THE SUPREME COURT *of* OHIO

REPORT *and* RECOMMENDATIONS *of* THE SUPREME COURT *of* OHIO

Task Force *on Access to Justice*

MARCH 2015

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Task Force on Access to Justice
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MAUREEN O'CONNOR
Chief Justice

PAUL E. PFEIFER
TERRENCE O'DONNELL
JUDITH ANN LANZINGER
SHARON L. KENNEDY
JUDITH L. FRENCH
WILLIAM M. O'NEILL
Justices

MICHAEL L. BUENGER
Administrative Director

MINDI L. WELLS
Deputy Administrative Director

Task Force on Access to Justice

Hon. Yvette McGee Brown (*Chair*)	Columbus
Hon. Judith L. French	Columbus
Hon. Diane Palos	Cleveland
Hon. Rosemary Grdina Gold	Cleveland
John Holschuh, Jr.	Cincinnati
David Alexander	Columbus
Angela Lloyd	Columbus
Richard Pogue	Cleveland
William Weisenberg	Columbus
Karen Wu	Toledo
Timothy Young	Columbus

Staff Liaison
Minerva Elizaga, Esq.

Chairperson's Letter

TABLE OF CONTENTS

PAGE

EXECUTIVE SUMMARY i.

BACKGROUND

I. DIRECTIVE 1: Identification of Gaps in and Obstacles to Accessing the Civil Justice System in Ohio

II. DIRECTIVE 2: Review entities established by other states to address access to justice issues

III. DIRECTIVE 3: Determination of whether the creation of a Supreme Court operated or affiliated entity focused upon access to justice would assist in addressing or resolving the gaps in and obstacles to accessing the civil justice system in Ohio

IV. DIRECTIVE 4: Recommendations Concerning the Organizational Structure, Membership, and Responsibilities of the Entity Proposed

V. RECOMMENDATIONS to Address or Resolve Gaps In or Obstacles to Accessing the Civil Justice System in Ohio

1. Funding
2. *Pro Hac Vice* Funding for Legal Services
3. Implement an Add-On Fee for Attorney Registration
4. Create a Supreme Court Access to Justice Director Position
5. Development of an Access to Justice Impact Statement
6. Technology
7. Self-Help Centers
8. Limited-Scope Representation

PAGE

9. Revising Ohio's License Requirements in Support of Military Spouse Attorneys

10. Emeritus Rule

11. Forms

OTHER CONSIDERATIONS

APPENDIX A

APPENDIX B

EXECUTIVE SUMMARY

ACCESS TO JUSTICE, access to our courts, access to the resolution of a dispute before a fair, impartial and independent arbiter of justice, and sound legal advice are fundamental to a free and democratic society and instill in the citizenry an understanding and commitment to the rule of law. The establishment of justice is an enduring principle set forth in the preamble to the United States Constitution and refreshes us daily in our recitation of the Pledge of Allegiance when we conclude with the words "and justice for all."

On July 1, 2014, Chief Justice Maureen O'Connor appointed an Access to Justice (ATJ) Task Force and charged it as follows:

> (1) Identify gaps in and obstacles to accessing the civil justice system in Ohio;
>
> (2) Review those entities established by other states to address access to justice issues;
>
> (3) Determine whether the creation of a Supreme Court operated or affiliated entity focused upon access to justice would assist in addressing or resolving the gaps in and obstacles to accessing the civil justice system in Ohio;
>
> (4) If the creation of such entity is suggested, present recommendations concerning the organizational structure, membership, and responsibilities of the entity.

In approaching our work, the task force was mindful of the challenges and complexity of providing recommendations for systemic change in a state as large and diverse as Ohio with 88 counties, urban and rural, and 382 local courts. However, justice is too important not to address. As Justice Scalia said this year at the 40th anniversary celebration of the Legal Services Corporation (LSC), the largest funder of civil legal aid in the nation:[1]

> The American ideal is not for some justice, it is, as the pledge of allegiance says, 'Liberty and justice for all' or as the Supreme Court pediment has it 'equal justice.' I've always thought that's somewhat redundant. Can there be justice if it is not equal, can there be a just society when some do not have justice? Equality, equal treatment is perhaps the most fundamental element of justice.[2]

What follows are recommendations that will require bi-partisan support and commitment from the general assembly, in cooperation with the organized bar associations, legal aid agencies, law schools, and lawyers throughout the State of Ohio. Although absolutely critical, money alone will not solve the problem. The need is vast, and the commitment to provide access to justice to all must be a continual focus with leadership from the Supreme Court if we are to improve access to justice for civil litigants in Ohio.

BACKGROUND

During an Access to Justice Conference held in February 2013, Chief Justice O'Connor identified access to justice as a priority in Ohio and stated: "It is imperative that we, the bench and the bar, work together in these difficult financial times to maintain access to justice. It is imperative that the challenges are met by not only addressing the funding but

[1] Legal Services Corporation, *Remarks by Chairman John G. Levi at the Pro-Bono Reception*, January 23, 2015, http://www.lsc.gov/remarks-chairman-john-g-levi-pro-bono-reception-miami-fl-january-23-2015 (accessed March 22, 2015).
[2] *Id.*

by also examining where efficiencies lie, where alternatives can be identified, [and] where solutions can be implemented…."[3]

The Supreme Court of Ohio submitted a proposal to the ABA Access to Justice Commission Expansion Project and was awarded a grant by the American Bar Association Fund for Justice and Education. The funding has been used to create the Task Force on Access to Justice and to support its activities.

The Task Force is chaired by former Ohio Supreme Court Justice Yvette McGee Brown. The members are: Justice Judith French; Hon. Diane Palos, Cuyahoga County Domestic Relations Court; Hon. Rosemary Grdina Gold, Cuyahoga County Domestic Relations Court; John Holschuh, Jr., Partner, Santen & Hughes and President-elect of the Ohio State Bar Association; David Alexander, Partner, Squire Patton Boggs; Angela Lloyd, Executive Director, Ohio Legal Assistance Foundation; Richard Pogue, Senior Advisor, Jones Day; William Weisenberg, Consultant, Ohio State Bar Association; Karen Wu, Attorney, Advocates for Basic Legal Equality, Inc.; and Timothy Young, Ohio Public Defender.

