

Your State Bar Is Helping Transform Michigan's Civil Justice System



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Most of us have been silent bystanders in the courtroom watching an unrepresented stranger in distress trying to navigate the courts — struggling to understand a summons, the need to answer a complaint, or the impact of a judgment. The story rarely ends well for the novice.

Michigan courts are filled with unrepresented people awkwardly trying to navigate a world that even we as new attorneys didn't understand until practicing law for a year. And these ordinary folks are in courts grappling with their most important interests at stake — family, housing, and consumer cases.

On a national level, 76 percent of cases have at least one party not represented by an attorney. In debt collection, the numbers are more striking. While debt collection cases make up 25 percent of state court dockets, only 10 percent of defendants have attorneys. Worse, most of these people don't show up to court; 70 percent of debt collection cases end in default judgment for the plaintiff.

"Why don't these people just get an attorney?" you ask. "Some lawyer could use the work." The reality is low- and moderate-

income individuals simply cannot afford to pay us. Attorneys are expensive. And Legal Aid and the State Bar of Michigan Modest Means Program don't have enough resources to meet the high demand for legal help.

Brilliantly, Michigan is now laser-focused on solving this chronic problem in our civil courts. In January, the Michigan Supreme Court created the Justice for All Commission, tasked with "working toward 100-percent access to our civil justice system." Michigan Supreme Court Chief Justice Bridget Mary McCormack emphasizes that "[a]ll Michigan residents must have equal access to our courts and to resources needed to navigate our justice system, regardless of who they are, what they earn, or where they come from."

As your Bar president, I am excited to be a member of this commission, chaired by Justice Brian Zahra and energized by the State Court Administrative Office, the Michigan State Bar Foundation, and the State Bar of Michigan, which continues advocating for attorneys' central role in the Michigan justice system.

The commission will improve and expand excellent tools that already exist, including the award-winning Michigan Legal Help website, and encouraging attorneys to

take on limited scope representation.¹ This group of leaders will also tackle the gaps and barriers preventing unrepresented people from using the courts to solve their civil legal needs. Justice for All envisions a civil justice system "provid[ing] a safe, trusted, and inclusive experience for addressing problems and strengthening communities." It aims to transform a system that can be daunting and intimidating even for seasoned attorneys to a better one — one that is trusted, easy to understand, and effective. Soon, first-timers will understand the civil court system and be able to "meaningfully engage and use its tools to help address their problems."

The Justice for All Commission has already created and deployed specialized work teams to ensure it succeeds. Every member has clear assignments and deadlines to meet. For instance, I am rolling up my sleeves and getting to work with my two assigned teams: reimagining Michigan court-houses and regulatory reform.

The commission will springboard off lessons learned during the pandemic to modernize our courts. Imagine a modernized courthouse — both physical and virtual — where people can actually find what they need, understand the forms, access resources

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Imagine a modernized courthouse — both physical and virtual — where people can actually find what they need, understand the forms, access resources at self-help centers, and have computers and printers available in the courtroom.

at self-help centers, and have computers and printers available in the courtroom. Imagine litigants receiving text-message reminders for every hearing and every deadline. Imagine a system where parties no longer have to take off an entire day of work to wait for hours in a crowded courtroom for their case to be called. Instead, the person need only be present — perhaps on Zoom — for the 15 minutes it takes a judge to address their matter. Thanks to the pandemic, these scenarios are no longer imaginary futurism because our courts are well on the way to integrating technology to improve the courtroom experience.

I'll also be working with the commission team studying sweeping solutions to the big problems in our civil justice system. The Center for Chief Justices (CCJ) has recognized that “traditional solutions to reducing the access to justice gap, such as increased funding for civil legal aid, more

pro bono work, or court assistance programs have had some success, but are not likely to resolve the gap, which is only increasing in severity.”⁷² This is why CCJ encourages “regulatory innovations that have the potential to improve the accessibility, affordability, and quality of civil legal services, while ensuring necessary and appropriate protections for the public.” A few states, most notably Utah and Arizona, have temporarily lifted regulations on the provision of legal services, allowing legal entities to “experiment with consumer-focused innovations.”⁷³ Michigan will benefit from lessons learned in other jurisdictions for effective regulatory adjustments to improve access to civil justice. Your State Bar will be at the table during these discussions to ensure that any proposed regulatory changes don't undermine attorneys' central role.

Enthusiasm was incredible for our first commission meetings. The problems are

big and our goals are audacious, but working together we can make the civil legal system straightforward and accessible for all Michiganders. ■

ENDNOTES

1. Limited scope representation allows Michigan attorneys to represent litigants in the most critical parts of their case, such as answering a complaint, drafting a motion, or representing them at a hearing. The State Bar of Michigan successfully advocated for clarification of the court rules to allow attorneys to provide limited scope representation. For information and resources on how you can thrive by adding limited scope representation, visit the State Bar of Michigan's website at <https://www.michbar.org/pmrc/limited-scope>.
2. Conference of Chief Justices, Resolution 2, Urging Consideration of Regulatory Innovations Regarding the Delivery of Legal Services (February 5, 2020), <https://perma.cc/7Q5N-9YKD>.
3. *Democratizing the Rule of Law*, 16 Stan. J. Civ. Rts. & Civ. Liberties, 261, 273 (June 2020).




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