

Mr. Courtade Goes to Washington



Bruce A. Courtade

I love visiting Washington, D.C. As a history major in college, I focused my studies on American history. I loved then—and still love—reading about the men and women who fought for our freedom and established our country. As a devotee of American history, I literally get chills sometimes when walking the streets that I know were previously trod upon by Abe Lincoln, Thomas Jefferson, John F. Kennedy, and yes, Gerald Ford. (I might be kicked out of Grand Rapids if I didn't mention her favorite son!)

I love the history of Washington, D.C., and I love its architecture. I love its memorials and museums, its monuments, and its marble hallways.

Mostly, I love the *idea* of Washington, D.C.—a place where common citizens can meet with their elected officials and seek the government's intercession when necessary to promote or defend their individual rights, as set forth in the preamble to our Constitution, to “Justice...domestic tranquility...common defense...the general welfare...[and] the Blessings of Liberty.” I love that the architrave above the columns of the United States Supreme Court is engraved with the beautiful, seemingly simple but sometimes inscrutably complex phrase (or prayer?), “Equal Justice Under Law.” I love that the Library of Congress has original copies of the Magna Carta, as well as George Washington's original edition of the Acts of Congress and a handwritten legal writ authored by Abe Lincoln. And I love that when you are waiting in the rain to go through security, the person with whom you share an umbrella could just be the ambassador from a foreign country with whom you strike up a friendship.

Over the last several years, I have had the opportunity to be involved in the State Bar of Michigan delegation to Washington, D.C., as part of the American Bar Association's annual ABA Day. This year's delega-

tion included SBM Executive Director Janet Welch, SBM Director of Governmental Relations Peter Cunningham, former SBM President Reggie Turner, and Muskegon County Circuit Court Judge Timothy Hicks (who last year really did meet an ambassador, with whom he enjoyed a cold drink and warm conversation this year). Over the course of two days in April, we met with a number of people working on behalf of Michigan in Washington and were fortunate to have face-to-face meetings with Sen. Debbie Stabenow and Reps. Justin Amash, Dan Benishek, Dave Camp, John Conyers Jr., John Dingell, Bill Huizenga, Candice Miller, Gary Peters, and Tim Walberg.

During the two evenings that we were in Washington, we attended receptions at the offices of Jones Day and the Library of Congress, where I took the photo of the Capitol shown below. A photo of our delegation with ABA President Laurel Bellows from Illinois is shown on the following page. With my love of history, I cannot imagine a more magnificent setting for a gathering than the Library of Congress, where we were also able to see—and touch and read—original editions of the Magna Carta; George Washington's signed copy of the first acts of Congress from 1789, which included the text of the United States Constitution; and Thomas Jefferson's copy of the Virginia Act



A photo of the Capitol from my vantage point at the Library of Congress.

for Establishing Religious Freedom, issued October 17, 1785! Did I mention that I *love* Washington, D.C.?

As much as I love our nation's capital, our trip was not all fun and games—far from it. Our delegation went to Washington to advocate for issues of importance to our members, to Michigan citizens, and to equal justice as expressed by the pledge above the front steps of the United States Supreme Court. To that end, the primary issue we discussed with members of Michigan's congressional delegation was the dire need for adequate financial support for the Legal Services Corporation (LSC), which provides funding for civil legal aid to the poor. Among the groups that LSC funds are six Michigan nonprofit agencies serving residents of every county in our state.¹

LSC was created by the Legal Services Corporation Act of 1974.² Its initial budget was set at \$90 million.³ According to a table on the LSC website, federal appropriations for grant year 1976 (purportedly the first year in which LSC actually received appropriations) were \$116,960,000.⁴ Adjusted for inflation to 2012 dollars, that is the equivalent of \$471,939,000.⁵ Given the explosion of unmet need for legal services to the poor, one might expect that, even in times of fiscal restraint, federal appropriations would keep pace with the rate of inflation, right?

Wrong. In 2012, before sequestration and its resultant across-the-board cuts to all federally funded projects, LSC's federal appropriations were just \$348,000,000.⁶ Thus, in current dollars, LSC's 2012 funding levels were just 74 percent of what it received when it was established and funded during President Ford's term in office!⁷

As I have made my way through the State Bar ranks, I have witnessed firsthand the impact that the decrease in federal funding has had on LSC-funded legal aid programs in our state. During my 25-year legal career, I have seen the number of

Photo courtesy of the American Bar Association



Left to right: American Bar Association President Laurel Bellows with members of the SBM's delegation to ABA Day—former SBM President Reginald Turner, SBM Executive Director Janet Welch, SBM President Bruce Courtade, Muskegon County Circuit Court Judge Timothy Hicks, and SBM Director of Governmental Relations Peter Cunningham.

legal aid programs reduced, redundancies eliminated, and many innovations adopted to provide more and better services with fewer resources. While promoting efficiencies is a laudable goal, we have gone far beyond eliminating redundancies; we are to the point where Legal Aid of Western Michigan, for example, last year had to close its Big Rapids office (which opened before I was licensed) and fire two full-time attorneys and a full-time legal assistant, and the remaining offices have had to try to absorb their caseloads. Every Legal Aid of Western Michigan employee, from the executive director to the part-time receptionist, “voluntarily” took a cut in pay to stave off further layoffs and reductions in service. Sadly, this was *not* an isolated event, and LSC-funded organizations across the country have reported making the same hard choices.