The issue of access to justice for all is not a new one. For decades, states have struggled with providing civil legal services to the indigent. Ohio is a leader in planning and coordinating statewide funding for civil legal aid. The late Chief Justice Thomas J. Moyer championed the creation of Ohio Legal Assistance Foundation ("OLAF") in 1994 in response to a statewide legal needs assessment known as the Spangenberg Report, which found that only 17% of the civil legal needs of the poor in Ohio were being met. OLAF's purpose is to provide funding to civil legal aid programs and assist with improving the delivery of civil legal aid in Ohio.[4]

[3] Chief Justice Maureen O'Connor, speech at the OSBA Convention, (May 3, 2012), available at The Supreme Court of Ohio, http://www.supremecourt.ohio.gov/PIO/Speeches/2012/OSBAConvention.asp (accessed March 22, 2015).
[4] *Id.*

Since that time, 38 states have created access to justice commissions. The Task Force looked closely at five – Illinois, Maryland, Tennessee, Texas and the District of Columbia. These task forces were selected to compare structure, initiatives, and success in increasing access to justice. The Task Force also examined the civil legal services structure in Ohio, including its history, funding, and impact. The Task Force met five times during the course of its deliberations, methodically addressing the four-part directive issued by Chief Justice O'Connor.

I. DIRECTIVE 1: IDENTIFICATION OF GAPS IN AND OBSTACLES TO ACCESSING THE CIVIL JUSTICE SYSTEM IN OHIO

The barriers to accessing the civil justice system in Ohio can be classified as funding, structural, and cultural.

A. FUNDING

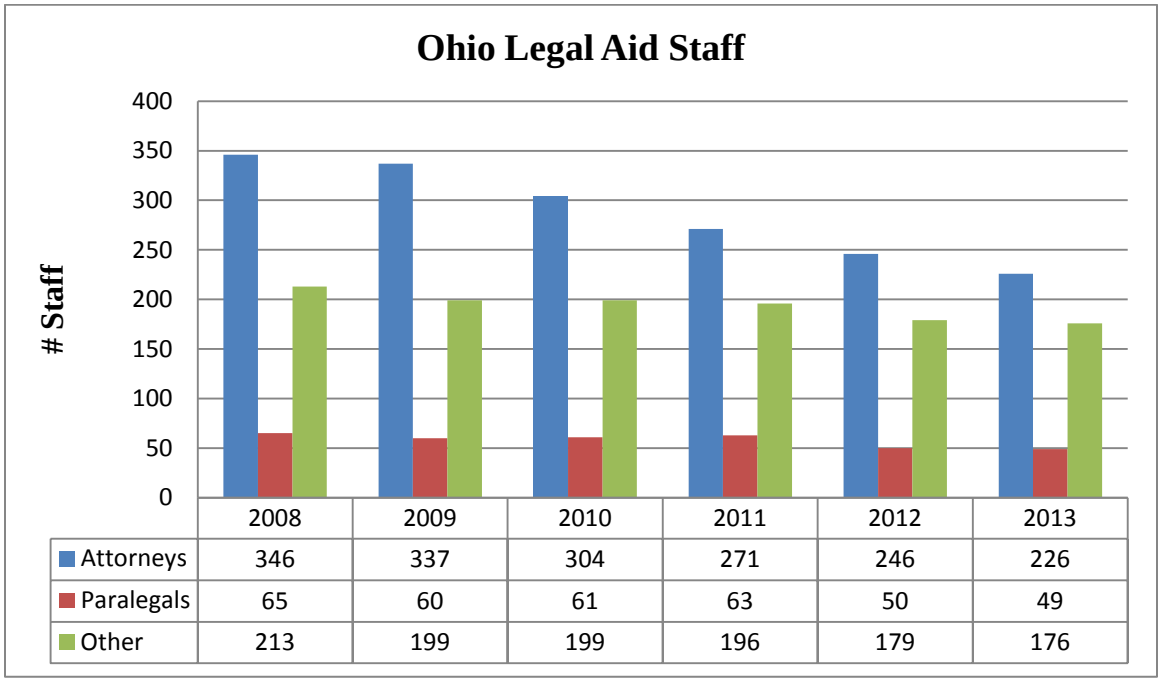
The primary barrier to access to justice is inadequate funding. While legal aid services have never been fully funded, the crash of the economy in 2008 further exacerbated the civil legal aid funding crisis. In Ohio, civil legal aid is primarily provided by six legal aid societies which collectively cover all areas of the State. The "legal aid" which they render is funded by interest on lawyers' trust accounts (IOLTA) and interest on trust accounts (IOTA); a designated civil filing fee; by federal funds appropriated to LSC; and by private, charitable contributions. At present, legal aid agencies do not receive any general revenue money from the State.

Though the commitment to access to justice for all is high, funding for civil legal aid is at a seven-year low. Revenue from trust accounts has decreased 90% since 2007 due to lower interest rates.[5] This lack of funding is a trend seen throughout the nation. Due to these limited resources, legal aid agencies turn away approximately three people for

[5] Minutes of Task Force on Access to Justice Meeting (Aug. 1, 2014) (presentation by Angela Lloyd, Executive Director of OLAF).

every one person served.[6] Further, the lack of funding has caused legal aid staffing cuts and the closure of legal aid offices in Mansfield, Zanesville, Marietta, Lancaster, and Fremont.

The Advocates for Basic Legal Equality/Legal Aid of Western Ohio lost over 35% of its staff and the Ohio State Legal Services Association has also fared poorly over the years. The following graph and chart shows the staff reductions in legal aid offices throughout Ohio since 2008.



	2008	2009	2010	2011	2012	2013
Attorneys	346	337	304	271	246	226
Paralegals	65	60	61	63	50	49
Other	213	199	199	196	179	176

The cases accepted by legal aid all pertain to basic human needs, such as protection from domestic violence, housing, schooling, and veterans' benefits. Thus, it is critical that adequate funding be made available to serve these vital needs.

