Access to Justice in Minnesota

The Minnesota State Bar Association and the Legal Assistance to the Disadvantaged Committee (LAD) work to ensure fairness for all in the justice system by encouraging lawyers to participate in local volunteer attorney and Judicare programs, and supporting statewide programs and resources which provide civil legal assistance to people who would otherwise be unable to afford it.

2017-18 Highlights

Justice for All

Minnesota was one of seven states to receive a Justice for All grant from the National Center for State Courts. The grant allowed stakeholders in the civil justice community to move our state closer to “100 percent access to effective assistance for essential legal needs,” the aspirational goal set out in Resolution 5 of the Conference of Chief Justices and Conference of State Court Administrators.

MSBA staff actively participated in a strategic planning process, which also involved the Judicial Branch, legal aid programs, mediation providers, the private bar, and community organizations.

The Minnesota Judicial Branch received a second grant in early 2018 to implement three aspects of the Justice for All strategic plan:

• An online “triage” portal where people with civil legal needs will answer a series of questions designed to channel them to the appropriate referral resource, including court self-help services, alternative dispute resolution, legal aid, pro bono, and private attorneys.
• Remote mediation stations at community dispute resolution programs to allow mediations across the state via remote access.
• A statewide roster of attorneys who will provide limited scope (or unbundled) legal services.

The MSBA, together with the Hennepin and Ramsey County Bar Associations, is creating the statewide roster of attorneys who provide limited scope services. The roster, which will be available to the public through the new triage portal, is launching with attorney trainings. If you would like to learn more, contact Steve Marchese at the MSBA (smarchese@mnbar.org or 612-278-6308). We are particularly interested in attorneys who already provide some unbundled services, newer attorneys, and those interested in expanding their practices.

Cy Pres Rule Amended to Benefit Legal Aid

The Minnesota Supreme Court amended Rule 23 of the Minnesota Rules of Civil Procedure to allow civil legal services to benefit from cy pres awards, which arise when unclaimed residual funds in class actions are distributed.

On the recommendation of the LAD Committee, the MSBA had petitioned for an amendment to require that a portion of remaining funds in a class action settlement be donated to the Minnesota Legal Aid Foundation. The petition aligned with the American Bar Association’s resolution urging states to adopt court rules or legislation authorizing cy pres awards to organizations serving people living in poverty. Minnesota joins 21 other states with a similar rule or statute.

Amended Rule 23 provides that when a district court is considering the possible distribution of cy pres funds, civil legal services providers will receive notice and the opportunity to request distribution of the funds. The district court will decide how to distribute the funds based on consideration of relevant factors.

LAD Committee

2017-18

Co-Chairs:
Anne Hoefgen
Legal Services of Northwest Minnesota
Julian Zebot
Maslon LLP

Subcommittee Chairs:
Resource Development
Allie Larson
Greater Twin Cities United Way

Policy
Sally Silk
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Learn more about the Legal Assistance to the Disadvantaged Committee:
www.mnbar.org/LAD
Advocacy for Legal Aid Funding

Legal aid programs, which typically help people living at or below 125% of the federal poverty level, rely on several revenue sources, including a state legislative appropriation, local government funding, philanthropic donations, and federal funding, including funding from the Legal Services Corporation (LSC).

Five delegates from Minnesota attended “ABA Day” in Washington, D.C. in April to advocate for funding for LSC and preservation of the federal Public Service Loan Forgiveness program. The delegates, who included 2017-18 MSBA President Sonia Miller-Van Oort and President-Elect Paul Godfrey, met with all but one of Minnesota’s representatives and senators.

Although the president had called for elimination of LSC in 2018, LSC, with bipartisan support, received a funding increase to $410 million, together with an additional $15 million for disaster-related funding. The president has again called for LSC’s elimination in Fiscal Year 2019.

In Minnesota, civil legal aid offices are forced to turn away 60% of eligible clients due to a lack of resources. Federal assistance for legal aid programs is critical.

Statewide Low Fee Family Law Project

The MSBA and the Hennepin County Bar Association launched a collaborative project to expand an existing HCBA Low Fee Family Law Project to cover all of Minnesota. Initiated based upon a report and recommendation from the LAD Committee, the project brings together attorneys interested in serving modest-means clients with potential family law clients who exceed legal aid income guidelines but cannot afford the services of a private attorney. HCBA lawyer referral staff screen the clients for financial eligibility and, if approved, the clients pay a billable rate of $55 per hour.

Of the 98 cases placed by the project since September 1, 2017, 40 have been with attorneys new to the low fee panel.