In Michigan, by the numbers:

- We experienced a 59 percent increase in persons who qualified for free legal aid between 2000 and 2011;⁸
- In 2011, 25 percent of children under the age of 18 lived in poverty;⁹
- We rank in the top 10 nationally among states with the most foreclosures and the highest unemployment;¹⁰
- Our LSC-funded programs received an estimated funding cut of 20 percent through 2012;¹¹ and

- Because of limited resources, only 20 percent—at most—of the civil legal problems of those eligible for and seeking free legal assistance are addressed.¹²

Combine these numbers with the fact that interest rates on IOLTA accounts—which along with foundation grants, private donations, and LSC appropriations account for the vast majority of legal aid funding—have been at historical lows, and you can understand why our State Bar delegation often used the term “perfect storm” during our meetings in Washington to describe the desperate need for increased LSC funding.

And as much as I love D.C., I also hate the fact that as hard as we tried, our message to our congressional delegation was often drowned out by the cacophony of partisan politics that seems to permeate everything in our nation's capital these days. Historically, LSC was funded under the presidency of Republican Richard Nixon; Grand Rapids' own Gerald Ford was in office when the first appropriations were made. Legislators routinely crossed party lines when proposed legislation merited that they do so, and a representative's party affiliation did not tell you everything you needed to know about his or her voting record or necessarily serve as a predictor of votes to come.

When we were in Washington, though, I found myself having to explain to far too many of our congressional delegation that

access to justice is not a “D” issue or an “R” issue, but a fundamental right so valued by our forefathers that they included it in the first sentence of the Constitution (“We the People, in order to form a more perfect union, establish JUSTICE...”) and in the last words of the Pledge of Allegiance (“...with liberty and JUSTICE for all.”). I listened as Judge Hicks, a former chair of the Muskegon County Republican Party, and Reggie Turner, a well-known and respected Democrat, explained the business case for supporting legal aid. One relevant example is providing help to those facing improper foreclosure to prevent homelessness. Not only does this assistance help avoid unnecessary social welfare costs, but it also helps stabilize families and neighborhoods so children can stay in their local schools and their parents do not face a move that could threaten their ability to keep a job.

Luckily, whenever we were asked (and we *were* asked) about what Michigan lawyers were doing to combat the need for additional legal services for the poor, we could refer not only to the Bar's creation of and contributions to the nationally renowned Access to Justice Fund—a total of roughly \$12 million in donations, primarily from Michigan's legal community to go toward funding legal aid services—but also to the recently issued *Michigan Pro Bono Assessment Final Report*.¹³ This report is the result of more than a year's assessment of pro bono efforts throughout the state. As explained in the executive summary of that report, “With the support of internationally renowned access-to-justice consultant John Tull, the project sought to increase the effective participation of private attorneys in assisting low-income persons in need of legal assistance in the State of Michigan.”¹⁴ An important goal of the assessment was to “bridge the gap between the desire and need on the part of private attorneys to participate in pro bono and the need on the part of legal aid organizations to increase the resources available to respond to clients' needs.”¹⁵ Tull was assisted in his efforts by a truly stellar group of Michigan attorneys, each of whom has been recognized for his or her efforts in support of legal aid and pro bono services in Michigan.¹⁶

The report noted a very strong system of “intentional and conscious support for pro bono at the state level, at the core of

which are the State Bar of Michigan and the Michigan State Bar Foundation.”¹⁷ It went on to note that “[t]he system’s strength also derives from a culture of collaboration and coordination that infuses the relationship of these two central institutions, as well as their relationship with the leadership of the legal aid community.”¹⁸ The report praised the “high level of institutional support for pro bono from the State Bar and the Michigan State Bar Foundation,” and the resultant “widespread use of pro bono by a variety of organizations in the state, including not only the MSBF grantees and the partners in the Access to Justice Campaign, but also various organizations that are not formally part of either group.”¹⁹

I encourage all of our members to review the report which, by the time this column is published, will have been the primary subject of a May 15 pro bono workshop at the State Bar where participants representing Michigan’s law schools, legal aid providers, law firms, bar associations, and community service organizations looked at ways to collaborate more effectively and efficiently to provide increased access to pro bono legal services for the poor.

At the end of the day, though, supply cannot meet demand. There are too many poor people in need of legal assistance and, despite their valiant efforts, not enough Michigan attorneys to satisfy the need through free services. That is the message your State Bar delegation brought to the halls of Congress, and one I hope you can reiterate whenever you have the chance to speak to your local, state, and federal elected officials. Better yet, go out of your way to let them know. Contact your representatives and senators and urge them to support LSC funding at a level commensurate with Michigan’s overwhelming need. The State Bar has a tool to help you do that at <http://michbar.org/publicpolicy/elected.cfm>.