[6] *Id.*

B. STRUCTURAL BARRIERS: FORMS, RULES, AND LACK OF COORDINATION

The legal needs of Ohio's indigent, low, and moderate income population are not being met, despite there being almost 36,000 attorneys registered for active status in the State. The lack of standardized forms is one example of a structural barrier to accessing the civil justice system. There are standardized forms in connection with domestic relations, probate, and civil protection orders; however, many legal needs still are not addressed by the current forms.

Lack of a statewide coordinated effort to utilize technology is also a structural barrier. While many courts have online dockets and legal aid offices have their own websites, no one single resource exists to which Ohioans can be directed with regard to legal information, standardized forms, and guidance on navigating the civil legal system.

Further, there is currently nothing outside the Rules of Professional Conduct that address limited scope representation, also known as unbundled services, by Ohio attorneys. According to the ABA, there are at least 29 jurisdictions that expressly permit limited scope representation in their civil rules of procedure[7] as a means to address the needs of low and moderate income individuals by providing specific legal services at reasonable rates.

C. CULTURAL

Cultural barriers include a lack of knowledge regarding when an attorney is needed, the role of lawyers and the judiciary, the cost of legal services, and what programs may be available to provide assistance. Further, there appears to be lack of understanding by the public of the role that Ohio's legal aid programs play in the court system.

[7] ABA Standing Committee on the Delivery of Legal Services, *Pro Se Unbundling Resource Center*, http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/court_rules.html (accessed March 22, 2015).

Despite research indicating unanimous support for the principle that Americans should have access to representation in civil matters, there is no demonstrated public commitment to ensure that courthouses are open to our most financially vulnerable citizens.[8]

II. DIRECTIVE 2: REVIEW ENTITIES ESTABLISHED BY OTHER STATES TO ADDRESS ACCESS TO JUSTICE ISSUES

The Task Force undertook a careful review of the access to justice commissions in five jurisdictions and studied their structure, mission, and demonstrated ability to increase access to justice – Illinois, Maryland, Tennessee, Texas, and the District of Columbia. While each commission has achieved success, the Task Force focused on specific, measurable ways in which the entities were able to increase access to justice, such as increasing funding and mobilizing pro bono projects to underserved areas, and ultimately increasing the number of people who were served. The Task Force is focused on practical solutions that can be implemented to achieve results.

A. SUPREME COURT ENGAGEMENT

Looking at other state models, a crucial factor was active engagement by the Supreme Court. The leadership from either the Chief Justice or a designated justice is key to creating systemic change and bringing other stakeholders to the table. For example, in Texas, with the leadership from the Court, the ATJ commission was able to create a funding stream through the victims of crime fund and later a general revenue allocation that is now $17 million annually. In Massachusetts, the Supreme Judicial Court created a new *pro hac vice* rule whereby all fees went to support legal aid services and the commission.

In New York, Chief Judge Jonathan Lippmann was instrumental in the implementation of the requirement that all applicants perform 50 hours of qualifying pro bono service before

[8] Minutes of Task Force on Access to Justice Meeting (Aug. 1, 2014) (presentation by Angela Lloyd, Executive Director of OLAF).

admission to the bar. New York law schools use internships to meet this requirement, the goal being exposure to pro bono at the start of their career may encourage more pro bono services once they are licensed attorneys.

Michigan's Legal Help Program (MLHP) was created following a recommendation from the Solutions for Self-Help Task Force established in 2010 by then Chief Justice Marilyn Kelly.[9] MLHP includes a website, www.Michiganlegalhelp.org, which helps pro se litigants access the proper forms and answers standard questions. In 2014, the website assisted 273 individuals per day with legal forms.[10] The program also includes self-help centers that provide assistance to pro se litigants in civil matters.

1. Illinois Access to Justice Commission

The Supreme Court of Illinois created an Access to Justice Commission in 2012, which focuses on three areas: standardized forms; language access; and court guidance and training.[11] The eleven member commission consists of appointees from the Supreme Court, the Illinois Bar Foundation, the Chicago Bar Foundation, the Lawyers Trust Fund of Illinois, and the Equal Justice Foundation.

The commission, with authority to develop and approve standardized forms, has a forms committee with various subcommittees working on several areas of the law, such as orders of protection, name change, expungement/sealing, and divorce. The forms and information sheets are developed, shared for 45 days of public comment, and once approved by the Commission's Forms Committee, are made available on the Illinois Supreme Court's website, where they are automated by Illinois Legal Aid online. The website states "Approved Statewide Forms. The following forms have been approved for

[9] *Id.*
[10] Michigan Legal Help News, *What's new on MLH: End of 2014 Edition,* (Dec. 14, 2014), http://michiganlegalhelp.org/news (accessed March 22, 2015).
[11] Illinois State Bar Association, *Illinois Supreme court Access to Justice Commission Begins Work to Improve Access to Justice in Illinois,* http://www.isba.org/probono/illinoissupremecourtaccesstojustice (accessed March 23, 2015).

use by the Supreme Court Commission on Access to Justice and are required to be accepted in all Illinois courts."[12] Currently, there are 12 forms available on the website.

The Commission also held listening conferences in each of the five appellate districts to determine additional access to justice priorities. Issues that were identified included providing legal services to the working poor and modest means clients; mentorship for young lawyers for pro bono cases; and CLE credit for pro bono work. While the commissioners have been actively engaged and have support of the Supreme Court of Illinois, there are also hundreds of volunteers who participate in the various projects spearheaded by the commission's forms, language access and court training committees.

2. Maryland Access to Justice Commission

The Maryland Access to Justice Commission was established in 2008 by then Chief Judge Robert Bell to "develop, coordinate and implement policy initiatives to expand access to the [s]tate's civil justice system. The commission was comprised of 45 members and brought together representatives of the judiciary, state bar association, and the executive and legislative branches.[13] The commission completed projects through the five following committees: Access & Delivery of Legal Services; Critical Barriers; Definitions, Standards & Awards; Public Education; and Self-Represented Litigants.

To educate and guide the many people that must use the court system without the assistance of an attorney, the commission created a series of short videos and tip sheets on topics ranging from how to defend against a small claim to finding legal help. The commission also assisted with the establishment of self-help centers in district (small claims/municipal) courts, including a virtual help center and a phone line.

