Program, pro bono attorneys are needed to provide FREE 15 – 30 minute consultations in all areas of civil law.

To volunteer: Contact Melanie Kushnir at mkushnir@lacsn.org

Wednesday, October 24, 2012

Nevada Legal Services Champions of Justice Luncheon

12:00 pm – 1:30 pm

Las Vegas Country Club (3000 Joe W. Brown Dr.)

Luncheon and awards program for outstanding local attorneys.

To Register: Contact Art Merl (702) 386-0404 Ext. 170 or at http://nlslaw.net

Landlord/Tenant Ask-A-Lawyer Program

10:00 am – 12:00 pm and 1:00 pm – 3:00 pm

Civil Law Self-Help Center, Regional Justice Center (200 Lewis Ave.)

Pro bono attorneys are needed every week to provide brief consultations to unrepresented litigants with landlord/tenant issues.

To volunteer: Contact Melanie Kushnir at Mkushnir@lacsn.org

Federal Court Ask-A-Lawyer Program

2:00 pm – 5:00 pm

Lloyd George United States Courthouse, Jury Assembly Room (333 Las Vegas Blvd. South)

Pro bono attorneys are needed to provide FREE consultations to unrepresented individuals with open cases in Federal Court or those contemplating filing in Federal Court.

To volunteer: Contact Melanie Kushnir at mkushnir@lacsn.org.

Family Law Ask-A-Lawyer

2:00 pm – 5:00 pm

Self-Help Center at Family Court (601 N. Pecos Road)

Pro bono attorneys are needed every week to provide brief consultations to pro se family court litigants.

To volunteer: contact Melanie Kushnir at mkushnir@lacsn.org

Tuesday, October 30, 2012

Business Entities 201: How to Structure & Manage Your Corporation or LLC

6:00 pm to 8:00 pm

Nevada Minority Supplier Development Council (1785 E. Sahara Avenue, Suite 360)

Pro bono attorneys are needed (quarterly) to teach seminars and conduct one-on-one consultations with small business owners.

To volunteer: Contact Melanie Kushnir at mkushnir@lacsn.org

*Southern Nevada Small Firm Pro Bono Meeting**

4:00 pm – 6:00 pm

Regional Justice Center Supreme Court Conference Room
17th Floor, Room AOC, A & B (200 Lewis Ave.)

Luncheon and discussion about Access to Justice and Pro Bono delivery in Southern Nevada

**Invitation only event for Managing Partners and Pro Bono Coordinators at law firms (5 – 15 attorneys)*

To RSVP: Contact Debbie Jacoby at djacoby@lacsn.org

SMALL LAW FIRM MEETING, SOUTHERN NEVADA
Sent to firms with 8 or less attorneys

Dear Managing Partner:

Judge Elizabeth Gonzalez, Judge Joanna Kishner, Judge Frank Sullivan, Barbara Buckley and Melanie Kushnir cordially invite you to join us for a luncheon and discussion about access to justice and pro bono. It is an important issue to the court, and we would like the opportunity to discuss the issue with you.

Date: October 30, 2012
Time: 12:00 p.m. to 1:00 p.m. – Lunch will be provided
Place: RJC - Supreme Court Conference Room – 17th Floor – Room AOC, A & B

We understand the economy has taken a deep toll on clients and firms alike. Steep cuts in funding sources across the board continue for legal aid agencies statewide, but despite that, there are many new exciting programs and opportunities for volunteerism--and mentoring and support for those volunteers--in areas such children's rights, custody, bankruptcy, fraud and a wide array of civil cases.

The invitation is extended to you and, if applicable, to the partner in charge of pro bono service for the firm. Your input is extremely valuable, and we hope you can attend.

Kindly RSVP by October 23rd to djacoby@lacsn.org or by calling (702) 868-1129.

Sincerely,

Judge Elizabeth Gonzalez
Access to Justice Commission

Judge Joanna Kishner
Access to Justice Commission

Judge Frank Sullivan
Access to Justice Commission

Barbara E. Buckley, Esq.
Executive Director

Melanie Kushnir, Esq.
Pro Bono Project Director

NEVADA LEGAL SERVICES
INCORPORATED

SAVE THE DATE!

Champions of Justice Luncheon

Please join us in recognizing the contributions of our Honorees for their unwavering support for all Nevadans

Celebrate Pro Bono

STATE BAR OF NEVADA 1928

Sponsorship Opportunities:
Platinum Level $2,500
Gold Level $1,500
Silver Level $1,000
Table Purchase $750
Advertisement Opportunities Available

Single ticket: $50
Table: $750

For reservations contact Renee Kelly at:
(775) 334-3051 or
rkelly@nlslaw.net

Master of Ceremonies:
Chief Judge Honorable David Hardy
Second Judicial District Court

Monday, October 22, 2012
11:30 am to 1:30 pm
Peppermill Resort Spa Casino
Tuscany Ballroom
Reno, Nevada

2012 Champion of Justice:
Catherine Cortez Masto
Nevada Attorney General
Judge Andrew Puccinelli Memorial Awardee:
Kriston Whiteside
Attorney Honorees: Sarah Carrasco, Dana Grigg, & Mikyla Miller
Law Firm Honorees: Surratt Law Practice & Dyer, Lawrence, Penrose, Flaherty, Donaldson & Prunty
Special Recognition Honoree:
Nevada State Bar Young Lawyers Section

Champions of Justice Luncheon
Thursday, October 20, 2011, 11:30am to 1:30pm
Peppermill, Tuscany Ballroom

honoring **Judge Connie Steinheimer**, **Jeremy Reichenberg, Esq.**,
Woodburn and Wedge and the **Northern Nevada Bankruptcy Bench Bar**
for their unwavering support for all Nevadans
This event is will kick-off Nevada's Celebrate Pro Bono Week
Product/Service Information

ABA Young Lawyers Division

Project Salute:

Young Lawyers Serving Veterans

Calling all veterans:

Veterans Benefits Clinic
November 12, 2012
10:00 a.m. - 2:00 p.m.

Nevada Legal Services

530 S. Sixth Street
Las Vegas, NV 89101
(Note updated location!)

Speak to a volunteer attorney for FREE about the following concerns:

- **Increasing disability ratings**
- **Appealing denial of benefits**
- **Spouse's benefits**
- **And more!**

Snacks will be available!

Questions? Call 1-866-432-0404, ext. 126

ABA Young Lawyers Division

Project Salute:

Young Lawyers Serving Veterans

Calling all veterans:

Come to our Veteran's Day Event on November 12th!

You will have a chance to speak to a lawyer for FREE about the following concerns:

- **Increasing disability ratings**
- **Appealing denial of benefits**
- **Spouse's benefits**
- **And more!**

November 12th, 2012,
located at Reno Vet Center, 5580 Mill Street, #600, Reno
10:00 am – 2:00 pm

Nevada Supreme Court Access to Justice Commission
Quarterly Meeting
Date: Friday, June 29, 2012
9:50-12:45 pm
State Bar Annual Convention
San Diego, California

Commission members in attendance:

Justice Michael Douglas	**Co-Chair**
Justice James Hardesty	**Co-Chair**

Doherty	Hon Francis	
Sternberg	Ira David	
Kushnir	Melanie	
Traum	Professor Anne (phone)	
Barker	Hon. David	
Desmond	John (WLS Board)	
Cooney	Valerie	
Elcano	Paul (phone)	
Johnson	Anna	
Tierney	Keith	
Kandt	W. Brett	
Steinhiemer	Hon. Connie	
Sullivan	Hon. Frank	
Vogel	Sugar	
Marzec	Kristina	Access to Justice Commission Director

Non-voting invitees/guests in attendance:

Buckley	Barbara	Executive Director, Legal Aid Center of Southern Nevada)
Goldsmith	Dara	President, Nevada Law Foundation (by telephone)
Mckelvey	Kim	ALPS Foundation services (by telephone)
Flaherty	Keegan	(by telephone)
Hatch	Elana	
Winckler	garth	
Hatch	Elena	

Scheduled Guest- Jeremy Bosler (special phone appearance)

Call to Order 9:50

Nevada Law Foundation announced it has officially changed its name to Justice League of Nevada (JLN) and is in the process of rebranding and messaging.

The Legal Aid Provider Executive Directors reported on their ongoing collaborations, including continuing discussions towards an IOLTA negotiated split agreement and suggestions regarding the JLN reporting forms and block granting.

Statewide support through Jon Sasser is now funded under a separate IOLTA grant. Ongoing projects for the coming months include: Multiform advocacy to increase services; Medicaid; Preparing for 2013 legislature; State

development of LSC budget; training services for legal aid staff, including pro se litigation support and unemployment; daily general phone advice to help legal aid staff.

Rural providers noted there remain some discrepancies in application of particular allowable costs under SOLA fee waivers (statement of legal aid) in the rural counties. Rural providers were asked to meet and provide more information to the co-chairs for a potential letter to the chief judges and clerks in the relevant jurisdictions.

Southern providers noted unresolved cost issues concerning service of process, which for several reasons is currently being effected through a private service in family court matters rather than the sheriff, at a significant cost. There will be ongoing discussions with the sheriff and the new district attorney to find a way to reduce those costs in future. Providers to advise the Commission if additional support is needed on this item.

NLS reported it passed all federal audits in recent weeks. The new Indian Law program is well attended and staffed with volunteers. The Elko public defender is teaching and mentoring new attorneys. New staff is hired for the low income tax clinic. NLS is also working with the two senior law programs on a new grant through the Federal Administration on Aging for a pilot project to reduce elder abuse.

VARN reported on its videoconferencing project. Funding was awarded and equipment purchased. Working with the Supreme Court AOC staff, they have identified libraries and colleges in the rurals with similar equipment and will start looking at comparability. The short term goal is to ID various locations and start with one or two. VARN got DOJ recognition and accreditation in immigration VAWA cases. VARN will also be offering new POD casts on a weekly basis in future. Val Cooney met with the Law Library and DA office to discuss services. A Latin Lawyer in the Lobby has been added in alternating weeks. It was recently announced Nevada Hispanic Services will be closing.

Noted that the Supreme Court law librarian is going to undertake updating all online legal forms for the entire state, and will be reaching out to all providers and the courts.

The Washoe Senior Law Project replaced the retiring Ernie Nielson with Keith Tierney who reported on behalf of the program. The current case level for the year is 1500, clinics at 350. The project is seeing a large number of judicial foreclosure complaints.

The Senior Law Project is now an independent 501(c)(3) renamed Southern Nevada Senior Law Program. The program decided to keep the transition seamless to its customers and will be doing a grand opening at some point later in future. The building is being sold to Zappos, which is renovating it and has made a commitment to keep the SNSLP in the building. On May 16, the Las Vegas city council gave in kind donations for all computers, scanners and furniture, and also gave cash out the door.

Emeritus petition of washoe public defender- Jeremy Bosler, Washoe Public Defender, joining by phone at 10:23

The Washoe Public Defender applied to be approved as an EAPB provider under the Emeritus rule, SCR 49.2. The Commission provided an opportunity for Mr. Bosler to address the Commission and answer any questions.

Mr. Bosler referenced his petition and noted his office does do some civil work and has volunteers it would like to use. The only available rule of limited practice that seems to remotely fit is the emeritus rule. He opined the rule as written presently applies to certain cases the PD handles under 432B (parental rights juvenile delinquency, detainees for mental illness). Should the application for EAPBS provider status be approved, it is the PD's intent under *Strickland* that any volunteers would have to be trained in each area, supervised by a licensed NV attorney who would sign off on pleadings, and the office would give the same level of expertise that it would to any other employee or clerks. The urban PD has very organized central training. A lot of California new admittees can't find work (they can come here and get trained in indigent defense). The Pro Hac Vice route is not practical for his office

because we turn over cases so quickly. Because any volunteers are being supervised as agency volunteers, it is his understanding they would be covered by the PD statutory immunity (liability statutes as practicing public defenders) and also covered by the office malpractice policy. There are currently no applicable rules for urban volunteerism. The attorneys admitted under the rule would be short term, no more than a year.

Mr. Bosler answered questions and ended his participation at 10:25.

The Commission discussed this petition at length. The group was divided on whether the matter would be better deferred to the indigent defense commission and whether if it stayed under the existing rule it would require a rule change. Other topics raised included whether the individuals who would be represented under the scenarios as described in the presentation would have a right to counsel, and the potential constitutional underpinnings that may be present. All agreed that access to the courts is the primary objective.

