

Pro Bono Volunteering

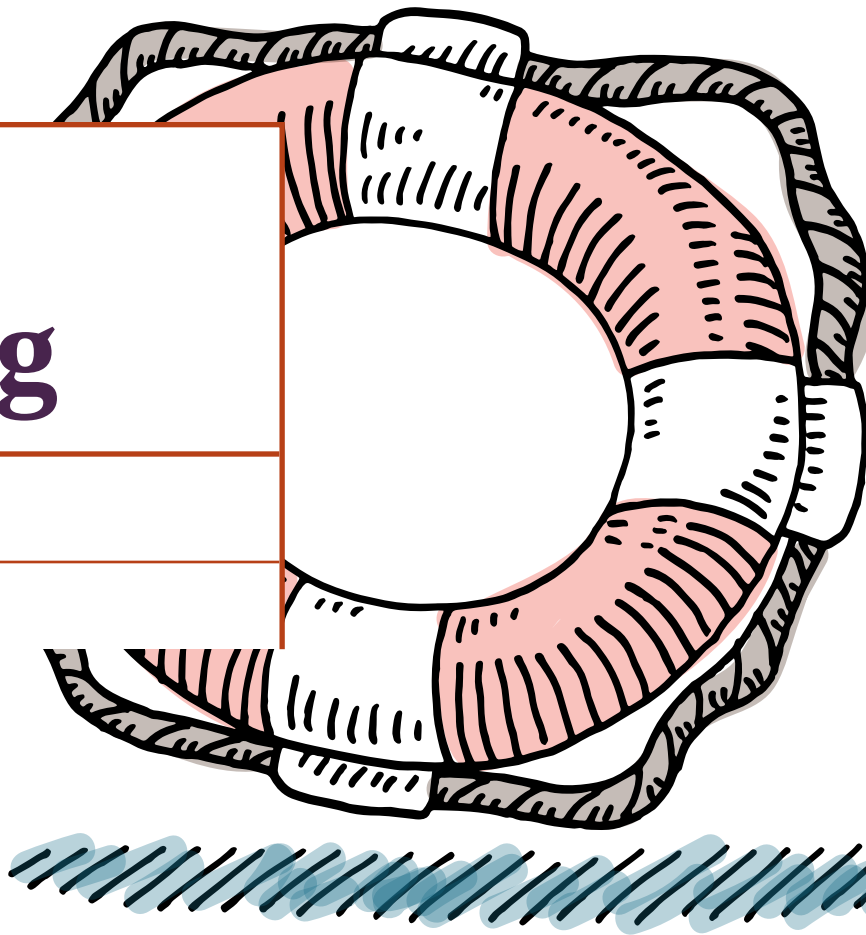
By William Jungerheld

On June 7, 2015, I celebrated 50 years since I was sworn in to the practice of law in the courtroom of Judge Huff in Saginaw. I joined a firm that practiced the defense of civil cases. It fit well with my prior experience as an insurance claims adjuster, which was my employment as I worked my way through night school at the Detroit College of Law.

I represented a variety of defendants in the early days including drivers, home and business owners, highway commissions, and manufacturers; since about 1978, I mainly represented defendants in medical malpractice cases. The work was fascinating and exciting. I was able to become a minor league expert in a variety of subjects. I often thought that if I had to live those years over, I'd do exactly the same thing.

During those years, I was generally aware, as most of us are, that there were poor people living in the U.S. This awareness was theoretical or academic, as I had little actual contact with low-income citizens, and it was relatively easy to put that issue in the back of my mind. After all, we've been told "the poor you will always have with you." Indeed, columnist Susan Demas recently reported that 40 percent of Michigan families now live in poverty or have jobs that don't cover their basic living expenses.¹ I recently read elsewhere that 300,000 people in this state go to bed hungry every night.

During this same period, Legal Services of Eastern Michigan had been actively seeking volunteers for pro bono work. The practice of law had been good to me, and I eventually began to feel that the time had come to give back. Legal Services seemed like the way to go.