[12] Administrative Office of the Illinois Courts Standardized State Forms http://www.state.il.us/court/Forms/approved/default.asp (last accessed March 10, 2015).
[13] Maryland Access to Justice Commission Interim Report and Recommendations, Fall 2009, http://www.mdcourts.gov/mdatjc/pdfs/interimreport111009.pdf (accessed March 22, 2015).

The commission was instrumental in supporting legislation to continue funding from the Maryland legislature and also helped create a web page to the online pro bono reporting that Maryland attorneys complete each year. The page invites attorneys to make a voluntary contribution to a legal services organization and directs the attorney to the organization's online donation page. In the 2012 Reporting Cycle, approximately $70,952 in contributions were collected for the civil legal services providers in Maryland.[14]

Maryland's high court decided to end the ATJ Commission effective December 31, 2014, and created an Access to Justice Department within the judiciary.[15] The ATJ Department of the Maryland Court of Appeals, which includes the court interpreter program, continues to "support and advance access to justice innovations within the judiciary," and will collaborate with a new external ATJ partner,[16] which has not yet been identified.

3. Tennessee Access to Justice Commissions

The Tennessee commission is a stand-alone commission created by court rule with two court employees. With no source of recurring funds, the commission started with a budget of $142,000 in Fiscal Year 2015, most of which has been used to support projects such as plain language forms, a video regarding access to justice, and CLE events.

The commission consists of 10 members and a Supreme Court Justice, who serves as a liaison. The commission has 6 advisory committees; each committee is chaired by a commissioner, and the rest of the committee is comprised of volunteers. The volunteers are recommended by legal aid executive directors and include attorneys, paralegals, and non-attorney professionals who can assist with projects, such as IT professionals.

[14] Maryland Access to Justice Commission 2013 Annual Report, p. 5 http://www.mdcourts.gov/mdatjc/pdfs/annualreport2013.pdf (accessed March 23, 2015).
[15] Maryland Judiciary Creates Access to Justice Department, Sept. 15, 2014, http://www.courts.state.md.us/media/news/2014/pr20140915.html (accessed October 2, 2014).
[16] *Id.*

Committees focus on areas including pro bono, outreach to faith based communities, standardized forms, and public awareness. By including volunteers in the various initiatives, the commission is able to have a broad base of stakeholders involved in the ATJ Commission and gain public support.

4. Texas Access to Justice Commission

The Texas Access to Justice Commission, created in 2001 by the Supreme Court of Texas, has 20 commissioners, including a Texas Supreme Court Justice who serves as a liaison. The state bar provides staffing for the commission, including a full-time executive director.[17] The commission has educated legislators, the bench, and bar regarding the importance of civil legal aid, and gained support throughout the community for its various projects.

The commission's primary advocacy issue has been state funding for legal aid. In 2009, it helped secure the first-ever state appropriation for civil legal aid funding to address the shortfall from IOLTA. In 2013, a general revenue appropriation of $17.6 million was made to civil legal aid programs. In addition, the Texas legislature passed a bill known as the Chief Justice Jack Pope Act, which increased the funds legal aid can receive through the state attorney general's civil penalties from a maximum of $10 million to $50 million in a given year.

The commission is also developing new funding sources in the form of bar dues assessments and a *pro hac vice* fee, and monitors the effectiveness of the statewide delivery system. Projects include connecting pro se litigants in rural areas with a pro bono attorney by video conferencing to handle simple divorce cases and providing a framework for corporate counsel to participate in pro bono activities.

[17] Hecht & Kilbride, *Access to Justice Commissions: Lessons from Two States*, Trends in State Courts 2014, National Center for State Courts 43.

5. District of Columbia Access to Justice Commission

The District of Columbia Access to Justice Commission is a standalone commission created by court rule and funded by the Access to Justice Foundation, which exists solely to fund the salaries of the two staff members - an executive director and deputy director. As an independent entity, the commission raised over $4 million in 2013 through its Raise the Bar Campaign. The commission has secured steady funding from the DC City Council for legal aid and undertook a comprehensive civil legal needs assessment to compare the legal needs in nine practice areas (consumer, education, employment, estate planning, family, public benefits, health/disability, housing, and immigration) with the network's capacity to meet those needs. The report identified the need in each practice area surpassed the resources available.

Based on the review of the various commissions, there emerged a recurring theme amongst all the entities: they each prioritized the commission's efforts based on the needs of the population. While funding is the pervasive barrier, there are also barriers that each commission is working to overcome using technology and rule amendments as a means to close the justice gap. Employing these techniques while examining the barriers in Ohio, the task force formulated recommendations that could be implemented and measured for efficacy to determine if the legal needs of the poor are being met.

III. DIRECTIVE 3: DETERMINATION OF WHETHER THE CREATION OF A SUPREME COURT OPERATED OR AFFILIATED ENTITY FOCUSED UPON ACCESS TO JUSTICE WOULD ASSIST IN ADDRESSING OR RESOLVING THE GAPS IN AND OBSTACLES TO ACCESSING THE CIVIL JUSTICE SYSTEM IN OHIO

The Supreme Court should charge an organization with addressing the gaps and obstacles to accessing the civil justice system in Ohio. However, ensuring access to justice is the shared responsibility of all three branches of government working in collaboration with the organized bar, civil legal aid, law schools, and lawyers. In fact, many low-income Ohioans face civil legal challenges that can be resolved without court involvement, but

which can be addressed through, for example, administrative advocacy or work with a school to ensure educational supports. As a result, the organization charged with addressing gaps and obstacles should not be a body created by the Supreme Court alone, which means it should not be operated by or organizationally affiliated with the Court. The Task Force believes designating an independent entity to pursue efforts to increase justice for Ohioans removes any potential conflicts and allows for seamless continuity in policy direction and program implementation. Therefore the Task Force recommends that the Supreme Court work with an independent organization to lead access to justice initiatives in Ohio and to address obstacles impeding low-income Ohioans from accessing the courts.