MOVED AND APPROVED to defer to a new emeritus subcommittee. Justice Douglas will chair. The subcommittee may review the specific petition of the public defender along with a general discussion of how the emeritus rule is written, and may just come up with issues to present back to the Commission. Judge Steinheimer, Melanie Kushnir, Paul Elcano, and Val Cooney volunteered to participate. Dara suggested Bryan Scott may be a good fit to represent the board of governors. Mr. Bosler will be invited to participate. The group should also invite a representative from a government office.

JUSTICE LEAGUE OF NEVADA/IOLTA.

The JLN Board of Trustees met and thought about what was important. Since the end goal is fully funding LRE and Pro Bono to ensure justice, the Board felt the name needs to be different and reflect who they are and what they do. The messaging is that everyone can be superheroes by supporting the cause.

The Board Grant Committee reviewed all grantee reports and there will be some additional follow up, but otherwise those reports are truly impressive.

Interest rate

JLN advised that three banks had come back with comments about the fixed IOLTA interest rate. Back in march one bank suggested 40 basis points. JLN then did a follow up to take the temperature of other banks. At that point no one came forward and noone said anything. Therefore, there is only one affirmative request to reduce the rate.

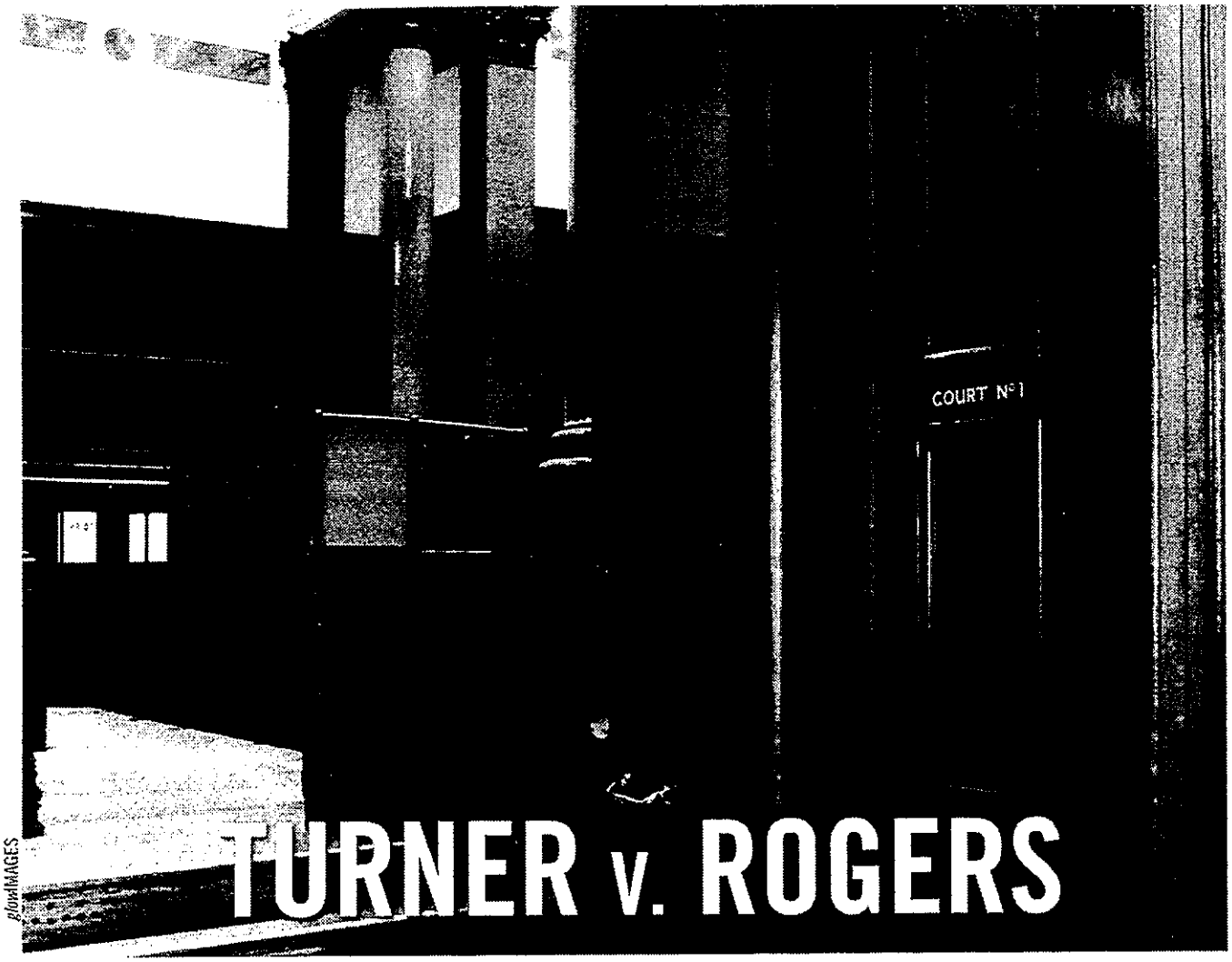
JLN Board had a long discussion about the Commission's request to recommend a rate and came to the conclusion that this puts JLN in a difficult decision because they are going to banks for fund development. Further, the bylaws say JLN can only provide means to increase revenue, and thus can't come to ATJC with a proposal to decrease the rate. Accordingly, the JLN requests that the Commission or its designate take over the actual rate review and recommendation. The JLN will continue to provide input as appropriate.

MOVED AND APPROVED to defer to the IOLTA subcommittee to develop a formal rate review process. Justice Hardesty will chair and pick one or two bank representatives to participate.

MOVED AND APPROVED to lower the interest rate to .70 APY.

Ira Sternberg gave a brief report on his efforts to secure pro bono and low cost help with marketing and messaging, as well as the potential of having an intern in future.

Adjourned 12:45.



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TURNER v. ROGERS

The Implications for Access to Justice Strategies

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A watershed for the right to counsel and self-representation?

by **RICHARD ZORZA**

On June 20, 2011, the United State Supreme Court decided *Turner v. Rogers.*[1] *Turner* should be considered a landmark decision for the self-represented, and indeed for access to justice. In its first ever trip to the civil self-represented courtroom (beyond right to counsel issues), the Court laid out requirements of fairness and accuracy as basic due process parameters for the self-represented.

In *Turner,* an indigent parent had been incarcerated for civil contempt for failure to pay child support, and sought review based on lack of counsel at the contempt hearing. The Court found, on the facts of the case, which involved a private party seeking the incarceration, also without counsel, no categorical right to counsel. However, at the suggestion of the Solicitor General,[2] raising possibilities not presented by the parties to the state court, the Supreme Court reversed for lack of sufficient due process procedural protections. As the Court put it:

> "The record indicates that Turner received neither counsel nor the benefit of alternative procedures like those we have described. He did not receive clear notice that his ability to pay would constitute the critical question in his civil contempt proceeding. No one provided him with a form (or the equivalent) designed to elicit information about his financial circumstances. The court did not find that Turner was able to pay his arrearage, but instead left the relevant "finding" section of the contempt order blank. The court nonetheless found Turner in contempt

The author is Coordinator of the Self-Represented Litigation Network, but the opinions expressed are his, and his alone. This paper builds in part upon prior blog posts by the author as part of a Turner post-decision online Symposium of which he was a co-host, available at http://www.concurringopinions.com/archives/category/symposium-turner-v-rogers. He particularly thanks those who posted to that Symposium, as well as all who have participated in the extensive discussion in the access to justice community about the implications of the case.

1. *Turner v. Rogers,* 564 U. S. ___ (June 20, 2011), slip opinion at http://www.supremecourt.gov/opinions/10pdf/10-10.pdf.

2. Brief of the United States at http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_10_ReversalAmCuUSA.authcheckdam.pdf.

and ordered him incarcerated. Under these circumstances Turner's incarceration violated the Due Process Clause."[3]

Thus *Turner* explicitly recognized the need for procedures such as judicial questioning and the availability of court forms to meet constitutional requirements.

> "[T]there is available a set of 'substitute procedural safeguards,' Mathews v. Eldridge], 424 U. S. [319 [1976)], at 335, which, if employed together, can significantly reduce the risk of an erroneous deprivation of liberty. They can do so, moreover, without incurring some of the drawbacks inherent in recognizing an automatic right to counsel. Those safeguards include (1) notice to the defendant that his "ability to pay" is a critical issue in the contempt proceeding; (2) the use of a form (or the equivalent) to elicit relevant financial information; (3) an opportunity at the hearing for the defendant to respond to statements and questions about his financial status, (e.g., those triggered by his responses on the form); and (4) an express finding by the court that the defendant has the ability to pay."[4]

The principles the Court adopted have potential implications significantly beyond the specifics of civil contempt and the solutions of judicial questioning and forms. *Turner* indicates the structure of analysis to be used to determine what access procedures for the self-represented are required and when even those procedures alone might not be sufficient, and where therefore counsel would be required.[5] While the specific decision deals with a threat to liberty, and while the interest in liberty is given the highest constitutional protection, there is nothing in the analysis to suggest that cases involving other constitutional interests are unworthy of appropriate due process protections, although what is appropriate will of course depend on the circumstances.[6]

The Court, in analyzing the ways that due process standards might be met, including through judicial questioning and court forms, effectively endorsed (although without citation) the work of state courts throughout the United States in the last fifteen years to develop low cost, effective and public trust and confidence building procedures that ensure access to justice.[7] It is doubly significant that this entire approach was at the suggestion of the United States Solicitor General, representing the interests of the United States in the case.[8]

While a disappointment to some in its rejection of a categorical right to counsel in its particular circumstances, the case is likely to result in significantly more attention to access issues. The case ultimately challenges courts and other justice system institutions to continue the process of implementing and expanding such procedures, and should also make it easier for courts to obtain the resources they need to do so. The foundational leadership role that courts have already played, together with their bar and access to justice partners such as the Access to Justice Commissions, positions them ideally to continue as leaders in making sure that the legal system takes advantage of the opportunity to move towards a 100% access to justice system. In some states, moreover, *Turner* may also trigger consideration of state law approaches that may go beyond *Turner* itself. In the end, however, what Turner means in practice will be determined by all of us, not just by the Supreme Court, or even by the judiciary alone.

What Does *Turner* Hold?

In *Turner*, the Court establishes several parameters as matters of federal law as the minimum for dealing with self-represented litigation. These parameters may, of course, be expanded at the state level:

Due Process Right for Self-Represented Litigants. There is a due process right to court "procedural safeguards" that ensure the protection of the right to be heard in cases involving potential deprivation of a constitutionally protected interest. *"The record indicates that Turner received neither counsel nor the benefit of alternative procedures like those we have described . . . . Under these circumstances Turner's incarceration violated the Due Process Clause."*[9] Significantly, protection of the due process rights of litigants here therefore becomes a matter of court obligation, rather than one that is dealt with simply either by appointing or not appointing counsel.

Three-Factor Analysis of Safeguards Required. The extent of those "procedural safeguards" depends on: *"(1) the nature of 'the private interest that will be affected,' (2) the comparative 'risk' of an 'erroneous deprivation' of that interest with and without 'additional or substitute procedural safeguards,' and (3) the nature and magnitude of any countervailing interest in not providing 'additional or substitute procedural requirement[s].'"* Quoting *Mathews v. Eldridge*, 424 U. S. 319, 325 (1976).[10] (Interestingly, while the court does not explicitly limit the use of the costs of procedures as a *"countervailing interest,"* it does not mention cost in the application of the due process balancing test to these facts.) Of course, these are the kinds of analyses that courts often apply, but not at the state trial court level in day-to-day decision-making.

Fundamental Fairness and Accuracy. Ultimately overall "fundamental fairness" and accuracy are the touchstones as to what procedures are constitutionally required.[11]

Civil Contempt Incarceration Safeguards. In this case of threat-

3. *Turner v. Rogers*, slip opinion at 16.

4. *Turner v. Rogers*, 564 U. S. ___ (June 20, 2011), slip opinion at 14, http://www.supremecourt.gov/opinions/10pdf/10-10.pdf.

5. The Court's holding of no categorical right to counsel was limited to the situation in which the party seeking incarceration also did not have counsel.

