

Mobilizing to Help Those in Need



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To be good, and to do good, is all we have to do.
—John Adams

I recently attended the American Bar Association Annual Meeting in Chicago. During the meeting, former ABA President Hilarie Bass shared her experience traveling to the southern border to assess the impact of the U.S. family separation policy. As you can imagine, the stories she shared were heart-breaking and the need for legal services to ensure due process was critical.¹ However, it was her promise that “the lawyers of America will not rest until these families are reunited” that resonated with me. The image of lawyers mobilizing to volunteer their time and services was powerful and an important reminder of the ability of lawyers to be champions in times of need. Meeting attendees also heard from members of the ABA Young Lawyers Division who mobilized through the Disaster Legal Services Program to provide legal services at no charge to survivors of Hurricanes Harvey, Irma, and Maria.² These efforts demonstrate the impact of legal first responders.

Closer to home, Jaffe Raitt Heuer & Weiss provided emergency pro bono services to 15 Chaldean families in southeast Michigan

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at risk of having family members deported to Iraq. Members of the firm worked around the clock to ensure that motions seeking a stay of deportation were timely filed in the appropriate courts.³ This is just one example of the valiant commitment by law firms and lawyers in Michigan to mobilize in response to a sudden surge in the need for legal services.⁴ These volunteer efforts not only reinforce my pride in our profession but, more importantly, help to change the public narrative regarding lawyers and the values of our profession. The fact that lawyers are willing to selflessly give of their time to assist those in need is at the very core of who we are as a profession. As our Lawyer's Oath states: “I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed.”⁵

The justice gap: A constant need

Of course, the need for pro bono services does not simply exist in the face of a political crisis or natural disaster. As noted by a recent Legal Services Corporation (LSC) report highlighting the justice gap, “86% of the civil legal problems reported by low-income Americans received inadequate or no legal help.”⁶ Unfortunately, 71 percent of low-income households experience at least one civil legal problem each year, typically related to healthcare, housing, disability access, veterans' benefits, or domestic vio-

lence. Because of a lack of resources, LSC-funded organizations cannot respond to all requests for legal services—estimated at 1.7 million legal problems each year. More than half of low-income Americans confronting civil legal issues will resort to representing themselves or, worse, fail to address their legal needs.⁷

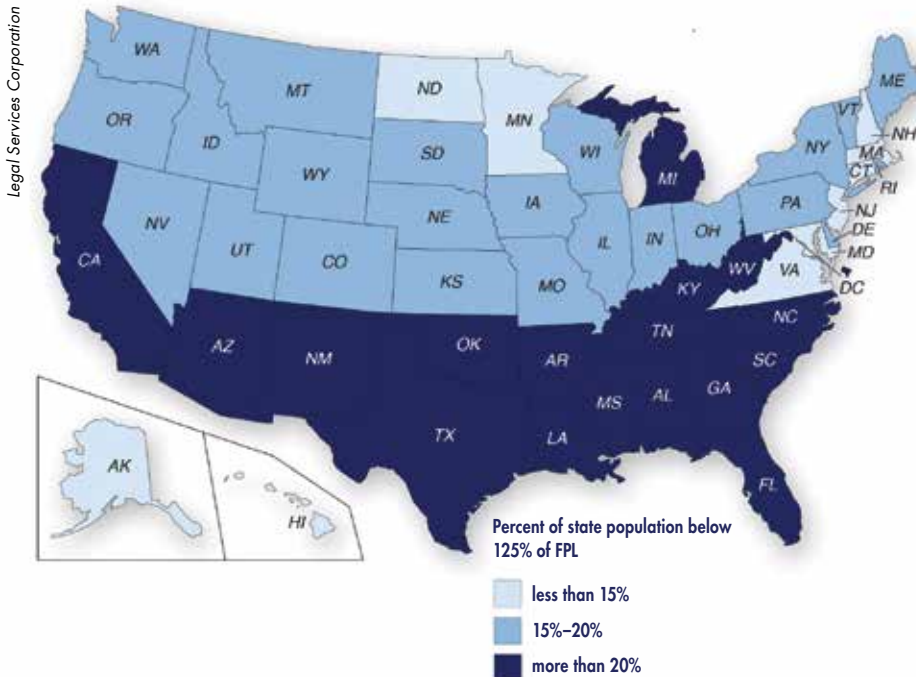
This problem is more pronounced in Michigan, where more than 20 percent of the population is below 125 percent of the federal poverty line.⁸ A family of four whose income meets this threshold is surviving on \$31,375 or less per year.⁹ As highlighted in the map on the facing page, Michigan stands out in the Midwest with almost 2 million people below this line and therefore qualifying for legal aid services. However, there is currently only one legal aid attorney for every 10,282 Michigan residents living in poverty.¹⁰ As a result, the legal needs of the poor in Michigan are not being met; they cannot otherwise afford legal services at our standard hourly billing rates.¹¹

Taking action: How lawyers can fill the justice gap

This year marks the 10th anniversary of Michigan's recognition of October as Pro Bono Month, joining the ABA and other states across the country focusing on the important work of lawyers to meet this growing demand for legal services.¹² This annual