IV. DIRECTIVE 4: RECOMMENDATIONS CONCERNING THE ORGANIZATIONAL STRUCTURE, MEMBERSHIP, AND RESPONSIBILITIES OF THE ENTITY PROPOSED

In addition, improving access to justice will require increased funding and increased greater collaboration among the a broad base of stakeholders, including the Supreme Court, the General Assembly, the Governor, bar associations, law schools, private attorneys, and community leaders. Therefore, the organization chosen to lead this effort must be able work seamlessly with each of these critical stakeholders, which requires a statewide presence. The goal is to increase collaboration and partnership among different stakeholders, improve communication, reduce duplication of efforts, and streamline processes. The task force does not believe that a brand new organization should be created for this purpose, as duplication often increases costs, impairs effectiveness, and muddles communication.

The independent organization chosen will also need to have the financial and administrative capacity to operate, report on, and measure the impact of statewide programs, particularly those that will positively impact access to justice such as organizing, administering and promoting pro bono activities; spearheading efforts to

increase funding; and funding fellowships and innovative new programs. The task force discussed at length the pros and cons of having a Supreme Court Justice sit in an ex officio capacity on the board of the independent organization. Some states have seen success as a result. The task force encourages the Supreme Court to consider such an appointment.

We believe designating an outside entity to pursue these efforts over time removes any potential conflict and allows for seamless continuity in policy direction and program implementation. Ohio is fortunate to have OLAF in place with significant expertise in this area. (Appendix) OLAF can be a great resource, convenor, or the organization that takes on this work. We believe, however, this is a decision best left to the Court.

The proposals herein are meant to increase collaboration and partnership among the different stakeholders, increase communication, reduce duplication of efforts, and streamline processes with the ultimate goal of providing more access to more people.

V. RECOMMENDATIONS TO ADDRESS OR RESOLVE GAPS IN OR OBSTACLES TO ACCESSING THE CIVIL JUSTICE SYSTEM IN OHIO

1. FUNDING

Adequate funding of our justice system to insure access to justice is a societal responsibility. We, therefore, recommend that the Ohio General Assembly include in every biennial budget funds designated to improve and increase access to justice in our state. At a minimum, the task force recommends funding for the restoration of 120 Legal Aid attorneys and their support staff laid off as a result of dramatically declining funds from Interest on Trust Accounts and other funding sources as a result of the recession. We also recommend funding for the re-opening of legal services offices in southeastern Ohio.

As an example, drastic reduction in attorney positions and the closure of the Southeastern Ohio Legal Services (SEOLS) offices have resulted in significantly less service to Ohioans needing essential civil legal services as well as a concomitant growth in self-represented litigants that continues to adversely impact court administration and the timely disposition of disputes. The number of cases opened for SEOLS, which serves 30 counties in southeast Ohio, declined from 2008 to 2014, with a hiring freeze, loss of staff, and ultimate closure of three offices:

2008: 9,886

2013: 5,973

2014: 4,311

The initial loss of resources begets further loss, as explained by Executive Director James Daniels's:

> As a result of the office closures, travel time to serve the poor has increased significantly which cuts into time available to help. For example, before we closed our Marietta office, it was only 31 minutes or a 26 mile drive to appear in court to help a poor person in Caldwell, Ohio. Now, it is a 1 hour and 16 minute and 79 mile drive to appear in court to help a poor person in Caldwell from our Athens office.

The SEOLS Marietta office which served Washington, Morgan, Monroe, and Noble Counties closed its doors on January 31, 2014, after 33 years of operation. In 2013, the office assisted 1,088 families. Today, the closest legal aid office is located in Athens, over 45 miles away.

The Task Force further recommends engagement from law firms, foundations, law schools, and the business community to further support access to justice efforts. The Task Force especially urges bar foundations to enhance their fundraising activities by emphasizing access to justice programs and initiatives.

RECOMMENDATION

The task force recommends a general revenue appropriation for indigent civil legal services in Ohio.

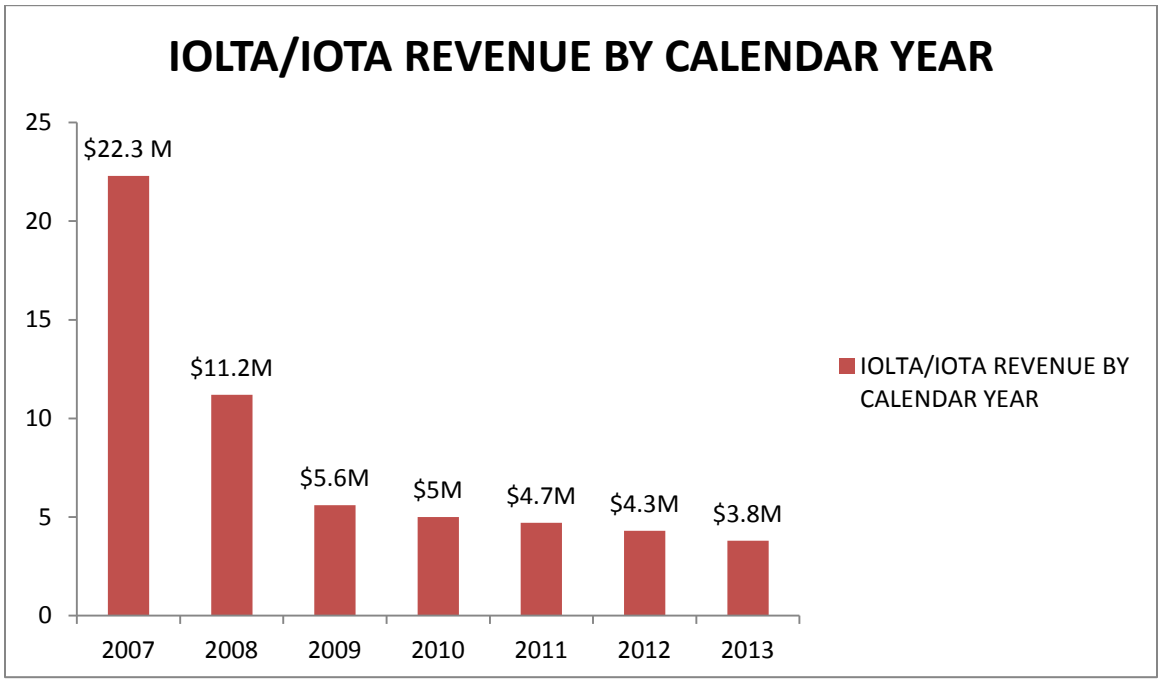
Discussion

In Ohio, decreased funding for civil legal aid, which includes funds from LSC, IOLTA/IOTA, has resulted in legal aid office closures, staff layoffs, and the corresponding decrease in the amount of people served. In 2010, Ohio legal aid offices handled 86,541 matters.[18] By 2013, that number dropped to 57,593,[19] despite an increase in the income eligible population for legal aid.