We continue to seek new attorneys for the project, particularly those located in northern Minnesota. Please contact Dana Miner at the HCBA for more information (dana@hcba.org or 612-752-6666.)
The Bernard P. Becker awards are presented annually by the MSBA and the Legal Assistance to the Disadvantaged Committee for outstanding legal work by attorneys, advocates, paralegals, and law students on behalf of low-income clients.

“The MSBA recognizes the commitment of Minnesota attorneys and staff who work zealously to provide justice for low-income people in our communities.”

– Sonia Miller-Van Oort, 2017-18 MSBA President

Bernard P. Becker Awards

The Bernard P. Becker awards are presented annually by the MSBA and the Legal Assistance to the Disadvantaged Committee for outstanding legal work by attorneys, advocates, paralegals, and law students on behalf of low-income clients.

The winners (l-r): Emerging Leader—Anne Applebaum (Immigrant Law Center); Legacy of Excellence—Irene Opsahl (Mid-Minnesota Legal Aid) and Gerald Kaluzny (Southern Minnesota Regional Legal Services); Law Student—Mimi Levin (University of St. Thomas); Advocate—Ruth Roch (Legal Services of Northwest Minnesota).
Resource Development

After a Supreme Court advisory committee recommended against adoption of the proposed rule change regarding cy pres distributions, discussed above, subcommittee members prepared comments for the Supreme Court and solicited support from the private bar. The MSBA secured a letter of support from the president of the American Bar Association. Former Chief Justice Eric Magnuson volunteered to make the oral argument at the Supreme Court hearing. The result: an amended rule allowing cy pres distributions to legal services organizations.

The committee continued its support for the Prime Partners bank program and other measures to increase charitable giving to legal aid programs.

Policy

The Policy Subcommittee is developing a proposal for a civil right to counsel for tenants in some Public Housing Authority cases. The subcommittee’s proposal aligns with national trends toward “Civil Gideon” in eviction cases as America faces an affordable housing shortage and the human, social, and financial consequences of eviction are recognized.

Minnesota data demonstrates that tenants who are represented by counsel in eviction cases have better outcomes, but legal aid programs and pro bono attorneys alone cannot meet the needs of tenants in housing litigation. The subcommittee proposes that private attorneys would be paid to provide assistance in public housing cases.

A law student recruited through the Minnesota Justice Foundation assisted in research for the proposal, and subcommittee members presented a CLE on the civil right to counsel at several locations this past year.

Law School Initiative

The Law School Initiative brings together Minnesota’s three law schools, the Minnesota Justice Foundation, and members of the private bar to promote public service careers and encourage pro bono service by law students. During the past year, LSI worked to increase pro bono opportunities for hybrid students and international students. LSI also addressed the impact on student volunteerism when students’ time is taken up by paid clerkships and for-credit internships.

Pro Bono

Crisis and disaster preparedness: After the hurricanes in Florida, Texas, and Puerto Rico devastated many homes and critical infrastructure, with particularly devastating results for those with the fewest resources, the LAD Committee began to develop a coordinated response to a natural disaster or human-made crisis that could occur in Minnesota.

The Pro Bono Subcommittee will coordinate with Legal Services State Support to provide public education materials on LawHelpMN.org, an online resource for low- and moderate-income Minnesotans needing legal help. Materials for attorneys interested in crisis response and to coordinate volunteer efforts will be made available on ProJusticeMN.org.

Pro Bono Week: As part of the national celebration of Pro Bono Week in October, the Pro Bono Subcommittee hosted a CLE, “Beyond Status: Meeting the Legal Needs of Today’s Immigrants,” featuring a panel of attorneys from nonprofit legal service organizations and the private bar.

Uniform pro bono reporting: The subcommittee is exploring a recommendation that all Minnesota attorneys be required to report their hours of pro bono service. Minnesota currently has an aspirational goal of 50 hours of service for lawyers. The goal of a change is to increase pro bono service for Minnesotans who are eligible for legal aid but who cannot be served due to lack of resources.

Annual volunteer attorney program meeting: Over 30 volunteer attorney and pro bono program staff gathered for the annual spring meeting with the Pro Bono Council. The agenda included tips for messaging pro bono opportunities across platforms, best practices in mentoring pro bono volunteers, a review of 2017 pro bono case closing data from the Legal Services Advisory Committee (LSAC) and a discussion of the recent ABA Equal Justice Conference programs in San Diego. This is the largest gathering of pro bono-focused staff in the state and an important professional development/information-sharing opportunity.

Learn more about the Legal Assistance to the Disadvantaged Committee by visiting: www.mnbar.org/LAD

Interested in joining the LAD Committee? Contact Sherri Knuth: sknuth@mnbar.org or Steve Marchese: smarchese@mnbar.org