6. See quoted language below, *Turner v. Rogers*, slip opinion at 11.

7. These were particularly jumpstarted as far back as 2002 by the COSCA *Position Paper on Self-Represented Litigation*, available at http://cosca.ncsc.dni.us/WhitePapers/selfreplitigation.pdf, and the joint CCJ/COSCA Resolution 31: *In Support of a Leadership Role for CCJ and COSCA in the Development, Implementation and Coordination of Assistance Programs for Self-Represented Litigants*, available at http://ccj.ncsc.dni.us/resol31AsstPgmsSlfLitigants.html, passed the same year. These Resolutions themselves followed and earlier 2000 COSCA *Task Force Report*, available at http://cosca.ncsc.dni.us/WhitePapers/TaskForceReportJuly2002.pdf.

8. Available at http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_2010_2011_10_10_ReversalAmCuUSA.authcheckdam.pdf.

9. *Turner v. Rogers*, slip opinion at 16.

10. *Turner v. Rogers*, slip opinion at 11.

11. *Turner v. Rogers*, slip opinion at 14-15.

ened civil contempt incarceration, the constitutionally sufficient procedures[12] include: (i) notice of the specific key determinative element (here ability to pay the overage); (ii) a form to gather information on the key elements; (iii) questioning on this key element from the bench (at least when needed to clarify the situation), and; (iv) an explicit (not implied) determination of the key element.[13] These are just the kinds of procedures that are already in place in many courts, for many different kinds of situations. Moreover, while some procedures may take some initial investment to set up, overall they are likely to save money by increasing a focus on what needs to be decided, and by reducing endless continuances and returns to court, rather than impose additional budgetary burdens.[14]

Application to Self-Represented Plaintiffs *Seeking* Court Intervention. The right to "fundamental fairness" and accuracy for one seeking government's assistance in depriving someone of a constitutionally protected interest (i.e. plaintiff's) is very much part of the constitutional calculus, and not limited only to that of those facing the deprivation (i.e. contempt defendants). Here, indeed, the risk of unfairness or inaccuracy to the plaintiffs caused by providing counsel to the defendant when the other did not have counsel was a major consideration for the Court in determining the requirements of due process.[15] The Court had not been asked to, and did not consider providing counsel to both. This aspect of the analysis is likely to require attention by courts looking at their processes, but again the likely overall impact will be greater efficiency and accuracy.

Possible Need for Greater Protections, Including Counsel, In Other Circumstances, Such as Government Role or Opposing Counsel. The specific "alternative procedures" are required by *Turner* even though the government is not on the other side, and the opposing party is also self-represented. Were these factors different, greater protections, including possibly the right to counsel at state expense, might be required.[16] What the opinion leaves open is the question as to who would pay for such counsel.

In summary, the opinion requires that certain procedures be put in place in civil contempt incarceration cases where neither the government nor a represented party is on the other side, and also suggests the possible need for counsel in cases when they are, or when the case is unusually complex.

At a minimum, therefore, courts need to assess their compliance with these requirements in civil contempt cases, and be ready for claims of right to counsel in those situations. The impact of doing so may be great in terms of court culture and perceived court role, but it is unlikely to place significant financial burdens on the courts—particularly if the Department of Health and Human Services and the federal government assist in the deployment of constitutionally adequate forms systems, and in designing judicial education programs to ensure constitutionally adequate judicial questioning.

The Broader Implications of the Holding

However, much more important than the specifics of Turner are the implications of its analytic structure for the much broader range of self-represented cases, including potentially every case involving one or more self-represented litigants. These implications ultimately include the following:

Required Compliance of all Self-Represented Cases With *Mathews* and *Turner*. The procedures in place in any self-represented case that involves potential deprivation of a constitutionally protected interest must comply with *Mathews*, and now *Turner*. It remains to be seen what compliance with *Turner* means, and the courts are equipped by experience to play a major leadership role. Both decisions lay out the standards that access procedures must meet, but decline to specify exactly what procedures are needed in what situations.

Courts, with their decade or more of innovation to learn from, are well positioned to lead the process of determining what is necessary to meet the general standards of *Mathews* and *Turner*. They are likely to engage in this search both as administrators of innovation and partnership, and as decision makers in litigation brought by others. They are likely to find that innovations such as self-help centers, self-represented-oriented caseflow management, court staff education, informational websites, and programs of unbundled assistance are likely to be part of the mix put together to meet these requirements. Appellate courts are likely to defer to trial court expertise in the design of the most appropriate access-friendly solutions, but they are unlikely to accept trial court refusal to consider the needs of access—needs now constitutionally recognized by the Supreme Court.

Fairness to *Both* Sides. The "alternative" procedures must be sufficient to provide fairness and accuracy to *both* sides—i.e., this is about both plaintiffs' and defendants' right to be heard. This implication in *Turner* (from the inclusion in the discussion of the rights of the plaintiffs) is highly important in giving courts the flexibility to craft the most appropriate, practical and balanced solutions for all the parties.

End to Claims That Judicial Engagement Such as By Question-

12. The court points out that procedures other than those listed in the opinion could meet the need, *Turner v. Rogers*, slip opinion at 14-15.

13. *Turner v. Rogers*, slip opinion at 14.

14. For example, good forms speed the hearing process, and skilled judicial questioning may reduce bench time. Moreover, both techniques may result in greater compliance and therefore few returns to court.

15. *Turner v. Rogers*, slip opinion at 14.

16. The decision has been criticized as unrealistic in its lack of understanding of the need for counsel even in the circumstances of the case. Critics have claimed that the Court overlooked the fact that Mr. Turner had actually filled out a form and that the Court assumed that determination of ability to pay and willfulness are easy. The decision has also been criticized for failure to note the lack of any record demonstrating whether the procedures suggested by the Solicitor General in fact are adequate to provide meaningful access, and for failure to specify how a court should determine whether a particular set of procedures is adequate to provide meaningful access, particularly for vulnerable litigants.

ing is Inappropriate. The already largely discredited claim that judicial engagement such as by questioning is inappropriate and inherently non-neutral should now finally be dead. Now that research and judicial education materials show the relative ease of engaging in such information-gathering questioning and engagement, it should be easier to engage speedily the state judiciary in these practices. While there can still be debate about the appropriateness of other such engaged practices such as provision of information about evidentiary foundations, or providing the right form for cross-examination, the general point that such practices are not generally barred is now unassailable.[17]

End to Opposition to Forms. The claim, now less frequent, that court provision of forms is wrong as non-neutral is also consigned to the legal history book. Although some may claim that the opinion was limited to incarceration/civil contempt, so far *Turner* holds that forms are *required* in that context, but obviously by implication that they not appropriately barred in others.[18] Often one court in a state will have implemented a form that can now with relative ease be deployed statewide.

Requirements of Forms and Judicial Engagement/Questioning. Forms and judicial questioning are likely to be found constitutionally required in a wide variety of self-represented cases, for both sides. This is because they can be implemented at minimal cost, and with minimal burden, and because the Supreme Court has now explicitly drawn attention to their advantages. Evaluation will be an important part of the rollout process.

Need to Include Broad Range of Procedures in the Analysis. These last points can more generally be made about a wide variety of neutral court-based services to the self-represented, such as informational centers, informational materials, and neutral assistance in moving the case forward. Moreover, potential costs of such procedures, while far from irrelevant to the balancing, are likely to be less constitutionally determinative than they were before *Turner*.

Need for Development of Additional Types of Access-Friendly Procedures. The decision, and particularly its focus on accuracy and "fundamental fairness," strengthens the argument for innovation in the creation of other alternative procedures. These might include as lay advocates before and during court or the use of neutral court staff to assist in preparation of the facts for the hearing (generally mentioned in the opinion.)

Need for Processes to Determine What is Needed to Ensure Access. The decision will help focus courts' attention on the process by which they decide what kind of procedures or services are necessary in a particular case. It may well be that the judge is not the best placed to make that decision, at least in the first instance. The choices, of course, go way beyond attorney or no attorney, but include unbundled assistance, technology services, as well as new forms of intermediate services, components of an increasing continuum.

Experimentation into Triage. Thus triage[19]—individualized assessment of needs—will need serious exploration as part of the court intake process. Where needs cannot be met by alternative procedures, civil Gideon claims (that there should be a right to counsel in certain civil cases) including both fact-specific and categorical claims, will continue to be likely and appropriate, and processes will be needed to handle such claims.

Institutional Implications—What This Means for Courts, Access to Justice Commissions, the Bar and Legal Aid

The greatest significance of *Turner* may be its repositioning of responsibility for ensuring access to justice from an obligation on the state to fund counsel in a limited category of cases, to a broader responsibility on the justice system as a whole to use a variety of techniques to provide access. In particular, focus moves more to the courts as the institution both most likely to be in a position to deploy those techniques, and the one responsible for assessing their sufficiency.[20]

Ultimately, the decision challenges each of the key access to justice stakeholders to do more of what they have already been doing in two areas. The first is figuring out how they can innovate to deliver additional low cost flexible access services to those currently not receiving them. The second is expanding their efforts to collaborate with the other stakeholders in an integration of these services—existing and envisioned—into an integrated system that alone can meet the overall vision implicit in *Turner*.

Turner, in its direct language, puts both the onus for assessing the adequacy of due process protections, and the delivery of services that would pass such assessment upon the courts, although, in the case of the required notice and forms, that could arguably be provided by a different agency.[21] Courts in states that do not provide counsel in child

17. For a detailed discussion of these practices in a wide variety of situations, see Zorza, *A New Day for Judges and the Self-Represented: The Implications of Turner v. Rogers*, 50 Judges' Journal 16 (Fall 2011), available at http://www.zorza.net/JJ-Turner.pdf, and Zorza, *A New Day for Judges and the Self-Represented: Toward Best Practices in Complex Self-Represented Cases*, 51 Judges' Journal 36 (Winter 2012), available at http://www.zorza.net/Turner-2.pdf. See also articles cited below at note 36.

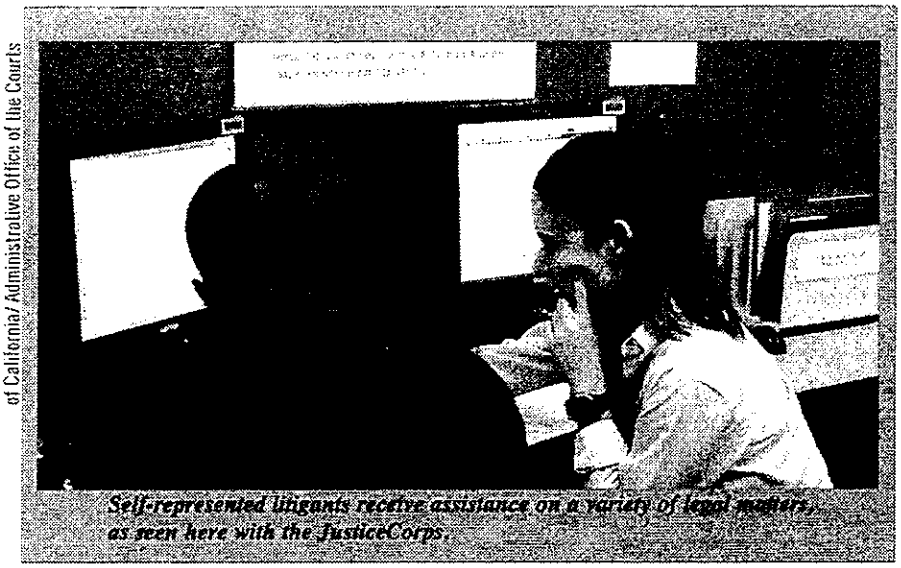
18. The author believes that the Supreme Court would not look favorably on the current intense opposition to the deployment of court approved forms in uncontested divorces in Texas being voiced by certain sections of the organized bar in that state, *Draft Forms for Pro Se Divorce Litigants Create Controversy*, Texas Lawyer (Jan. 16, 2012), available at http://www.law.com/jsp/tx/PubArticleTX.jsp?id=12025383

38997&slreturn=1.

19. In a certain sense, the concept of court-based triage can be traced to the ideas of Professor Frank Sander, who proposed a "multi-door courthouse." Sander, Frank E. A, *The Multi-Door Courthouse*, 3 Barrister 18 (1976).

20. A finding of a civil Gideon right in *Turner* would have had a very different impact, keeping the focus on the legislative obligation to fund lawyer services. The shift from such an approach might be viewed as a reflection of well-recognized strains in criminal Gideon implementation, and of the awareness of the breadth of access innovation in the courts themselves.

21. It is harder for child support enforcement agencies to provide such services when the obligation is not owed to the state, but it is far from impossible, particularly given the breadth of federal law. 42 U.S.C. §601, et seq; 45 C.F.R. §304.