Ohio's Qualifying Poverty Population		**Matters Handled**
2009	1,984,885	84,618
2010	2,053,978	86,541
2011	2,138,931	76,466
2012	2,216,093	64,460
2013	2,281,746	57,593

This decline in funding for civil legal services is a nationwide phenomenon. In reviewing how other jurisdictions have dealt with the decrease in IOLTA/IOTA fees, the Task Force recommends a legislative appropriation be sought in order to fund civil legal aid in Ohio.

[18] OLAF Presentation, Access to Justice Task Force Meeting, August 1, 2014.
[19] *Id.*



In 1991, an Ohio Legal Needs Study known as The Spangenburg Report found that "more than 590,000 low-income household experienced problems between July 1989 and July 1990. Only 17 percent of these problems received legal attention while 83 percent went without legal help."[20] One of the recommendations in the 1991 report was that the Ohio General Assembly "should be encouraged to support the provision of free legal services to the poor through the creation of a legal services line item funded with general revenues."[21] The request for a legislative appropriation is neither novel nor unprecedented. According to the ABA, 31 jurisdictions provide funding for civil legal aid by a legislative appropriation or funding from a portion of the court fees and fines collected.[22] Ohio's civil legal aid agencies continue to be funded by a grant from the LSC, IOLTA fees, grants, and donations; however, there has never been direct legislative

[20] *An Assessment of the Unmet Civil Legal Needs of Ohio's Poor (The Spangenburg Report)*, September 1991, p. 3.
[21] *Id.* at p. 8.
[22] "State Legislative Funding for Civil Legal Aid,"ABA Resource Center for Access to Justice Initiatives," http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_legal_aid_funding_state_legislative.authcheckdam.pdf (last accessed March 4, 2015).

funding for legal services. Ohio must follow the lead of the majority of states to ensure access to justice for its citizens.

The Massachusetts Legislature approved a $15 million appropriation for its legal aid programs in Fiscal Year 2015. While IOLTA provided $31.8 million for legal aid in Massachusetts in 2007, it only generated approximately $4.5 million in 2014. The Massachusetts Access to Justice Task Force is further recommending an additional $30 million increase over three years, which would still not meet demand, but would begin to address the shortfall. The task force found that for every dollar spent on legal aid to keep people in their homes, the state saves $2 in homelessness benefits.

Civil Legal Aid Programs Generate Dollars and Stabilize Communities

Civil legal aid programs generate funding in communities by securing federal grants to help fund their operations; by assisting clients in securing federal benefits; and increasing federal, state, and local tax revenues. In 2010, Ohio's civil legal aid activities generated $5.6 million in total tax revenue.[23] There is a 115% return for every dollar invested in legal aid.[24] Studies consistently show that investing in civil legal aid programs has a positive economic impact.

Civil legal aid programs provide a framework within which millions of federal dollars come into Ohio in the form of Social Security Disability, Medicare, and other income. These income sources stabilize families, provide security, and stimulate economic activity in local communities when families spend their income on housing, food and health services.

The Task Force recommends that the General Assembly provide funding to address access to justice for indigent civil litigants that will provide critical services to the state's most vulnerable population, including seniors and children.

[23] "Strength In Justice: Ohio's Legal Aids Energizing Our Economy and Building Our Communities," Ohio Legal Assistance Foundation (2010).
[24] *Id.*

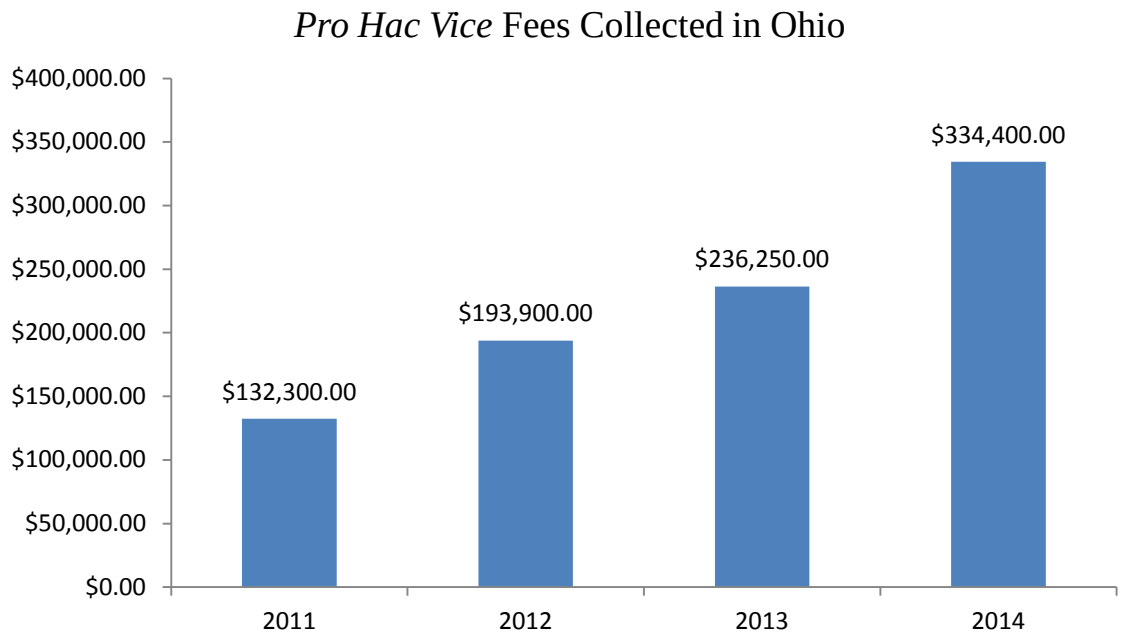
2. *PRO HAC VICE* FUNDING FOR LEGAL SERVICES

RECOMMENDATION

The Task Force recommends that the Supreme Court increase *pro hac vice* fees and use the additional funds to support access to justice.

