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February 3, 2012

Pro Bono Services, Help for Pro Se Litigants Needed to Bridge Funding Gap, Say Legal Aid Providers



Mark Moreau, co-executive director of Southeast Louisiana Legal Services

A steep rise in the number of people living in poverty and a big decline in funding for legal aid services has led to a crisis in access to justice for the most vulnerable Americans, said a panel of judges and attorneys today at the American Bar Association Midyear Meeting in New Orleans.

“This is truly ‘a drop off the cliff moment’ in the legal services funding world, but I would say to you nobody is going to quit and go home,” said Martha Bergmark, founding president/CEO of the Mississippi Center for Justice.

The panel discussion entitled, “The Cost of Justice: Ensuring Access to Justice When There’s No Money,” sponsored by the [ABA Commission on Homelessness and Poverty](#) and six other ABA entities, focused on innovative programs and creative ideas for legal aid to the poor.

Bergmark, a former president of the Legal Services Corporation, said providers must diversify their funding sources. She described “four legs to the chair,” as federal, state, foundation and individual giving. At the Mississippi Center for Justice, foundations provide 75 percent of the center’s funding and individual donors contribute the rest. “People give to what they can see will have an impact,” Bergmark added.

A recent survey by LSC, the nation’s single largest provider of civil legal assistance, found that LSC-funded programs anticipate laying off 393 employees, including 163 attorneys, in 2012. LSC received \$348 million from Congress for fiscal year 2012, down from \$420 million in fiscal 2010.

“We’re looking at the greatest cut to our program in the last 40 years,” said Mark Moreau, the co-executive director of Southeast Louisiana Legal Services, who will have to lay off one-third of the organization’s attorneys in the next three years. “You have to decide what the core priorities of your clients are and what you can realistically do....It is definitely difficult to say no, but we’re going have to learn how to say it a little more.”

The panelists agreed that more Americans will be representing themselves in court because of the recent economic crisis, and judges need continuing education on how to hear and manage cases to help level the playing field between *pro se* litigants and lawyers.

“Eighty to 90 percent of the people are going to court alone,” said Moreau. “But we can’t hold lawyers and *pro se* clients to the same standard.”

“We will never have enough *pro bono* lawyers, and we do not seem to be giving the money to legal services, so we have to help those who represent themselves,” said retired Alabama Chief Justice Sue Bell Cobb.

During the most recent economic downturn, Cobb said 85 percent of the state employees’ layoffs were in the court system. Because of budget cuts and resistance from legislators to raise revenue, the courts laid off one-third of its juvenile probation officers and one-half of its court specialists in the clerk’s offices.

“It’s compromising justice, there’s no doubt about it,” Cobb said. “We wouldn’t be able to keep the doors open but for the use of technology.”

U.S. District Court Judge Jay C. Zainey said the federal courts in the Eastern District of Louisiana don’t see as many *pro*



Jay Zainey, U.S. District Court judge

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se cases. But when they do, judges appoint counsel. However, “we are very sensitive to budget cuts,” Zainey said.

“In New Orleans, we live by Pre-Katrina and post-Katrina,” Zainey added, referring to the hurricane that devastated the area in 2005. “We had 60 homeless shelters then and now we have five homeless shelters...and it has nothing to do with laziness, it has everything to do with poverty.”

Zainey and the other panelists agreed that local bar associations and law firms should contribute more *pro bono* services. The panelists also discussed the growing interest from law students in *pro bono* work and criminal justice reforms that might reduce the financial stress of the courts.



[Learn More About:](#) Access to Justice, Legal Services / Legal Services Corporation (LSC), Midyear Meeting 2012

Tags: Commission on Homelessness and Poverty, Jay Zainey, Legal Services Corporation, Mark Moreau, Martha Bergmark, Mississippi Center for Justice, Sue Bell Cobb



Comments (2)

Brenda McCracken
3:02 PM March 11, 2012

“ Pro bono lawyers judge whether a case is worth representing in a court of law. That judgment is made outside of the court system, with no argument, no finding of fact, and no jury of peers. Regardless of the reasons offered by the lawyer for refusing to accept a case, there is no way to know the facts behind the rejection. It's very much like a job rejection, except we're talking about the door to the justice system, not employment.

If a pro bono attorney refuses to represent a low income litigant, they have two choices: 1) represent yourself or 2) forfeit justice. The erosion in confidence that's created when one lawyer after another rejects an American seeking justice is no different than that created when one company after another rejects an applicant seeking employment. It's no surprise that Americans decide not to seek justice, especially after decades of being warned that a person who represents themselves has a fool for a lawyer. No matter how confident lawyers are in their ability to objectively judge which cases are worthy of representation, America will have to pay for the legitimate cases that never see the light of day. Forfeited justice eludes direct measurement, but the damage it's causing to the foundation of our society is becoming increasingly evident. Justice is never perfect, but that is no excuse for the declining equity that increasingly favors the rich and powerful.

The rise in pro se litigation is a symptom of mounting injustices, and an indication that cases where justice is being forfeited are also growing. Pro bono services and mediation offer valuable alternatives to justice only if these programs are executed with extreme vigilance to verify they are effective and do not enable injustice. Compounding settlements that hide growing social injustices from the public will harm society. It's no longer good enough to claim that a settlement is better than nothing. These expensive programs must be more than a poor man's remedy for injustice. Pro se litigants need to organize and advocate for themselves and all Americans who want justice but can't afford it.

Members Only LinkedIn Group for Pro Se Litigants:
<http://www.linkedin.com/groups?about=&gid=4346504>

Bobby
11:27 PM March 15, 2012

“ It makes a LOT of sense more and more people are going pro se.. You have a great deal of lazy attorney's looking for easy cases ie “ambulance chasers”. God forbid they actually get a case that is somewhat complicated. Not to mention their fees are becoming more and more steep..

Ive been dealing with legal issues for some time now on my own. Great cases, but attorney want to charge around my area, minimum \$1000 up front retainer (5 hours of work) then \$200 each additional hour.

Use to be, attorney would work out payment plans “or” work on a contingency structure.

Im currently going through a situation where im suing my previous landlord for code violations, landlord/tenant act of North Carolina violations, unfair/deceptive trade practices. and i Have 100% undeniable proof ie video, photographs, expert testimony, (it would be a 40 page summary on here but lets just say, im not blowing smoke, it's really open and shut case).

We first went to small claims court, but I had so much information/documents/evidence, thick as a phone book, HOWEVER the magistrate was to lazy to review my entire line of documents so she decided it a “wash”...Defendant (x landlord) counter sued for bogus fictional lies, again, I