Bianca Paraguya/ Judicial Council of California/ Administrative Office of the Courts

Self-represented litigants receive assistance on a variety of legal matters, as seen here with the JusticeCorps.

support civil contempt incarceration cases have certain immediate obligations and options under *Turner*, including the following.

Notice. Such courts are under an immediate direct obligation to ensure that those facing civil contempt incarceration are informed in comprehensible terms of the specific issues that will determine whether they are to be incarcerated, including, explicitly, their capacity to make current payment. Presumably, unless the arrearage has been previously judicially determined, after similar notice, the same would apply to the actual size of any outstanding arrearage. It would surely be appropriate for the notification to include an accounting sufficiently detailed and sufficiently clear that it can be understood and challenged if at risk of error.[22]

Forms. Courts handling such cases are also now under an explicit responsibility to ensure that there are forms (or the equivalent) that those facing civil contempt incarceration can use to work through and demonstrate their ability or inability to pay the arrearage. While there is nothing in the opinion to suggest that such forms must meet any particular standard, presumably the requirement would be meaningless if the forms were not easy to understand and to use. Similarly, well-designed TurboTax-like document assembly tools are generally considered easier to use for many, but not all populations.[23] Limited English proficiency guidelines would appear to make translated forms and/or an interpreter mandatory when needed by a litigant at any stage in the proceeding.[24]

Judicial Questioning. Such courts are also required to provide for the defendant (again unless sufficient alternatives are available): *"an opportunity at the hearing for the defendant to respond to statements and questions about his financial status, (e.g., those triggered by his responses on the form),"*[25] in other words, judicial questioning to remove ambiguities, uncertainties, or to deal with judicial skepticism about the contents of the form as completed by the defendant.[26] This might suggest a discomfort with the court in such a case merely choosing to disbelieve the defendant, without probing the reasons for the court's initial skepticism.

Explicit Finding. The court explicitly required *"an express finding by the court that the defendant has the ability to pay,"*[27] (or sufficient equivalent) without however, requiring that it be in writing, although presumably it would need to be on the record. The use of the word "express" would appear to represent the Court's rejection in these circumstances of the frequent appellate review standard under which findings necessary to a decision are to be implied from it. This obligation is not hard for courts to meet. Indeed, it appears that South Carolina already has in place the paper procedures to meet this standard, but the trial judge inexplicably failed to follow them.[28]

Possibility of Need for Counsel in Certain Civil Contempt Situations. The opinion clearly puts courts on notice of the strong possibility that it will ultimately require counsel in three sets of situations: when the government is seeking contempt incarceration, when a non-governmental party with counsel is seeking contempt incarceration, and in cases of unusual complexity when a "trained advocate" is needed to present the case. Moreover lower courts might make the same determination, based on the logic of the opinion. Courts might want to consider what system they might put in place to assess the need for counsel in particular situations.

Possibility of Enhanced Neutral Services to Minimize Need for Counsel. Implicit in the Court's

22. A question might also be asked as to whether, given the realistic capacity of many of those facing such incarceration, whether for the notice to be reasonable, the person receiving it should be offered an in-person explanation of its contents.

23. As with the notice, it might be argued that where the person facing incarceration has difficulty understanding the form, he or she is entitled to sufficient human assistance to make completing the form practicable.

24. *Language Access Guidance Letter to State Courts from Assistant Attorney General Thomas E. Perez* (August 17, 2010), available at http://www.lep.gov/final_courts_ltr_081610.pdf.

25. *Turner v. Rogers*, slip opinion at 14.

26. The opinion explicitly cites to the Solicitor's General's position at oral argument and to Brief of the United States, slip opinion at 14, citing Transcript of Oral Argument 26–27 (*"The second would be a hearing at which the alleged contemner has the opportunity to respond to any further inquiries that may be triggered by information that's already been provided. This is, I think, a common feature of many systems outside of South Carolina which, by case law, have recognized that when a court has concerns that information on a financial affidavit might be misleading or inaccurate, they have a duty to inquire further and to require supporting documentation as necessary to confirm or dispel concerns about the accuracy of the information."*) and Brief for United States as Amicus Curiae 23–25. (*"To the extent the court had questions about the information on the form or disbelieved it, the court could question the contemnor about his finances at the contempt hearing."*)

27. *Turner v. Rogers*, slip opinion at 14.

28. There was in the trial record a form on which the judge could have recorded, by checking a box, his finding as to whether the defendant had the ability to pay, but the judge did not do so. *Turner v. Rogers*, slip opinion at 4.

opinion is that the need for counsel in such cases might be reduced by the addition of neutral services such as those of a social worker to assist in reviewing the extent of the arrearage, options for payment, and reasons that might be articulated for incapacity to pay. There is, of course, extensive experience in the state courts with how to deliver such service in a deeply engaged, yet fully neutral, such as in at least some courts in New Hampshire where a court staffer sits down with the parties in family court matters and helps in moving to quick resolution.

While the Court addresses child support civil contempt incarceration cases with fact patterns different from that in *Turner*, it makes no reference at all to non-child support civil contempt cases. Such cases might occur in domestic violence cases, or indeed in a broad range of cases in which payments or injunctive relief is ordered.

The stakes component of the analysis would be the same (loss of liberty), while the risk of unfairness/inaccuracy might depend on who the moving party would be, and on whether they would have counsel. With respect to available alternative procedures, notice, forms, judicial questioning and explicit finding would all be easily available. However, whether they would be sufficient would depend on the complexity of the underlying factual situation. For example, there is law that when questioning would require such exploration of underlying facts as to turn the judge into an advocate, that would not be appropriate.[29]

Broader Obligations and Possibilities

Ultimately it is the courts that will have to take the lead in actually putting in place the procedures that will meet the general *Turner* standard in the broad range of cases to which it will have general application. In cases in which a constitutionally protected interest is at stake (a broad group indeed), the question will be whether procedures overall provide for sufficient accuracy and fairness, given the interest at stake, and the burden of providing protections. This assessment will include both governing procedures as they relate to the self-represented, and services that might be provided to assist the self-represented in maneuvering through those governing procedures.

Procedures and rules that do not lead to sufficient fairness and accuracy because they can not reasonably be handled by the self-represented will fail this assessment, unless they can be justified by the state's interest avoiding the additional burden the state would bear in putting in place alternative procedures that would provide greater accuracy and fairness. It should be noted that, while a state also has an interest in uniformity, to use that as justification for lack of fairness and accuracy for the self-represented, it would have to show that uniform rules could not be designed that would provide fairness and accuracy for both those with and without counsel. This would be a heavy burden, given that rules can be written to allow for sufficient discretionary flexibility to allow for judges making sure that all have access.

Forms. *Turner* powerfully strengthens the argument for forms in all types of cases in which any significant percentage of appearances are by self-represented litigants. It removes legitimacy from claims that courts should not be in the forms business. Moreover, it is well recognized that a comprehensive system of forms is a *sine qua non* for most other "alternative procedures" that protect accuracy and fairness for the self-represented, such as judicial questioning, self-help services, pro bono, and discrete task representation. Indeed, the Court was explicit in *Turner* about the fact that the judicial questioning in such cases could grow out of the responses to the information provided on the form.[30]

Of course, many courts have forms,[31] and there are extensive best practice materials,[32] and an infrastructure for supporting court and legal aid online form document assembly systems.[33]

Since most of the barriers to forms adoption come from an interest based opposition, rather than financial, technical, or operational concerns, *Turner* should provide a very major impetus to universal forms adoption.[34] However, this process would be greatly sped by Federal incentives, including the selection and promotion of model forms. There are huge financial and ease of use advantages to states' adoption of standard forms, rather than allowing localization and fragmentation. At an absolute minimum states should adopt a "mandatory acceptance" policy for forms, requiring the standard forms to be accepted, although not excluding the submission of individualized pleadings in the alternative.[35]

Judicial Education, Guidelines, and Model Judicial Code Provisions. *Turner* also makes a game-changing and ringing endorsement of judicial questioning and follow up. This too builds on decade-long exploration by courts and others into how

29. *Lombardi v. Citizens Nat'l Trust & Sav. Bank of Los Angeles*, 289 P.2d. 823,824-25 (Cal. Ct. App. 1955) (finding no error in the failure to assist given the complexity of the dead-man's statute at issue. The judge would have had to adopt a non-neutral advocacy role.)

30. *Turner v. Rogers*, slip opinion at 14.

31. A recent state by state survey of state forms prepared by Greacen Associates for the Michigan State Bar Foundation is available at http://www.msbf.org/selfhelp/resources.htm.

32. E.g. Self-Represented Litigation Network, *Best Practices in Court-Based Programs for the Self-Represented* (2008), http://www.selfhelpsupport.org/library/item.223550-2008_edition_of_Best_Practices_in_Court-Based_Programs_for_the_SelfRepresent.

33. Law Help Interactive at https://lawhelpinteractive.org/.

34. See the discussion of the Texas phenomenon at note 18.

35. California has had mandatory forms (not just mandatory acceptance) in many substantive areas for a generation, with none of the supposedly likely ill effects urged by opponents, such as use in inappropriate situations.

36. Among key events facilitating changes in judicial attitudes during this period were: The 2002 joint CCJ/COSCA Resolution 31: *In Support of a Leadership Role for CCJ and COSCA in the Development, Implementation and Coordination of Assistance Programs for Self-Represented Litigants*, available at http://ccj.ncsc.dni.us/resol31AsstPgmsSlfLitigants.html; the Self-Represented Litigation Network research, *Effectiveness of Courtroom Communication in Hearings Involving Two Self-Represented Litigants: An Exploratory Study* (2008), available at http://www.selfhelpsupport.org/library/item.202482-Judicial_Communication_Materials_Effectiveness_of_Courtroom_Communication_i; the SRLN *Judicial Education Curriculum*, launched at Harvard Law School in 2007, available at http://www.selfhelpsupport.org/library/folder.165143-Harvard_Judicial_Leadership_Conference_Nov_13_2007, and the

a more engaged judicial role is fully consistent with judicial neutrality.[36] The endorsement of such questioning removes (indeed as matter of constitutional law) any objection to such questioning. It also appropriately raises in any self-represented case the possibility that such questioning, and indeed additional forms of engagement, may be needed to ensure the level of accuracy and fairness constitutionally needed before a decision as to deprivation for a particular interest. Such additional engagement might include explaining the procedure to be followed, refraining from the use of legalistic terminology, explaining the basis for a ruling, and making referrals to available informational resources.[37]

Renewed attention to judicial education, drafting of guidelines and bench guides, and consideration of adoption of Rule 2.2 of the ABA Model Code of Judicial Conduct[38], or an alternative, are called for. *Turner* strengthens the argument for the need for more specific language such as that adopted by New Hampshire, including its Comment to Rule 2.2.[39] or Washington DC, with its listing of specific techniques judges can use to help ensure access.[40]

Steps such as these are generally considered to have been highly successful at reassuring judges that the steps they need to take to obtain the information for an accurate and fair decision are appropriately neutral, provided taken with appropriate judicial care, clarity and transparency. What *Turner* adds is the possibility that in certain contexts they may be required. States might consider reviewing any previously developed materials and curricula in the light of *Turner*, as well as assessing how best to ensure that the entire judiciary has an opportunity to be exposed not only to its lessons, but to the already tested and neutral techniques that *Turner* generally endorses. The content of such materials and education might also be informed by analysis such as that which appears below, dealing with the post-*Turner* issues that individual judges may face.

Neutral Informational and Facilitative Services. *Turner* similarly, but less specifically, endorses a wide range of court-based informational and facilitative services, referencing specifically that "sometimes assistance other than purely legal assistance (here, say, that of a neutral social worker) can prove constitutionally sufficient."[41] This use of the word "say" is perhaps not typical for Supreme Court opinions and suggests not so much a lack of confidence in the concept as a lack of certainty that this is the best example, in other words an acknowledgment that there may be better or equally good examples.

Indeed, state courts have spent the last decade developing such examples, usually as supplemental to and integrated with the other procedures the Court requires in the absence of alternative. Among these are informational websites, court-based self-help informational services, case conferences (with judges or court staff), mediation assistance, caseflow management assistance services, video, clinics etc. At a minimum, the opinion endorses the concept and viability of such neutral services, closing down the general argument that they are inconsistent with court neutrality.