However, I was concerned because the nature of my practice differed from the issues presented to Legal Services, such as bankruptcy, collections, consumer issues, grandparents' rights, and many others I'd never had to deal with in my practice. Nevertheless, I nervously ventured into that arena and volunteered to serve with Legal Services in its Legal Advice Clinic.

My comfort level quickly increased. The clinic was well managed and well equipped to assist attorney volunteers. It provided questionnaires, checklists, statute summaries and excerpts, handouts, and other materials that made client encounters much easier than they otherwise would have been. Also, to my great happiness, my recall of what I'd learned in law school was surprisingly good. I soon felt that, by golly, I might be able to help the less fortunate.

One thing that impressed me greatly, even at the outset, was how truly poor many people were. Some clients

had nothing but the clothes on their backs. They had no home, no car—nothing! They lived with friends or relatives. They needed a ride from a friend or relative just to meet with us at the office in downtown Saginaw. Their income was minimum Social Security. This was a shocking reality I had never encountered.

One case I've never forgotten involved a kindhearted woman who was walking near her home one November and spied a sign in the window of a used car dealer. The sign offered a free turkey. Thanking her good fortune, she entered the office to claim her free turkey, the basis for a Thanksgiving dinner. You guessed it—she had to buy a car to get the free turkey. She did so, with the help of a salesman who created a fake job for her on the loan application so she would qualify for a loan. In reality, her only income was Social Security.

Of course, she couldn't pay for the car. Even with her daughter's help, the two of them couldn't pay for it. By the time she contacted Legal Services of Eastern Michigan, the car had been repossessed and she was facing a deficiency judgment that she was unable to pay. As is the case with all the clients I've seen at Legal Services facing collection actions, she genuinely wanted to pay the debt. Indeed, she feared prison if she didn't pay. She also feared the judgment creditor would take her modest home.

I suppressed my initial "What were you thinking?" reaction. I held my tongue and quickly asked myself if, even with a juris doctor degree, I had ever done something "less than wise." Hmm. The answer to that question was unnerving. My next thought concerned how to help this woman. First, I assured her she would not go to prison. Second, I advised her that even if a lien was placed on her home, it could not be taken from her as long as she was alive. And finally, I assured her that her Social Security income could not be taken by the judgment creditor. The relief on her face was obvious and accompanied by expressions of gratitude.

Another likeable woman came to Legal Services with a similar problem. Her brother was ailing and required frequent treatments at the University of Michigan Hospital. The siblings lived in Saginaw. She did some calculations and believed she could squeeze out enough money to buy a used car so she could drive her brother to Ann Arbor for treatments. It turned out that her optimistic planning was wrong, the car was eventually repossessed, and, by the time she came to Legal Services, she faced a deficiency judgment. The advice and counsel to her was, of course, the same as for the woman mentioned previously.

Recently, a gentleman came in seeking bankruptcy protection. Legal Services has bankruptcy criteria that must be met for clients to be referred to an attorney who

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will represent them pro bono: the client must be employed and own a car to travel to work; and the case must involve foreclosure, garnished paychecks, and outstanding judgments. This gentleman did not meet the criteria.

He had two prior collisions while driving without insurance. The first led to a \$3,000 judgment against him by an insurance company, and the second resulted in \$9,000 damage to the other vehicle, and he was being dunned by that insurer. Legal Services gave him an excellent handout titled "How to Talk to Bill Collectors," which includes directions for handling collectors on the phone and a sample letter to send as well as advice concerning his rights under both federal and Michigan law. His only income was supplemental security income, and he was advised it was protected and the judgment creditor couldn't take it. He was also advised that as a practical matter, if the insurer with the large claim was told his only income was supplemental security income and he had no assets, the insurer would be unlikely to sue. He was also counseled that bankruptcy would be pointless, as he had nothing to protect.

Another gentleman had an unusual problem. He had arranged for his bills to be automatically paid by his bank. The payments, however, were made before his income was deposited. Thus, he incurred overdraft fees and the bank was after him for the fees. A friend in the executive level of the bank had initially protected him, but after the

friend died, the bank again sought the overdraft fees. The advice was to stop the automatic payments, sever all relations with the bank, and write checks to pay his bills after his income was deposited. He had no defense to the fees, but they amounted to only \$600 and, again, as a practical matter, the bank was unlikely to sue him for such a small amount. He, too, was provided with the handout concerning bill collectors in case the bank or a collection agency started to badger him.