Discussion

All out of state attorneys who wish to appear in an Ohio proceeding must register with the Supreme Court and pay an annual registration fee. The *pro hac vice* registration requirement has been in effect since January 1, 2011. The annual fee was raised from $100 to $150 in 2014, with the out of state attorney permitted to participate in a maximum of three proceedings per calendar year. In 2014, 2,249 *pro hac vice* applications were submitted, and the Court collected approximately $334,400.[25]



[25] Fifteen attorneys were granted waivers of the registration fee because they represented an *amicus curiae* in support of an indigent defendant in a criminal matter. Gov. Bar R. XII, Sec. 2(A)(4).

The Task Force recommends the annual registration fee be increased to $300, with the additional amounts attributable to this increase allocated to OLAF for disbursement to Ohio's civil legal aid programs. Currently, the *pro hac vice* fees are deposited into the Admissions Fund and used for matters relating to the admission of applicants to the practice of law, in accordance with Gov. Bar R. I, Sec. 14. With a fee increase, the Admissions Fund will continue to be supported and additional funds can go to support critical civil legal services in Ohio.

Nine states currently direct all or a portion of the revenue generated by *pro hac vice* registration fees to fund legal aid programs.[26] For example, Missouri implemented its *pro hac vice* rule in 2002, initially charging a fee of $100. In 2014, the Missouri Supreme Court raised the *pro hac vice* fee to $410 per case, per court. Missouri Legal Services receives 100% of the first $132,700. Thereafter, the receipts are divided with 80% going to Legal Services and 20% to The Missouri Bar In 2014, Missouri issued 1,520 *pro hac vice* receipts. Approximately $525,100 of the revenue was directed to Missouri Legal Services.[27]

The Pennsylvania Supreme Court requires a $200 admission fee per case, with the payment going directly to the IOLTA Board. The Board uses the fees to fund its Loan Repayment Assistance Program (LRAP) to benefit attorneys who work in IOLTA funded legal services organizations. By court order, the funds must be used towards the LRAP program. The IOLTA Board administers the *pro hac vice* rule and collects the fees directly from the out of state attorneys.

[26] ABA Resource Center for Access to Justice Initiatives, "*Pro Hac Vice* Funding For Legal Services," http://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2013/05/nat_l_mtg_of_accesstojusticecmmnchairs/ls_sclaid_atj_pro_hac_vice_revised.authcheckdam.pdf (last accessed March 6, 2015).

[27] Email from Rita Schanzmeyer, Missouri Bar Enrollment Director, dated March 17, 2015.

Pennsylvania *Pro Hac Vice* Fees

FY 2010	$260,000
FY 2011	$413,000
FY 2012	$370,800
FY 2013	$338,800
FY 2014	$270,000
FY 2015	$300,000 (projected)

Massachusetts implemented a *pro hac vice* registration rule effective September 4, 2012, with fees of $101 or $301 per case, depending on the court where the case is filed. The fees are collected by the Board of Bar Overseers and then distributed to the Massachusetts IOLTA Committee quarterly. For calendar year 2013, the IOLTA Committee received $232,191 and $193,098 in 2014.

The Task Force recommends that the Supreme Court consider increasing the *pro hac vice* registration fee and direct the additional fees to civil legal aid services. These proceeds can serve as a steady funding source for legal aid programs. agencies.

3. IMPLEMENT AN ADD-ON FEE FOR ATTORNEY REGISTRATION

RECOMMENDATION

The Task Force recommends that the Supreme Court consider instituting a voluntary "add-on" fee suggestion of $50 in the biennial registration form for attorneys, which can be directed to fund civil legal services. According to the ABA Resource Center on Access to Justice Initiatives, eight jurisdictions have a voluntary opt out fee and 15

jurisdictions have a voluntary add-on fee to fund civil legal aid. While states that employ an "opt out" method already include the suggested fee in the total amount that the attorney can submit, an "add on" method provides a charge or suggested donation amount, which the attorney may then add to the total. Six states currently have a mandatory fee for civil legal aid included in the attorney registration forms.

Massachusetts initiated a $51[28] voluntary annual access to justice "opt-out" fee. The fee is already added to the annual attorney registration statement and attorneys may opt out of the voluntary fee when completing the annual attorney registration. The Massachusetts Board of Bar Overseers began collecting the opt-out fee in September 2010. There were 55,266 Massachusetts attorneys registered on active status at the close of FY 2011. In 2011, $1.1 million was raised from the voluntary opt-out fee.

California, with 159,824 attorneys, raised $878,000 with a $100 add-on option, with clear instructions for paying or not.

Providing attorneys with an option for directing fees to support legal aid programs can serve an important function for raising awareness regarding the legal needs of the poor.

4. CREATE A SUPREME COURT ACCESS TO JUSTICE DIRECTOR POSITION

RECOMMENDATION

The Task Force recommends that the Supreme Court create the position of Access to Justice Director. The job duties of this position would include:

[28] The access to justice fee was set at $51 to avoid administrative confusion with the $50 late assessment fee. See, Letter from the Chief Justice of the Massachusetts Supreme Judicial Court dated August 2, 2010 at http://massbbo.org/answerz.htm (accessed March 18, 2015).

- Coordinating all Access to Justice programs sponsored or supported by the Supreme Court, including the Language Services Program;

- Coordinating with court-supported boards, commissions, and committees to ensure that access to justice issues are considered in any policy or rule recommendations submitted to the court.

- Working with court-supported boards, commissions, and committees to fulfill this report's recommendations;

- Reporting at least annually to the Supreme Court administration and justices on the current state of Access to Justice in Ohio and the progress made on this report's recommendations;

- Reporting regularly to and working with any justice of the Supreme Court serving on the board of any entity designated by the court as a collaborating organization for ATJ purposes, and to any other justice, as requested;

- Serving as a liaison to any entity designated by the court as a collaborating organization for ATJ purposes and ideally serving on the board of any collaborating organization;

- Serving as a resource to civil legal aid organizations;

- Participating in the review, development, and implementation of fellowships and incubator programs as a means to integrate pro bono service in the transition from law school to law practice.