But the implications go deeper. While no one of these is made constitutionally required by the decision, its logic is that some mix of these innovations and those explicitly discussed in the opinion must be sufficiently in place to ensure the required level of accuracy and fairness for the significance of the interest at stake. Courts are now empowered to continue the innovation, experimentation, and assessment process, with now perhaps greater claims for federal assistance in doing so.

It should also be noted that over time, innovating courts have found

changes to the ABA 2007 Model Code of Judicial Conduct, Comment 4 to Rule 2.2, available at http://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct.html.

Among writings that have contributed to the debate have been: Engler, *The Toughest Nut: Handling Cases Pitting Unrepresented Litigants Against Represented Ones*, 62 NAT'L COUNCIL JUV. & FAM. CT. JUDGES J. 10 (2011); Sheppard, *The Self-Represented Litigant: Implications for the Bench and Bar*, 48 Fam. Ct. Rev. 607 (2010); *Self-Represented Cases: 15 Techniques for Saving Time in Tough Times*, Juhas, McKnight, Zelon and Zorza, 49 JUDGE'S JOURNAL 18 (No. 1; Winter 2010), http://www.zorza.net/21st-century.pdf; Engler, *Ethics in Transition: Unrepresented Litigants and the Changing Judical Role*, 22 Notre Dame J.L. ETHICS & PUB. POL'Y 367 (2008); Goldschmidt, *Judicial Ethics and Assistance to Self-Represented Litigants*, 28 Justice System Journal, 324-328 (2008); Judicial Council of California, *Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers* (2007), Gray, *Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants* (2005), available at http://www.ajs.org/prose/pdfs/Pro%20se%20litigants%20final.pdf; Zorza, *The Disconnect Between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear Pro Se: Causes, Solutions, Recommendations, and Implications*, 17 GEORGETOWN JOURNAL OF LEGAL ETHICS 423 (2004), available at http://findarticles.com/p/articles/mi_qa3975/is_200404/ai_n9401537/; Albrecht, Greacen, Hough, and Zorza *Judicial Techniques for Cases involving Self-Represented* Litigants, 42 JUDGES JOURNAL 16 (Spring 2003), available at http://www.courts.ca.gov/documents/benchguide_self_rep_litigants.pdf.

37. See, e.g. the list of forms of engagement endorsed in the DC rule quoted in the footnote below.

38. Model Code of Judicial Conduct, Comment 4 to Rule 2.2 (2007), available at http://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct.html

39. New Hampshire Code of Judicial Conduct, Rule 2.2, Impartiality *and Fairness* ". . . *(B) A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard. COMMENT . . . [4] The growth in litigation involving self-represented litigants and the responsibility of courts to promote access to justice warrant reasonable flexibility by judges, consistent with the law and court rules, to ensure that all litigants are fairly heard.*"

40. DC Code of Judicial Conduct, Rule 2.6, Comment [1A]. "*The judge has an affirmative role in facilitating the ability of every person who has a legal interest in a proceeding to be fairly heard. Pursuant to Rule 2.2, the judge should not give self-represented litigants an unfair advantage or create an appearance of partiality to the reasonable person; however, in the interest of ensuring fairness and access to justice, judges should make reasonable accommodations that help litigants who are not represented by counsel to understand the proceedings and applicable procedural requirements, secure legal assistance, and be heard according to law. In some circumstances, particular accommodations for self- represented litigants may be required by decisional or other law. Steps judges may consider in facilitating the right to be heard include, but are not limited to, (1) providing brief information about the proceeding and evidentiary and foundational requirements, (2) asking neutral questions to elicit or clarify information, (3) modifying the traditional order of taking evidence, (4) refraining from using legal jargon, (5) explaining the basis for a ruling, and (6) making referrals to any resources available to assist the litigant in the preparation of the case.*" Available at http://www.dccourts.gov/dccourts/docs/2012-Code-of-Judicial-Conduct.pdf.

41. *Turner v. Rogers*, slip opinion at 14-15.

that court staff can be highly engaged with the detail of individual cases as they facilitate the case moving forward, without in any way threatening the neutrality or perceived neutrality of the courts. Court staff in states such as California, Minnesota and New Hampshire now routinely make sure that forms are correctly completed, explain to litigants what is needed to be done to keep a case moving, get in touch with other courts to move paper to keep a case moving, and assist litigants with identifying whether they are in agreement. Many of these interventions are highly fact-specific, but fully neutral, since the goal is not to help one party over the other, but to help both in moving the case forward. Traditional definitions of prohibited practice of law are proving less and less relevant in determining the key issue, which is whether a form of case-resolution-assisting activity can be performed in a neutral manner. Turner's reference to "neutral services" can only help speed this process of continued innovation.

Non-lawyer Advocacy. Perhaps most intriguing of all in the opinion is its reference to situations potentially needing a "trained advocate."[42] One interpretation of the use of the word "advocate" rather than counsel might be to suggest the possibility of an advocacy role being played by one who was "trained," as an advocate in that context but not necessarily a member of the bar.[43]

Courts may want to take the lead in exploring various forms of non-lawyer advocacy, such as the use of trained and supervised college students whose role might be to interview self-represented litigants, present the key issues to the judge, and then stand aside so that the judge can engage in the kind of neutral questioning envisioned in *Turner*.[44] It is fascinating that most of the rest of the common law world takes a much less rigid view of the potential roles on non-lawyers in the courtroom.[45]

Intake/Triage/Diagnosis. *Turner* recognizes as a general matter that the level of procedural protections required in a particular category of cases may depend on the "complexity" of the particular case, as well as whether the other side is the government, and/or is represented. This moves forward the concept[46] of diagnosis and triage as the key to access to justice. While *Turner* focuses on the implications of these possibilities for whether or not counsel may be constitutionally required in a particular case, the logic applies to any situation in which a deprivation is being considered.

While the full implications will take years to work out, the case should encourage courts to consider integrating into their self-help services, and their workflow, a focus on matching need with services. Courts might also consider using *Turner* as a lesson on the need to focus self-help services and procedural innovation in those situations in which the barriers to access are greatest.

Consideration of Access Issues in Assessment of Rules and Procedures. To the extent that current court rules, processes and procedures may not result in such barriers to access when applied to the self-represented that the results are at risk of not being sufficiently fair and accurate, *Turner* effectively calls for the courts to review those rules and processes. As discussed below, this is really a two-part inquiry. The first is whether the rules themselves put up impermissibly burdensome barriers to the self-represented (such as, for example, a discovery process so technical as to make its navigation by a non-lawyer impossible.) The second is whether the discretion inherent in the rules is being applied in such a way as to provide for access. Appropriate exercises of discretion may save rules and procedures that would otherwise impermissibly burden due process rights to fairness and accuracy. On the other hand, a court culture in which such discretion is either not recognized or systematically denied would raise very troubling questions in term of *Turner*. In short, the failure to exercise discretion required to provide access in the face of a process so complex as to deny fairness and accuracy to the self-represented might be unconstitutional.

This is obviously a very broad

42. *"Neither do we address what due process requires in an unusually complex case where a defendant 'can fairly be represented only by a trained advocate.'"* *Turner v. Rogers*, slip opinion at 16, quoting *Gagnon v. Scarpelli*, 411 U. S. 778 788 (1973).

43. While it must be acknowledged that *Gagnon* dealt with right to counsel (not other advocates) in the probation context, it is also of note that in *Turner*, the court cited with approval to *Vitek v. Jones*, 445, U.S. 480, 497 (1980) (holding, per controlling opinion of Justice Powell, "that qualified and independent assistance must be provided to an inmate who is threatened with involuntary transfer to a state mental hospital." But not "that the requirement of independent assistance demands that a licensed attorney be provided." *Turner*, slip opinion at 15.

44. In the Western Massachusetts Housing Court in Springfield, college students are trained and approved by the legal aid program to assist, under the supervision of an attorney, self-represented tenants facing eviction. This assistance includes, as well as helping prepare papers and participation in mediation, supporting the litigant in the courtroom and facilitating the presentation of the litigant's case. This "facilitation" often involves summarizing the direction and key points of the case. As a practical matter, the judge then often takes over, questioning the tenant, and making sure that needed testimony is obtained. Such an approach works best when the judge is willing to be engaged. Counsel for the landlords almost always assent to this procedure, although sometimes the landlords are less content. This experiment is very briefly referenced in Allan Rogers and Ernest Winsor, *Non-lawyer Representation in Court and Agency Hearings of Litigants Who Cannot Obtain Lawyers*, 93 Mass Law Review 257, 259-260 (June 2010). The article also proposes a process to expand such lay advocacy. Id. at 260.

45. Richard Moorhead, *Access or Aggravation? Litigants in Person, McKenzie Friends and Lay representation*, 22 Civil Justice Quarterly 133 (2003). The right to lay assistance in court is recognized in most common law countries, but is of relatively recent origin, apparently dating back to only 1970.

46. This triage approach is being pioneered in the California Shriver Pilot Projects in civil Gideon, with the statute listing the following factors as to whether counsel is to be provided: *"Case complexity, whether the other party is represented, the adversarial nature of the proceeding, the availability and effectiveness of other types of services, such as self-help, in light of the potential client and the nature of the case, language issues, disability access issues, literacy issues, the merits of the case, the nature and severity of potential consequences for the potential client if representation is not provided, and whether the provision of legal services may eliminate or reduce the need for and cost of public social services for the potential client and others in the potential client's household."* California Assembly Bill 590, Section 6851 (b)(7) (2009). See, generally, Richard Zorza, *The Access to Justice "Sorting Hat:" Towards a System of Triage and Intake that Maximizes Access and Outcomes*, 89 DENVER UNIVERSITY LAW REVIEW (forthcoming; 2012). (Punctuation added and capitalization modified from original text).

charge, the implications of which will ripple through a variety of court self-assessment processes. This is, however, a particularly opportune time for courts to consider these questions, faced as they are with their budget crises and the need to review processes and procedures as to their efficiency and cost effectiveness.

Availability of Counsel in Complex Cases. *Turner* also gives renewed life to the largely ignored teaching of *Lassiter v. Dep't of Social Services* that in certain classes of deprivation cases (in that case parental rights) the person facing the loss should be entitled to an individualized assessment of need for counsel based on the circumstances of the case.[47] By being explicit that certain cases within the child support contempt incarceration class might require such assistance because of such complexity, the Court in effect made it possible for litigants in a broad range of cases to request counsel. Courts should consider how they are to handle such requests. The situation is, or course made more complex by the difficulty a self-represented litigant may face in even appreciating or presenting the case for their need for counsel.

Consideration of some system for assessing such requests may be appropriate, as might be exploration with partners such as the bar or legal aid of ways that counsel might be provided in a small number of cases.

Potential Vulnerabilities. While all these issues are likely to work out in a side variety of contexts, courts should consider whether, to the extent that they fail to take leadership in the post-*Turner* world, they may find their processes subject to challenge, either on civil *Gideon* or *Turner* grounds.

The Judicial Role in Individual Cases

Turner, reversing the judgment below in part because of failure by the judge to follow procedures that met due process standards—even though the litigant did not ask for such procedures—simultaneously highlights the judge's individual obligations in such matters, and indicates how easy it is for a judge to take the steps that the Constitution requires.

An important distinction between two very different questions must be made early in the analysis. The distinction is between the question whether judges must apply the same rules to the self-represented as they do to counsel—of course they must—and the question whether judges in self-represented cases must exercise their discretion under those rules in exactly the same way regardless of whether or not the litigant has a lawyer—of course they do not need to, and indeed should not. All too often these very different questions are confused.

Thus the many judicial statements that the self-represented are held to the same rules as those with lawyers are absolutely correct as a matter of law. The problem is that they are all too often understood as meaning that the judge's discretion cannot take into consideration the representation status of the parties in deciding how the rules are applied. Indeed, what *Turner* tells us is that judges are required to consider whether the needs for fairness and accuracy compel consideration of representation status in the exercise of discretion. If rules are so rigid as to prohibit such consideration, then the rule may itself violate due process, at least as applied in the self-represented context.

Thus the decision requires courts to consider when and how to exercise discretion needed to ensure fairness and accuracy for the self-represented. Moreover, years of innovation and experimentation demonstrate just how easy that is. Curricula, best practices, research, and even model video has already been developed.[48] Many states have included these approaches in their judicial education processes,[49] although few if any have made sure that all judges in the state have participated.

Moreover, the costs of providing education on how to engage litigants in this appropriate way are very low. Most states already have judicial educational programs and conferences, so the systems are in place to give judges what it is now clear they need.