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— From the State Bar of Michigan Lawyer's Oath



focus on pro bono allows each of us to reflect on our pro bono obligations: what we have done in the past year and how we can strive to participate in the coming year. The Voluntary Pro Bono Standard adopted by the State Bar of Michigan derives from Michigan Rule of Professional Conduct 6.1 and specifies that all active Bar members should participate in the direct delivery of pro bono legal services to the poor by annually providing one of the following:

- (1) Representing without charge a minimum of three low-income individuals;
- (2) Providing a minimum of 30 hours of representation or services without charge or at a reduced fee to low-income individuals or charitable or public service organizations; or
- (3) Contributing a minimum of \$300 to not-for-profit programs organized for the purpose of delivering civil legal service to low-income individuals or organizations.

As each of us reflects on our pro bono service in 2018 and contemplates our efforts for 2019, I urge you to review the wealth of resources available on the SBM website at <https://www.michbar.org/programs/ATJ/home>. These pages direct you to various programs where we can volunteer our

services in areas of interest, including immigration and deferred action for childhood arrivals, patent pro bono, QDRO, tax pro bono, or nonprofit organizations.¹³ In addition, the Pro Bono Manual link directs you to the organizations in your county that offer pro bono training and volunteer opportunities.¹⁴ Lakeshore Legal Aid, for example, offers not only training but also pro bono volunteer opportunities in family law and PPOs or expungement and driver license restoration as well as community-based clinics. The manual's Pro Bono Nuts and Bolts option links to various resources such as "Handling a Pro Bono Referral Step by Step" and "Where Pro Bono Volunteers Can Find Support" to ensure any lawyer has the tools needed to feel comfortable in a pro bono representation.¹⁵

Additionally, the State Bar has recently added more options to its pro bono opportunities with limited scope representation and the Modest Means Program. According to an ABA study, the majority of attorneys who provided pro bono service did so through limited scope representation.¹⁶ In response to the important work of the 21st Century Practice Task Force, Michigan recently adopted revised court rules and Rules of Professional Conduct to allow attorneys to represent a client on a limited basis, including ghostwriting and a limited court

appearance with the client's informed consent.¹⁷ The ability to perform a limited service for someone in need can address one of the significant barriers to pro bono representation: lack of time.¹⁸ Lawyers on the Modest Means panel have the opportunity to provide legal services to qualifying low-income individuals at a reduced hourly rate.¹⁹

For those who simply do not have the time to provide direct pro bono assistance or to mentor a new lawyer handling a pro bono case,²⁰ the SBM Voluntary Pro Bono Standard suggests an annual contribution of \$300 per year to not-for-profit programs organized for the purpose of delivering civil legal services to low-income individuals or organizations.²¹ Even though 20 percent of the state's population qualifies for low-income legal assistance, as a whole, Michigan lawyers donate only an average of \$25.21 per year toward legal aid. This amounts to 66 cents for each low-income person qualified to receive legal aid services. We rank 44th in the nation in this category—well below the national average.²² While any increase in giving makes a significant impact, if those of us who are unable to provide pro bono assistance met the voluntary standard of \$300, the result would be a momentous and noticeable increase in legal aid to those in need. We can donate easily online through the Access to Justice Campaign at <https://atjfund.org>.

I have noted the heroic work of lawyers mobilizing to address urgent legal needs in the wake of an immediate emergency or disaster. However, with 87 percent of the legal needs of the public not being met because of lack of resources, it appears that this justice gap for low-income people in Michigan has become a crisis and a legal disaster. At 66 cents per qualified low-income person, we are not close to addressing this need or fulfilling the promise of "liberty and justice for all."

Can we come together to meet this crisis? The 10th anniversary of Pro Bono Month provides the opportunity for SBM members to mobilize and demonstrate to the public that the lawyers in Michigan will not rest until the legal needs of the state's poor are met. ■

(Continued on the following page)