Many clients visit Legal Services because they have been sued in district court and don't know what to do. We discuss the facts with them, explain possible defenses, and provide a handout titled "How to Fill Out an Answer." I occasionally offer written responses to clients based on the facts. I have also advised them how to present themselves in court and advance their cases.

Probate issues occur regularly. I recall one gentleman who was concerned about a home owned by his mother, who had died. She had received long-term care services paid by Medicaid, and Medicaid was seeking reimbursement. Close questioning revealed that the home was of modest value and was her estate's only asset. Her son had lived with her in the home for more than two years before she went into a care facility and cared for her so she could stay at home as long as possible. We explained the exceptions to estate recovery to the son and that an "undue hardship" existed because the home was of modest value. He was given directions to get an undue hardship application and told which verification to obtain and what to do with the materials. He was also advised that the circumstances of his residing in the home with the history previously described constituted another exception to recovery by Medicare. He was visibly relieved that he would not lose the roof over his head.

Employment issues sometimes arise. I met with a woman who worked part time as a home healthcare aide. Her duties were to clean patients' homes, wash dishes, do laundry, take out trash, and bathe patients if they needed assistance. She had received a call from her employer asking her to pick up a weekend shift for a male patient with whom she was not familiar, and was given minimal information about him. During the home visit, the aide was subjected to repeated displays of the patient masturbating, sexually related solicitations when assisting the patient with showering, and attempts at forced genital contact.

I could go on, but this is a sufficient sampling of cases seen in pro bono work for Legal Services of Eastern Michigan. There is nothing heroic in this volunteer work. Indeed, it's almost embarrassing to report that the time involved is minor. Four or five volunteer attorneys work

only one half day a month. I spend the evening before each session reviewing material to prepare for the next day. This is obviously not an impossible burden for any of us. In view of this limited time commitment, even attorneys with busy practices could squeeze in enough time to volunteer.

Legal Services of Eastern Michigan is conscientious in verifying that clients meet the income criteria. Volunteer attorneys receive a list of clients and potential adverse parties to determine if any conflicts exist as well as a record of issues to be presented. They also receive a list of other volunteer attorneys' fields of practice in case a referral is appropriate.

There is no financial compensation for volunteer attorneys, and although we don't volunteer for any reward, we most certainly receive one: a tremendous sense of satisfaction in helping people in trouble. Imagine how it would feel to learn you are not going to prison for a debt. You and I know there are no debtor prisons, but many people don't know that until we advise them. Imagine fearing the loss of your home because of some unfortunate event and then learning that's not going to happen. Imagine living on minimal Social Security, barely getting by, and fearing that income would be taken away and you'd have to panhandle on the street. Think of the relief you'd feel to learn that isn't going to happen.

The relief on clients' faces must be seen to be believed. Smiles replace fearful expressions. Posture often changes from depressive to erect as though the clients suddenly grew backbones. Even in hopeless cases, clients receive a certain comfort in knowing exactly where they stand, what the likely outcome will be, and how to prioritize and cope.

Helping the less fortunate is a rewarding, satisfying, energizing experience. Do you want to feel good? Then do good! ■

William Jungerheld received his juris doctor from the Detroit College of Law in 1965. He practiced with a defense firm for his entire career, representing defendants in automobile, product liability, premises liability, road commission, employment, excessive force, and medical malpractice cases. Though "retired," he frequently assists his former firm. He also volunteers with Legal Services of Eastern Michigan's Legal Advice Clinic at every session, serves as treasurer of his Saginaw neighborhood association, and serves on his condominium association board in Florida.

ENDNOTE

1. Demas, *Michigan Can Improve the Economy by Cutting Taxes for 95% of People* (May 20, 2015) <http://www.mlive.com/lansing-news/index.ssf/2015/05/graduated_income_tax_michigan.html> (accessed September 17, 2015).