Whether or not our efforts in Washington, D.C., changed any votes, I am confident that our congressional delegation learned a few important lessons from the State Bar’s annual visit: Michigan attorneys care deeply about access to civil legal aid for the poor; we are committed to the ideal that justice for some is not justice at all; and our profession, more than any other group or organization,

puts its words into practice, as evidenced by the outstanding leadership efforts displayed not only in contributions to the Access to Justice Fund but also to the work highlighted in the *Michigan Pro Bono Assessment Final Report*.

I do love visiting Washington, D.C. And I especially love visiting Washington in the company of people like Janet Welch, Peter Cunningham, Judge Hicks, and my old friend Reggie Turner; their commitments to justice for all and to our profession are awesome and inspiring. Rest assured they have served you well. With some luck and a few more trips to Washington, I am certain that their hard work—unlike the cherry tree blossoms of which the residents of our nation’s capital (most of whom have never visited Traverse City in the spring) are so proud—will eventually bear fruit.²⁰

Until then, I encourage you to do your part—support your local legal aid provider through donation of your time, talent, and treasure. And I implore you to keep fighting the good fight until “Equal Justice Under Law” is more than an aspirational engraving on the façade of the United States Supreme Court building, but a promise etched in the hearts, minds, and souls of every man, woman, and child in our country and a reality experienced by even the neediest among us. ■

ENDNOTES

1. The Michigan-based entities to receive federal funding through LSC are Legal Services of South Central Michigan (<http://www.lsscm.org/>), Legal Services of Eastern Michigan (<http://www.lsem-mi.org/>), Legal Services of Northern Michigan, Inc. (<http://www.lsnm.org/>), Legal Aid of Western Michigan (<http://www.legalaidwestmich.org/>), Legal Aid and Defender Association, Inc. (<http://www.ladadetroit.org/>), and Michigan Indian Legal Services, Inc. (<http://www.mils3.org/>). All websites cited in this article were accessed May 23, 2013.
2. 42 USC 2996 *et seq.*
3. Brock, *The Seduction of Hillary Rodham* (New York: The Free Press, 1996), pp 96–97.
4. Legal Services Corporation, *Funding History* <<http://www.lsc.gov/congress/funding/funding-history>>.
5. *Id.*
6. *Id.*
7. By contrast, Congress appropriated \$484.486 billion for Medicare in 2012. Thus, federal funds for legal aid constitute .0718 percent of all funds spent for Medicare. In easier terms to understand, for every \$10,000 spent trying to assure that vulnerable citizens
8. See United States Census Bureau, *2000 Census of Population, Summary File 3: Technical Documentation* (Washington, DC: United States Government Printing Office, 2002), available at <<http://www.census.gov/prod/cen2000/doc/sf3.pdf>>; see generally United States Census Bureau, *2011 American Community Survey*, available at <<http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>>.
9. *American Community Survey*, n 8 *supra*.
10. See RealtyTrac <<http://www.realtytrac.com/statsandtrends/foreclosurestrends>>; United States Bureau of Labor Statistics, *Unemployment Rates for States* <<http://www.bls.gov/web/laus/laumstrk.htm>>.
11. Legal Services Corporation, *LSC-Funded Programs in Michigan* <<http://www.lsc.gov/local-programs/state-profile?st=MI>>.
12. See generally Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans* (2009), pp 9–18, available at <http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf>.
13. Tull & Assoc, *An Assessment of Pro Bono in Michigan* (February 2013), available at <<http://www.michbar.org/programs/pdfs/probonoreport2013.pdf>>.
14. Pro Bono Assessment Advisory Group, Executive Summary of *An Assessment of Pro Bono in Michigan* (March 2013) (on file with author), p 1.
15. *Id.*
16. Members of the Pro Bono Assessment Advisory Group included Candace Crowley, State Bar of Michigan staff; Bob Gillett, co-chair, SBM Pro Bono Initiative; Joan Howard, chief counsel of the Civil Law Group, Legal Aid and Defender Association, Inc.; Thomas Linn, partner, Miller Canfield; Hon. Denise Page Hood, U.S. District Court, Eastern District of Michigan; Andrew Pride, Office of General Counsel, Ford Motor Company; Susan E. Reed, Michigan Immigrant Rights Center; and Linda Rexer, executive director, Michigan State Bar Foundation.
17. *Assessment*, n 13 *supra* at 4.
18. *Id.*
19. *Id.* at 8.
20. As opposed to their counterparts in Northern Michigan, which provide thousands of bushels of fruit each year, the cherry blossom trees that are so prevalent in the Tidal Basin are mostly sterile ornamental trees which provide no fruit edible by anything other than birds and squirrels. (I will leave it for others to comment about the irony of our nation’s capital hosting a festival celebrating something that looks great but produces little of tangible use.) Other interesting information about the capital’s Japanese cherry trees, complete with infestation, diplomatic snafus, disrepair, and vandalism following the attack on Pearl Harbor, and the Mikimoda Pearl Crown used to crown the National Cherry Blossom Festival Queen can be found on the National Park Service’s website, <<http://www.nps.gov/cherry/cherry-blossom-history.htm>>.