ENDNOTES

1. ABA, *On visit to Texas border, ABA president advocates for migrants' legal rights* (July 2, 2018) <https://www.americanbar.org/news/abanews/aba-news-archives/2018/07/on_visit_to_texasbo.html>. President Bass visited the U.S. District Court in McAllen, Texas as well as the Port Isabel Detention Center to meet with 10 mothers of separated children. All websites cited in this article were accessed September 11, 2018.
2. ABA, *Disaster Legal Services Program* <https://www.americanbar.org/groups/young_lawyers/disaster_legal_services.html>; ABA Young Lawyers Division and Florida Bar Young Lawyers Division, *Free Legal Assistance Available for Florida Hurricane Irma Survivors* (September 13, 2017) <https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/dls/irma-press-release.authcheckdam.pdf>.
3. Jaffe Raith Heuer & Weiss, *Jaffe Provides Emergency Pro Bono Services to Southeast Michigan Families Threatened with Deportation Back to Iraq* (June 16, 2017) <<http://www.jaffelaw.com/press-release/595/Jaffe-Provides-Emergency-Pro-Bono-Services-to-Southeast-Mich.aspx>> and Detroit Legal News, *Law firm provides emergency pro bono services to families threatened with deportation back to Iraq* (June 22, 2017) <<http://www.legalnews.com/detroit/1444427/>>.
4. SBM, *All the Ways a Lawyer Helps*, A Lawyer Helps <<https://www.michbar.org/alawyerhelps/stories13>>.
5. SBM, *Lawyer's Oath* <<https://www.michbar.org/generalinfo/lawyersoath>>.
6. Legal Services Corp., *2017 Justice Gap Report: Measuring the Civil Needs of Low-income Americans* (June 2017) <<https://www.lsc.gov/media-center/publications/2017-justice-gap-report#bfrtocimg-width150-height194-stylemargin10px-float-left-alljustice-gap-executive-summary-cover-image-sitesdefaultfilesimagesjustice-gap-executive-summary.jpgexecutive-summary>>.
7. *Id.*
8. *Id.*
9. MassLegal Services, *Federal Poverty Guidelines—2018* (January 17, 2018) <<https://www.masslegalservices.org/content/federal-poverty-guidelines-2018>>.
10. SBM and MLSC Funded Providers, *Documenting the Justice Gap in Michigan: Update* (2017) <<https://www.michbar.org/file/programs/atj/pdfs/justicegap.pdf>>. "Legal aid services" in this article refers to aid to those qualifying for legal aid from LSC-funded groups.
11. According to the SBM *2014 Economics of Law Practice: Attorney Income and Billing Rate Summary Report*, the median hourly billing rate for an attorney in Michigan was \$245 per hour <<https://www.michbar.org/file/pmrc/articles/0000151.pdf>>. Just 10 hours of an attorney's time at this rate would cost \$2,450, or approximately one month of the family's income at the top end of the poverty line.
12. A calendar of events being held in honor of Pro Bono Month is available through the SBM at <https://www.michbar.org/file/programs/pdfs/probono18_events.pdf>.
13. See also Michigan Community Services, *Direct Services: Legal Pro Bono Referral Program* <<https://mi-community.org/what-we-do/direct-services/pro-bono-referral-program/>>.
14. SBM, *Pro Bono Training & Volunteer Opportunities for Lawyers* <<https://www.michbar.org/programs/probonoopportunities>> and SBM, *Legal & Law Related Programs by County* <https://www.michbar.org/public_resources/legalaid>. Similarly, the SBM Master Lawyers Section has a Pro Bono Menu of Opportunities that is useful in identifying opportunities to give back.
15. SBM, *Pro Bono Manual* <<https://www.michbar.org/programs/probonomanual>>. The legal services providers also offer assistance. Lakeshore Legal Aid not only prescreens clients but offers training and mentoring when needed; see <<https://lakeshorelegalaid.org/>>.
16. ABA, *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, Standing Committee on Pro Bono and Public Service (April 2018) <https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/lspb_supporting_justice_iv_final.authcheckdam.pdf>.
17. The revised rules effective January 1, 2018, are MCR 2.107, MCR 2.117, and MCR 6.001 and MRPC 1.0, MRPC 1.2, MRPC 4.2, and MRPC 4.3.
18. *Supporting Justice*.
19. If you haven't clicked on the "Find Legal Assistance" link accessible through the SBM "For Public" tab recently, I would strongly encourage you to view the updated resources available to the public through this link. The Modest Means Program, available through that link, is designed to connect to the "Guide to Legal Help" offered by the Michigan Legal Help website. Through the online triage system, Michigan Legal Help is able to identify whether a person has a legal problem that should be handled by an attorney; whether that individual qualifies for legal aid and should be directed to either legal services or to a lawyer on the Modest Means panel; or, if they do not otherwise qualify, referred directly to a lawyer practicing in that area of the law. See Michigan Legal Help <<http://www.michiganlegalhelp.org/>> and SBM Legal Resource and Referral Center <<http://lrs.michbar.org/>>.
20. While a recent survey of lawyers found that attorneys in the age group of 70–74 provided the highest number of pro bono hours, lawyers ages 27–35 indicated that mentorship by a more experienced attorney would encourage them to provide more pro bono service. *Supporting Justice*, p 29. Mentorship opportunities are available with programs like the OCBA Pro Bono Mentor Match Program, which matches new lawyers willing to take pro bono cases with experienced lawyers who act as mentors <<http://www.ocba.org/about/resources-for-new-lawyers/#PMM>>.
21. SBM, *Voluntary Pro Bono Standard* <<https://www.michbar.org/programs/atj/voluntarystds>>.
22. Thanks to Michigan State Bar Foundation Executive Director Jennifer Bentley for her assistance in providing the supporting analyses: *Lawyer Giving Analysis* (2015 and 2016) and *Access to Justice Campaign Growth & Development*. Only Kansas, Louisiana, New Jersey, North Dakota, Rhode Island, and Wyoming provide less in lawyer giving by lawyers admitted.

how you can

help

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community service

access to justice

pro bono