The Role of Clerks and Court Staff in Individual Cases

Similarly, *Turner* raises the question as to whether additional guidelines and training for court staff and clerks would help ensure that due process standards are met. While the requirements of due process are flexible under *Turner*, and while what is required will vary with the matter at stake, a state that has trained and prepared its court staff to be informative and helpful about procedures and forms is far better positioned to respond to claims that the self-represented are being deprived of constitutionally protected interests. The keystone is court neutrality, and many of the forms of engagement that are appropriate for self-help centers are appropriate for clerks and other staff.

Moreover, as with other areas of innovation, state courts have been leading in this area for over a decade, with many having trained staff,

47. *"If, in a given case, the parent's interests were at their strongest, the State's interests were at their weakest, and the risks of error were at their peak, it could not be said that the Eldridge factors did not overcome the presumption against the right to appointed counsel, and that due process did not therefore require the appointment of counsel. But since the Eldridge factors will not always be so distributed, and since "due process is not so rigid as to require that the significant interests in informality, flexibility and economy must always be sacrificed," Gagnon v. Scarpelli, 411 U.S. at 788, neither can we say that the Constitution requires the appointment of counsel in every parental termination proceeding. We therefore adopt the standard found appropriate in* Gagnon v. Scarpelli. *[p32] and leave the decision whether due process calls for the appointment of counsel for indigent parents in termination proceedings to be answered in the first instance by the trial court, subject, of course, to appellate review. Lassiter v. Dept. of Social Services*, 452 U.S. 18 (1981), available at http://www.law.cornell.edu/supct/html/historics/USSC_CR_0452_0018_ZO.html. This language has been simply ignored by most advocates, and apparently by the lower courts.

48. The national Curriculum, launched at Harvard in 2007, is available at http://www.selfhelpsupport.org/library/folder.165143-Harvard_Judicial_Leadership_Conference_Nov_13_2007.

49. Self-Represented Litigation Network, *Judicial Education Curriculum Project Report and Evaluation* (2008), available at http://www.selfhelpsupport.org/library/item.259761-Judicial_Education_Curriculum_Project_Report_and_Evaluation. As of June 2008, twenty nice states reported having completed educational programs, or having concrete plans for such programs, with an estimate of 5,000 judges trained or to be trained. Id. at 7.

developed guidelines etc.[50] There is obviously room to improve those materials in the light of *Turner*, and to ensure that 100% of court clerks and staff are familiar with and follow these guidelines.

Scope of Appellate Review

So far, little attention has been paid to the implications of *Turner* for processes of appellate review. One of the reasons for a lack of state case law on procedural issues relating to the self-represented is that contemporaneous objection rules (which are often highly technical and illogical to the non-lawyer) as well as the details of appellate procedure provide an almost insurmountable bar to review for the self-represented.[51]

And then came *Turner*. There was no objection in the trial court to either the lack of counsel below, nor to the due process violation that the court ultimately found in the procedures as a whole. The South Carolina Supreme Court, in a brief opinion, not relying on contemporaneous objection rules, considered and rejected the right to counsel claim that had been raised by pro bono counsel on appeal. Then following the grant of a writ of certiorari by the Supreme Court, which did not raise general due process claims, but focused only on the counsel issue,[52] and the raising of the due process argument in an *amicus* brief, the Supreme reached and accepted the Solicitor General's position and recommendation offered in that brief.[53]

At an absolute minimum, this unusual procedural history would give comfort and the cover of United States Supreme Court case citation to any appellate judge concerned that contemporaneous objection rules should not be allowed to cut off all review of what happens in self-represented litigant cases. More specifically, the opinion should be read to mean that where due process violations are at stake, and the due process violation is itself insulating the error below from review, then the error must be addressed on appeal.

More generally the decision gives grounds for appellate courts to review records for due process violations without a technical application of contemporaneous objection rules. The logic behind this is that if the contemporaneous objection rules are being read in such a rigid and non-discretionary manner as to be inconsistent with the level of accuracy and fairness required by the matter at stake, then those rules themselves violate due process under *Turner* and can obviously not be applied.

The solution is not to abolish all contemporaneous objection rules, but it is to make sure that they are applied with appropriate discretion. For example, when a litigant has asked a judge to do something, and the judge has refused, to require the litigant to formulaically respond "note my objection" and for the judge to have replied "your objection is noted," may be gratifying to those concerned with ritual, but could be a due process violation as applied to the self-represented. Such a requirement might well violate due process because it would diminish fairness and accuracy by frustrating appeals, and because of the lack of any legitimate state interest in requiring that such a formula be followed. This interpretation would merely require contemporaneous objection rules to be applied in common sense terms—something that would serve the interests of the bar, and of justice.

Access To Justice Commissions

The *Turner* decision will provide Access to Justice Commissions and court-based Self-Represented Task Forces with a constitutional imperative for addressing the sufficiency of their state's self-represented procedures, and with impetus for the implementation of their recommendations. A Commission is particularly well suited to play such an overall role since it can look at the whole picture, not just the rules and processes of the courts, but also those of the outside organizations that provide access services.

Some state supreme courts might choose to take the moment of opportunity provided by *Turner* to request their Commission to take on an ongoing review of court processes as they relate to the due process rights of the self-represented. Having the Commission take on this task would remove the Court from the perhaps awkward role of both reviewing procedures themselves, and then later being the judicial decision-makers when rules and processes that they have already found sufficient are challenged in litigation. Indeed, the value of such a role might tip the balance in moving some state Supreme Courts to decide to establish a Commission. About half of the states have access to justice commissions.

In short, each Access to Justice Commission should be asking:

- What is our forms strategy?
- What is our judicial education strategy?
- What is our neutral informational services strategy?
- What is our due process intermediate services strategy?
- What is our strategy for right to counsel when required for access?
- What is our triage strategy?

The Bar

Turner is a disappointment to that section of the organized bar that had hoped for a result that endorsed an expanded right to counsel. However, the decision offers a number of opportunities (some not necessarily

50. Available model materials include: Self-Represented Litigation Network, *Court Leadership Package, Module 5: Staff Ethics*, available at http://www.selfhelpsupport.org/library/item.208596-Power_Points_for_Module_5_Staff_Ethics.

51. The Federal rule is different. Fed R. Evid., Rule 103(e) ("*Taking Notice of Plain Error. A court may take notice of a plain error affecting a substantial right, even if the claim of error was not properly preserved.*")

52. Question Presented: "*Whether the Supreme Court of South Carolina erred in holding—in conflict with twenty-two federal courts of appeals and state courts of last resort—that an indigent defendant has no constitutional right to appointed counsel at a civil contempt proceeding that results in his incarceration.*" *Turner v. Rogers*, Petition for Writ of Certiori, available at http://www.scotusblog.com/wp-content/uploads/2010/08/Pet.10-10.pdf.

53. The majority opinion did not discuss the procedural anomaly that the solution it adopted had not been an issue in the state Supreme Court below, or in the trial court. In fact even the lack of counsel was not raised in the trial court.

or universally welcome) to the bar.

Firstly, the opinion leaves open several categorical areas in which there might be a right to counsel (specifically when the government and/or a lawyer is on the other side). Secondly, by leaving open the possibility there may be cases so complex that the due process standards of fairness and accuracy require counsel (perhaps even on both sides) the court effectively invites the bar to push to establish what such cases are, and how they might be identified.

The obvious path by which the bar might choose to do so would be through litigation. This has been much of the national strategy aiming to create rights to counsel in new categories of cases, but with signal lack of success.[54] An example of a more subtle strategy would be to work with the courts to support research into a triage function—one that would try to identify pre-trial which cases require counsel for access and fairness, and to identify and validate the factors that go into making that decision.

Thirdly, the opinion challenges the bar to find ways in which attorneys can provide due process-guaranteeing services that are lower cost, and thus are more appealing under the *Mathews v. Eldridge* analysis.[55] Interesting ideas such as discrete task representation[56] are absent from *Turner*, perhaps because they are not suggested by the Solicitor General. The bar should seriously explore such mixed and intermediate forms of practice.[57] Moreover, exploration of technology-based delivery of advice, coaching etc., could be highly cost effective and potentially meet *Mathews/Turner* standards.

Potentially a far more controversial question for the bar to consider is whether they might support forms of non-lawyer assistance to the self-represented, such as trained student volunteers, or permitting friends/family to play a supportive role in the courtroom.[58]

Legal Aid

While *Turner* may also have been a disappointment to some of the civil *Gideon* advocates in the legal aid world, looked at broadly, the opinion opens many doors for increased participation in access to justice.

Firstly, and most obviously to the extent that *Turner* should be read as signaling to lower courts that there are classes of cases in which they should establish categorical eligibility for counsel, legal aid organizations might consider what role they should play in advocating for such categories, and what role they might want to play in whatever delivery system were to be set up.[59]

Secondly, *Turner's* apparently sympathetic attitude to the idea that even in the class of cases dealt with in the decision (no attorney and no government on the other side) there might well be cases so complex that a "trained advocate" is needed to present them, raises the question whether legal aid wants to be part of the process of advocating for as large a category as possible, whether it wants to contribute to the analysis of how such cases should be identified, and by whom, and whether it wants to be part of the component of the service delivery system that would provide services in areas of entitlement. Indeed, such an approach is consistent with the elements of the civil Gideon agenda, as in the ABA Resolution,[60] that have emphasized that the right to counsel should be limited to those situations in which it is most necessary.

More generally, and going beyond the general confines of *Turner*, the legal aid world must ask how it wants to relate to the general idea of due process protections for the self-represented. Does it want to build on the already developing trend of legal aid programs providing a broad range of services to play a vanguard role in creating a broad range of intermediate services that provide access without traditional full service counsel? Does it want to limit its role to pressuring the access to justice commissions and courts to be proactive in designing and deploying such systems? Will its participation in the process be primarily adversarial, challenging court processes, or collaborative, helping to find ways to improve them? Does it want to focus on the counsel part of the formulation and leave other services to the courts—a position with some merit as reflecting what legal aid programs arguably do best, and what is hardest for neutral institutions such as courts to take on directly?

The Integrative Opportunity

However the different components of the access system react to *Turner*, there is one overwhelming lesson from this analysis: What must be built is an integrated system in which all players cooperate in making sure that the needs of each litigant are met, not necessarily with an ideal deployment of resources, but with at least sufficient protections to ensure the level of accuracy and fairness promised and required by *Turner*.

State and National Strategies

States need strategies to encourage forms adoption, judicial engagement, and broader innovation and experimentation. National organizations—including the federal government—need strategies to support

54. Cases are collected at the website of the National Coalition for a Civil Right to Counsel, http://www.civilrighttocounsel.org/.

55. Cost does not appear in the *Turner* analysis. It is likely to be argued intensively in the future, at least when the issue at stake is other than incarceration.

56. This idea, also known as "unbundling" is the idea that attorneys can handle some parts of the case and the client others. It is advocated by two former chief justices in California and New Hampshire, respectively, Ronald George and John Broderick, *A Nation of Do-It-Yourself Lawyers*, (New York Times, Jan 1, 2010), available at http://www.nytimes.com/2010/01/02/opinion/02broderick.html?scp=1&sq=Ronald%20George%20and%20John%20Broderick&st=cse.

57. Materials are collected at the website of the ABA Standing Committee on Delivery of Legal Services, available at http://www.americanbar.org/groups/delivery_legal_services/resources.html.

58. For the United Kingdom experience, see, Richard Moorhead, *Access or Aggravation? Litigants in Person, McKenzie Friends and Lay representation*, 22 Civil Justice Quarterly 133 (2003).

59. The apparent discomfort with civil *Gideon* in some of the legal aid world might be a function of anxiety about loss of program control when an agency becomes responsible for fulfilling a constitutional mandate, as well as fears about additional pressures on already stretched budgets. See, e.g., Lonnie Powers, Jim Bamberger, Gerry Singsen and De Miller, *Key Questions and Considerations Involved in State Deliberations Concerning an Expanded Civil Right to Counsel*, Management Information Exchange Journal, Summer 2010, at 10.

60. http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_06A112A.authcheckdam.pdf.

those state efforts. This final section briefly lists the core elements of such strategies.

Forms. By effectively endorsing forms as an access to justice tool—and indeed mandating them in certain situations—the Supreme Court has challenged access communities and national institutions to put in place national and local strategies for deploying forms for access.

Such state strategies are likely to include:

- Adoption of a rule governing how courts treat forms. Perhaps the best option is so-called "mandatory acceptance" of standardized forms.
- Delegation to a group of responsibility—on a timeline—of development of such forms in the key areas of self-represented litigation
- Assigning responsibility to one or more agencies, again on a timeline, for automation of key forms, and integration where possible into state e-filing initiatives.
- Review of existing forms for compliance with plain language standards.

National state support strategies are likely to include: provision of technical assistance to above state activities, grant programs to states that meet minimum standards in their forms programs, in appropriate model areas (such as child support enforcement) national model forms for state modification, support for national capacity for automated forms, and, research into cost savings from forms, and best way to deploy forms.

Judicial Engagement. A comprehensive state strategy is likely to include:

- State customization of national model educational materials
- Use of Judicial Conferences to expose all judges to general engagement and questioning concepts
- Focused educational programs for child support judges/commissioners on engagement and questioning
- State networking support for judges experimenting with questioning styles
- Development of state level best practices videos

Needed national strategies to support the states will include: updating of national curricula based on Turner and other developments, development of national curriculum and best practices video focusing on child support cases with possible "educate the educator" launching conference, development of online versions of existing curricula, a research strategy to develop additional best practices, particularly in difficult situations such as those in which only one side has counsel, there is a burden of proof, there is a jury, or a "determined" self-represented litigant, etc. and technical assistance and incentive grants to states to encourage activities listed above.

Intermediate Services. The phrase "intermediate services" is here used to mean the range of services that are more than the nothing that Turner received, yet less than the full representation which he urged the Supreme Court he should have received. Such services include self-help informational assistance, caseflow management reform, litigant services, discrete task representation, etc.

Among the components of state intermediate services strategies, which should cover at a minimum the above listed services, are: support for a variety of pilots, promotion for adoption of already tested innovations, and collaboration between courts and others to identify innovative services.

National support strategies should include competitive grant programs for state pilots, including evaluation, technical assistance in each of the areas described above, and Best Practices identification and communication.

Triage. For a multi-component system to work, we must develop a coherent triage methodology designed to direct people to those services which will, as envisioned in *Turner* get people to the services they need. While courts and legal aid programs are already doing a lot of day to day triage, very little has been coherently organized. Moreover, while research that might feed a triage strategy is starting, it can hardly be said to provide a coherent body of knowledge into what works for whom.

Therefore research and experimentation into triage is likely to require national investment in partnership with state-based laboratory environments.

Research. Similarly, almost all the above approaches need research. While a very small handful of states and local courts have research capacities, their capacity is highly limited. It is to be hoped that the national players will develop and stand behind an access research agenda that will support the *Turner* vision.

Conclusion

What *Turner* will come to mean for access to justice is very much a matter for the future. Most of all, what it comes to mean will depend less on litigation and jurisprudential development, than on a myriad of players in the courts and outside. It will depend on how these players interpret the vision in the opinion and how they chose to respond to its call for due process for the self-represented.

Whether it is remembered as a footnote or a game-changer depends on all of us. ★

RICHARD ZORZA
is an attorney and independent consultant who has worked for the past fifteen years on issues of access to justice. He is the coordinator of the national Self Represented Litigation Network, see www.selfhelpsupport.org, and has acted as a consultant to the Harvard Law School Bellow-Sacks Project on the Future of Access to Civil Justice, www.bellowsacks.org, and works in support of the national LawHelp network of access to justice websites, www.lawhelp.org.

ABA RESOURCE CENTER
for Access to Justice Initiatives

May 10, 2012

Access to Justice Headlines

New at www.ATJsupport.org

National Meeting of State Access to Justice Chairs, Equal Justice Conference. More than 150 bench and bar leaders from more than forty states, the District of Columbia and Puerto Rico will participate in the eleventh annual National Meeting of State Access to Justice Chairs, in Jacksonville, May 18-19. This is the highest number of participants to date. Among them will be state Supreme Court justices from 28 states, including seven Chief Justices. The meeting is being held in conjunction with the 2012 Equal Justice Conference. Special joint programming on Friday afternoon for the Chairs Meeting and the Equal Justice Conference will address "Getting and Keeping State Funding for Legal Aid in Tough Economic Times: Learning from Leaders of Successful Efforts," with a special focus on the leadership role of state Supreme Courts.

White House forum on civil legal aid. At a White House forum April 17 on the state of civil legal assistance, President Obama said that making civil legal assistance available to low-income Americans is "central to our notion of equal justice under the law" and pledged to be a "fierce defender and advocate" for legal services. The President stressed the role of legal aid attorneys in ensuring that everyone in America is playing by the same rules in tough economic times. He congratulated those in the legal aid community who "helped to answer the call" by helping more people stay in their homes, avoid domestic violence and have access in general to the nation's system of justice. Other speakers included senior White House staff and a bipartisan group of prominent leaders who demonstrated the breadth of support for federal funding for civil legal aid. Among them were U.S. Attorney General Eric Holder, former Pennsylvania Governor and U.S. Attorney General Richard Thornburgh; Department of Veterans Affairs General Counsel Will A. Gunn; Justice Jess H. Dickinson of the Mississippi Supreme Court; Illinois Attorney General Lisa Madigan; American Bar Association President William T. Robinson; Legal Services Corporation Board Chairman John G. Levi; and Harvard Law School Dean Martha Minow, who is also vice chair of the LSC board. Panelists discussed the importance of civil legal assistance from the perspective of the federal and state governments, the judiciary and the private bar, and the need for all stakeholders in the system to collaborate to increase the availability of services to the poor. A panel of legal aid program directors from around the country discussed the state of civil legal services in their service areas and how they use partnerships with pro bono attorneys, technology, and other innovations to leverage scarce resources.

Conference of Chief Justices/State Court Administrators resolution, white paper supporting increased LSC funding. In February, the Conference of Chief Justices and Conference of State Court Administrators adopted a resolution reaffirming their support for the Legal Services Corporation and urging Congress to restore funding to the level necessary to provide critically needed services to low-income and vulnerable Americans. The two Conferences have also prepared a white paper supporting LSC funding at a level of $404 million. The white paper has been provided to Congressional leaders and circulated to all Chief Justices and State Court Administrators for their use in advocating for LSC with their Congressional delegations.

Report on California's Civil Justice Crisis. The California Commission on Access to Justice, the State Bar of California, and the California Chamber of Commerce have released an executive summary of the findings arising from the series of four public hearings on the civil justice crisis that the groups jointly sponsored around the state in November and December 2011. The findings, which have been presented to the California Senate Judiciary Committee, include recommendations to ensure the availability of free legal help for all Californians in need as well as to ensure that the courts are functioning fully. Videos and testimony from the hearing are available online.

Massachusetts Pro Hac Vice Fee Rule. The Massachusetts Supreme Judicial Court has promulgated a new Rule 3:15 creating a pro hac vice registration fee for out-of-state attorneys wishing to appear in Massachusetts courts for a single case. The fees will be given to the IOLTA Committee for the support of legal aid programs. The fee is $301 per attorney per case in the Superior Court, the Land Court or on appeal, and $101 per attorney per case in any other court. The new rule was recommended to the Court by the Massachusetts Access to Justice Commission. Massachusetts joins eight other states in using pro hac vice fees to fund legal aid.

Tennessee faith-based initiatives. The Tennessee Access to Justice Commission's Faith-Based Initiatives Advisory Committee sponsored an Access to Justice luncheon for local religious leaders in Memphis on April 24, 2012. Dr. Frank Anthony Thomas, a member of the Commission, hosted the event, aimed at acquainting the faith community with the Access to Justice initiative and providing information about resources currently available in the Memphis area. The committee sought a commitment from attendees to host a legal clinic or community legal education program at their church and/or to recruit attorneys and paralegals from within their congregation to assist low-income Tennesseans.

Louisiana State Bar self-represented litigant initiatives. In fulfillment of recommendations arising from its Access to Justice Committee's initial pilot project, the Louisiana State Bar Association, through its Access to Justice Program, has helped to coordinate the opening of two new court-based help desks for self-represented litigants in Louisiana's 9th and 19th Judicial District Courts. The courts, local pro bono organizations, law schools, and legal service programs have collaborated in the effort. Each help desk provides access to legal information, referrals to outside services, and assistance in understanding, completing and filing court forms. Along with the existing help center in Orleans Parish, the projects provide the foundation for a statewide network of court-based services for self-represented litigants. The Bar Association has hired a self-represented litigant counsel to coordinate and support the growing network.

Connecticut self-help and mediation initiatives in landlord/tenants law. The University of Connecticut Law School has successfully piloted a mediation clinic in the Hartford Housing session of small claims court. Working under the supervision of their professors, law students mediated sessions between tenants and landlords in disputes over security deposits and alleged property damage. In addition, the Judicial Branch has recently updated its guide, "Rights and Responsibilities for Tenants and Landlords." The Connecticut Network for Legal Aid, a consortium of state legal aid providers, has produced a new video, "Your Rights when Your Landlord is in Foreclosure," for rental tenants. The video also directs viewers to a CNLA foreclosure website for self-represented parties with Q&As and links to forms and other information.

California Judicial Branch Support/Language Access Committee; availability of transcripts. The California Commission on Access to Justice has established a Judicial Branch Support Committee to consider ways to support adequate funding for the court system, as well as to explore taking on access projects that the courts may no longer be able to support due to budget constraints. The committee has also created a language access subcommittee to analyze what would need to be done to bring the courts into compliance with the new ABA Language Access Standards for State Court Systems, as well as existing federal mandates. The Commission is also examining ways to ensure that low-income people can continue to have access to court reporters and court transcripts, which is threatened due to judicial branch cutbacks. Unrepresented parties are unlikely to understand that they may need transcripts for appeals and other purposes.

Texas simple divorce forms. In April, the Texas Supreme Court's Advisory Committee met to review the policy issue of court-approved forms and the legal sufficiency of draft standardized forms for use in uncomplicated, uncontested divorces developed by the Court's Uniform Forms Task Force. The Advisory Committee heard presentations from the Texas Access to Justice Commission, the Family Law Section of the State Bar of Texas, and the Solutions 2012 Task Force of the State Bar of Texas. The Court will review the matter in May. In January, the Court had declined to suspend the work of the task force, as requested by the State Bar of Texas board of directors. The State Bar's Family Law Section opposes the forms on the grounds that their use could hurt those who use them and could harm the livelihoods of solo and small-firm family lawyers. The Court referred the recommended forms to the Advisory Committee and welcomed the Bar's input on solutions to issues presented by the increasing number of self-represented litigants. Nationally, 48 states and the District of Columbia have adopted standardized family law forms without significant controversy; of those, 37 have divorce forms and 37 require their courts to accept the forms when a litigant chooses to use them. A survey by the National Center for State Courts recently found that states with standardized forms report a significant increase in judicial economy and efficiency because self-represented litigants are better prepared.

Tennessee and Alabama limited scope representation rules. The Tennessee legislature has approved modifications to the Tennessee Rules of Civil Procedure submitted by the Supreme Court to provide guidance on limited scope representation. The Supreme Court of Alabama has also adopted a new rule on limited scope representation.

Report on evolving role of law libraries. A new report by Zorza & Associates, "The Sustainable 21st Century Law Library: Vision, Deployment and Assessment for Access to Justice," argues that law libraries must change their orientation towards helping the public gain access to the legal system in order to continue to play an integral role in the justice system. The report, commissioned by a group of bar and legal groups from around the country, notes that the number of lawyers and court staff visiting law libraries is decreasing while an increasing number of unrepresented people are approaching law libraries for help. It makes a series of recommendations on how law libraries can make the judicial system more user-friendly and accessible for people without lawyers.

New York pro bono requirement for bar admission. In his annual Law Day address, Chief Judge Jonathan Lippman announced that New York will become the first state in the nation to require pro bono service for admission to the bar. Each applicant for the bar will be required to include an affidavit describing 50 hours of pro bono law service. "With this initiative, New York will lead the way in stating loudly and clearly that service to others is an indispensable part of our legal training," Lippman said. The requirement applies only to initial admission to the bar.

Capital pro bono honor roll. With the support of the D.C. Access to Justice Commission and the D.C. Bar Pro Bono Program, the District of Columbia Courts launched the Capital Pro Bono Honor Roll to recognize attorneys who provide 50 hours or more of pro bono service per year (or 100 hours or more of service for a higher recognition category). In this inaugural year, over three thousand attorneys qualified for the Honor Roll, including over two thousand who qualified for the High Honor Roll. The attorneys represent over 120 practice settings, including over 80 law firms, ranging from large firms to solo practitioners, and a wide range of federal government agencies. Since the initiative relies on a self-nomination process, even greater participation is anticipated as the Honor Roll is promoted more widely.

Indiana filing fee surcharge benefitting pro bono. The Indiana Legislature has approved a new $1 pro bono legal services filing fee for civil cases. The fee is expected to generate $450,000 in funding for the Indiana Pro Bono Commission and the twelve district court-based pro bono programs.

Louisiana Chief Justice letter encouraging pro bono service. Louisiana Chief Justice Katherine D. Kimball recently sent a letter to all Louisiana judges calling upon them to participate in events to recognize lawyers who do pro bono work, to consider special procedural or scheduling accommodations for lawyers who are volunteering their services, and, where practical, to act in an advisory capacity to pro bono programs it supports.

Arkansas Road to Justice. Law students, volunteer attorneys, and legal aid staff travelled across eastern Arkansas to meet with people in need of legal assistance during the 2011 "Road to Justice." Students on spring break conducted legal intakes and worked with attorneys to assist clients on the spot. The project was organized by AmeriCorps advocates at Legal Aid of Arkansas and is funded in part by the Student Bar Association at the University of Arkansas School of Law.

Washington State moderate means program. The Washington State Bar Association has launched a statewide reduced-fee lawyer referral service for people with incomes between 200 and 400 percent of the federal poverty level. More than 350 lawyers have signed up to participate. The program focuses on family law, consumer and housing cases. Law students at Seattle University, the University of Washington, and Gonzaga University conduct client intake and work with supervisors to decide whether to refer the case to participating lawyers. The bar association provides lawyers in the program with free online training, which qualifies for continuing legal education credit. The association also plans to pair new or inexperienced lawyers with mentors.

Indiana Supreme Court Access to Justice workshop. On March 22-23, the Indiana Supreme Court hosted a two-day Access to Justice Education and Discussion Workshop to educate stakeholders about what Access to Justice commissions can accomplish and how they are structured and to consider the value of such a commission in Indiana. Speakers included Justice Nathan Hecht of the Texas Access to Justice Commission, Judge Sarah Singleton of the New Mexico Access to Justice Commission and Karen Lash, senior counsel of Access to Justice at the U.S. Department of Justice. The 65 participants were drawn from a broad range of the legal community, including civil legal aid providers, advocates for the victims of domestic violence, and representatives of the physically challenged. A smaller task force has now been formed to draft a proposal for a commission to be submitted to the Indiana Supreme Court later this year.

Resources/Reports/Models

- Pennsylvania Unified Judiciary 2013 budget submission, highlighting the current legal aid funding crisis along with court needs and data.
- West Virginia Justice Brent Benjamin highlights legal aid funding crisis, calls for increased pro bono, support for LSC funding.
- 2011 Annual Report of the Massachusetts Trial Court's Access to Justice Initiative.
- Trial-Ready Manual for Self-Represented Litigants, U.S. District Court, Southern District of New York, prepared with the assistance of the Committee of the Federal Courts of the New York County Lawyers' Association.
- NPR story on Alaska courts program that uses unbundled pro bono assistance to speed the resolution of family law cases.
- Strategic Plan for Implementing Enhanced Language Access in Colorado State Courts
- San Francisco "civil right to counsel city" ordinance.
- Expanding Your Practice Using Limited Scope Representation, free on-line CLE by Sue Talia, from PLI.
- Florida "One" pro bono campaign: "one client, one attorney, one promise" – web site and video.
- New Mexico Access to Justice Commission annual pro bono data report: 12,562 clients served by 557 attorneys in a variety of setting.

Documents and additional information about all of the topics reported above are available at www.ATJsupport.org or by contacting Bob Echols, State Support Consultant, ABA Resource Center on Access to Justice Initiatives, robert.echols@comcast.net.

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June 5, 2012

ILLINOIS SUPREME COURT INCREASES REGISTRATION FEES FOR ATTORNEYS TO HELP FUND LEGAL SERVICES FOR POOR

The Illinois Supreme Court announced Tuesday an increase in the annual registration fee for attorneys practicing in Illinois to fund an important goal — providing legal services in non-criminal cases to those below or near the poverty line.

The Supreme Court also announced that retired judges who wish to remain active on the state roll of attorneys will no longer be exempt from paying the attorney license registration fee.

Under amended Supreme Court rules, the annual registration fee will increase from $289 to $342—an increase of 14½ cents per day. The entire $53 increase will be remitted to the Lawyers Trust Fund, which contributes to agencies in Illinois that provide legal services to the poor.

"Since its inception, the Lawyers Trust Fund has been integral in providing access to our system of justice to those who can least afford it," said Chief Justice Thomas L. Kilbride. "It is a very important goal and even more so in these economic times. It demonstrates a clear commitment by the full Court to continue to encourage attorneys in Illinois to assume responsibility for those unable to afford legal services."

Even with the increase in fees, Illinois will rank in the bottom half of the states and the District of Columbia in the amount it assesses in licensing fees and dues. Connecticut is the highest with a total fee of $675 annually; Indiana and Maryland are the lowest with an annual fee of $145.

The Lawyers Trust Fund of Illinois (LTF) receives its revenue from two sources: a portion of the licensing fee and the interest on pooled funds that attorneys are required to hold for clients while matters are pending. Under the rules changes, the amount remitted to the LTF will increase from $42 to $95.

The increase is necessary to offset the dramatic decline in interest rates that banks have been paying on the pooled trust funds. Because of the continuing weak economy, that interest rate averaged about one-half of one percent in 2011, and is even lower now.

As recently as 2008, LTF received more than $17 million in interest from the trust accounts. This year, it is estimated LTF will receive $2.7 million in interest from the trust accounts.

MORE

The increase in the licensing fee will add an estimated $3.5 million to LTF revenues, said Ruth Ann Schmitt, executive director of LTF.

"It's fortunate for all the citizens of Illinois that their Supreme Court recognizes the importance of access to the courts, especially for the growing numbers of those hardest hit in this difficult economy," said Ms. Schmitt. "With the continued weakness in the economy, the average interest rate banks are giving on pooled trust accounts is now under two-tenths of one percent.

"Cuts at the federal and state levels are taking more than an additional $2 million away from legal aid programs in the state," she said. "Before the Supreme Court's action, we were planning to reduce grants by 40 percent over the next three years beginning with a $1 million cut to grants in July."

Helen E. Ogar, president of the Lawyers Trust Fund, also cited the need for the increase noted by the Supreme Court.

"We are grateful that the Supreme Court recognizes that 3½ years of ultra-low interest rates mean there are simply fewer dollars to support legal aid in Illinois," Ms. Ogar said. "The Court's action will ensure that Illinois continues to have a strong legal aid system to help maintain access to the justice system, especially for those hardest hit by the economy."

The LTF is a non-profit foundation. It was established by the Chicago and Illinois State Bar Associations in 1983 and designated by the Supreme Court to administer the funds received from the interest on lawyer pooled client accounts, known as IOLTA.

Since 1983, LTF has made more than $105 million in grants to non-profit legal aid organizations in Illinois. In the current year, LTF will distribute $7.7 million in grants to 29 legal aid organizations with offices in 18 counties throughout the state. In 2010, these organizations provided services in more than 175,000 cases.

LTF grants have made up 19 percent of the budget of Prairie State Legal services and 23 percent of the budget of the Land of Lincoln Legal Assistance Foundation, two major downstate legal aid programs in Illinois. It provides 32 percent of the budget of Chicago Volunteer Legal Services, the largest pro bono program in Illinois.

With the downturn in the economy continuing, Ms. Schmitt notes a sustained increase in the demand for legal services provided by these agencies. According to 2011 statistics, she said more than 2.8 million Illinoisans live at or below 150 percent of the poverty level—the income eligibility threshold for legal aid.

Chief Justice Kilbride, who serves as the Supreme Court liaison to the LTF, has long been an advocate of greater access to justice. In 2001, the Supreme Court, at his suggestion, formed a Special Committee to study and make recommendations on how to encourage every practicing attorney in the state to render some form of free legal work to those who cannot afford to pay for legal services. As a result, the volume of pro bono work must be reported by each Illinois attorney upon the annual renewal of attorney registration.

MORE

He also knows firsthand the need for and difficulty in providing legal aid. His first job as an attorney was with Prairie State Legal Services.

Justice Rita B. Garman also served in providing legal services to the poor during her legal career.

The Supreme Court announced the changes for attorneys and retired judges by amending Supreme Court Rule 756.

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(FOR MORE INFORMATION, CONTACT: Joseph Tybor, director of communications to the Illinois Supreme Court, at 312.793.2323)

REMAPPING DEBATE
Asking "Why" and "Why Not"

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Original Reporting | By Heather Rogers | Law, Role of government

June 6, 2012 — Ask people about the things that make America a "country of laws," and one answer you will likely get is that everyone is entitled to be represented by a lawyer of his or her choice. But that promise has little meaning to more and more families at or near the poverty level. They're among the millions of Americans for whom having a lawyer is a luxury beyond reach. Such families cannot afford a lawyer to defend them in an eviction proceeding, to fight a wrongful denial of veteran's benefits, or to help get a restraining order to protect against an abusive spouse.

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While the right of an indigent defendant to have counsel appointed for criminal cases is constitutionally-protected, there is no such right for lower-income people who need to bring or defend civil cases, leaving them with limited access to the justice system. Congress, however, created the Legal Services Corporation (LSC) in 1974 with the intention of providing high quality civil legal aid to poor and working class Americans — those in households at or below 125 percent of the poverty level (currently $27,938 for a family of four). And independent observers, including bar associations, sheriffs' offices, and State Supreme Court justices, widely acknowledge that LSC-funded lawyers perform vital work for their clients.

"These are basic legal services for low income people to have a place to live, feed their kids, deal with an abusive spouse, deal with their education so their kids would have more of an opportunity," explained Esther Lardent, president and chief executive officer of the Pro Bono Institute, a supporter of the LSC. "We're not only helping those individuals but society overall — there's a cost if you don't help people's situations improve."

Despite its achievements, conservatives have consistently targeted the LSC, attempting to strip it of resources, and, at times, to abolish it. This pressure began in earnest in 1981, just months after Ronald Reagan assumed the presidency. Until that year, the LSC's budget had grown consistently. Reagan was unsuccessful in his attempt to shutter the LSC entirely, but he succeeded in cutting its budget by 25 percent. In the following decade, under House Speaker Newt Gingrich, Congress hit the program with even greater constraints. The LSC has been hamstrung by major budget cuts and service restrictions under both Democratic and Republican presidents ever since.

The push against the LSC continues. Just last month, Rep. Austin Scott (R-Ga.) proposed an amendment to the fiscal year 2013 House Appropriations Bill that would have ended all funding for the LSC. (The amendment failed, but garnered 122 votes.)

When asked about whether their constituents have been or would be hurt by cuts to the LSC, the LSC's opponents in Washington don't squarely answer the question. Instead, they claim the services LSC-funded programs provide are unneeded, and condemn the LSC as just another "advancement of Big Government," as Representative Scott stated on the House floor.

In the face of such arguments, the LSC's proponents have prevented its elimination. But they have done little to replenish, let alone expand, its resources. Similarly, the LSC's advocates outside of government have been unable or unwilling to raise broader public awareness of the importance of the program and secure robust funding to deliver quality legal representation to the millions of Americans in genuine need.

Erin Corcoran is a professor of law and the director of the Social Justice Institute at the University of New Hampshire. From 2007 to 2009, she was on the staff of the U.S. Senate Committee on Apporpriations working with Sen. Barbara Mikulski (D-Md.), the chair of the Subcommittee on Commerce, Justice, Science, and Related Agencies, which determines the LSC's funding.

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"Most people either don't know what the LSC is or they think they'll never need it," Corcoran said. "But a lot of us could be there, especially with foreclosures and the economy. A lot of us are three steps away from needing that kind of help."

Massive cuts in real dollar terms

At first glance, it appears that the LSC's current budget is marginally higher than it was in 1981: a total of $348 million in this fiscal year versus $321 million back then. But this comparison fails to take into account either inflation or the increasing number of people who are eligible for services. Even if the number of those eligible for services had remained constant, Congress would have had to appropriate $812 million this year to account for inflation over the past three decades.

Send a letter to the editor