This recommendation is based on two very successful commissions, Illinois and Maryland, which recently decided to create access to justice departments at the Supreme Court level. When the Illinois Access to Justice Commission was created in 2012, the commission consisted of volunteers and an Executive Director employed by the Chicago Bar Foundation. In 2014, the Supreme Court of Illinois announced the creation of a Civil

Justice Division within its administrative structure with the purpose of "supporting the Court's multidimensional initiatives to improve access to justice throughout the state." As a result of this change, the assistant director of the Civil Justice Division is the court's chief liaison with the Commission.

The Maryland judiciary created an Access to Justice Department. The executive director of the Maryland Access to Justice Commission became the director of the department, which will continue to support and advance access to justice initiatives within the judiciary. The department also includes the Court Interpreter Program and will collaborate with external access to justice entities.

Continued assessment and progress on access issues will require leadership and commitment by the Supreme Court. Creating a position within the Supreme Court dedicated to assessing, coordinating, and directing statewide Access to Justice efforts will help ensure leadership and sustained commitment.

5. DEVELOPMENT OF AN ACCESS TO JUSTICE IMPACT STATEMENT

RECOMMENDATION

The task force recommends that the Supreme Court require that an "access to justice impact statement" be filed with any proposed amendment to the Ohio Rules of Court.

Discussion

Ohio law currently provides that a fiscal analysis be submitted to the General Assembly for every proposed bill or resolution.[29] This is because fiscal impact statements are critical to ensuring that any legislator voting on a particular bill has sufficient information to evaluate the bill's full impact; for example, whether adopting a bill might require

[29] R.C. 103.14

defunding a competing program. Similarly, the Revised Code provides that the Ohio Judicial Conference may prepare a "judicial impact statement" for the General Assembly when a bill or resolution "appears to affect the revenues or expenditures of the courts of Ohio, to increase or decrease the workload or caseload of judges or members of their staffs, or to affect case disposition." R.C. 105.911. Through these measures, the General Assembly ensures that its members have the fullest information available on the full impact of a bill before they vote on its passage.

Similarly, the Supreme Court should require that the Access to Justice Director prepare an "access to justice" impact statement for any proposed change to the Ohio Rules of Courts. In the same manner that the legislative budget office may seek information from any department, institution, board, commission, authority or other instrumentality or officer of the state, county or other governmental entity,[30] so too may the Access to Justice Director request information from any state or local governmental entity, court, nonprofit entity, for-profit entity or any proponent of a change to the Ohio Rules of Courts. The "access to justice" impact statement shall address the likely number of Ohioans impacted by the proposed change; whether the change will increase or decrease access to Ohio's courts for low-income Ohioans; what impact, if any, the proposed change will have on Ohio's minority populations' access to the courts; and, what impact, if any, the proposed change will have on Ohioans with limited English proficiency's access. In this way, the Court and its boards and commissions will have the fullest information possible as to the effect of a proposed rule change prior to adopting or rejecting it.

[30] R.C. 103.14(C)

6. TECHNOLOGY

RECOMMENDATION

In order to address structural obstacles to access to justice, the Court should encourage the development and maintenance of a statewide website devoted to providing free and accurate legal information to Ohio residents who find themselves in the civil justice system. Other states have committed the time and resources necessary to develop such web sites, resulting in measurable positive increases in access to justice in those states. Using the State of Michigan's "Michigan Legal Help" website (www.MichiganLegalHelp.org) as an example, the Ohio website could include self-help tools in the areas of family law, protection from abuse, housing issues, consumer debt collection, and expungement of criminal convictions or juvenile adjudications. It would also be a central clearinghouse for easy to find information on all courts in Ohio with direct links to the court's individual web sites where the public and Legal Aid or pro bono attorneys can find court rules and forms, hours of operation, directions, etc. Finally, lists and descriptions of local community service organizations, Legal Aid offices, and bar associations could be accessed from the web site to assist people needing legal representation.

Development of the website will require leadership by the Supreme Court and collaboration with courts, bar associations, and the legal aid community. This would likely be an expansive and long-term effort as all of the courts in Ohio's 88 counties would need to participate and contribute to the information on the web site. Unfortunately, not all of Ohio's courts are presently at equal levels of technological development (which includes online dockets, online access to forms, and e-filing). Therefore, the Supreme Court's leadership and assistance will be crucial in helping Ohio's individual courts achieve these recommended goals.

A. Self Help Tools (for People to Handle Simple Civil Legal Matters Themselves)

The recommended website should allow anyone to find articles with FAQs on specific areas of the law and toolkits to help someone prepare to represent himself in court. There could also be videos or podcasts describing the different areas of the civil justice system and how to navigate them without an attorney. These short videos could be developed by law students or legal aid organizations. It is important that the information be stated in simple, sixth grade level language and be easy to follow and understand.

B. Remote Access to Courts and forms

A statewide website could also provide access to court information and forms. Providing this information online would assist pro se litigants, court staff, legal aid attorneys as well as pro bono attorneys who may have difficulties getting information from multiple courthouses. Information on each county's local court rules, access to online dockets, courthouse directions, and hours of operation could be included. It could also include downloadable [and standardized] court forms relating to a wide range of substantive areas including family law, landlord-tenant law, and consumer debt collection.

C. Links to Local Community Service Organizations, Legal Aid, and Bar Associations for Assistance with Legal Matters

In this area of the website, links could be provided to lawyer referral services, self-help centers, and community service providers. Through these links, Ohioans involved in the civil justice system would be able to locate resources within their community to help them evaluate the complexity of their particular legal issue and determine whether they need a lawyer to help them navigate the civil justice system. The lawyer referral section of the website can include links to both local legal aid organizations and bar association lawyer referral numbers. The links for self-help centers can direct people to local court resources able to review pleadings or answer questions regarding whether an attorney is necessary in a case. The links for community service providers can be organized

geographically by county and include everything from the local Department of Job and Family Services Office to the local, nonprofit domestic violence shelter.

Through a unified, statewide website, Ohioans struggling to achieve justice in our civil court system can access the fullest array of resources without having to expend unnecessary dollars or time to drive to a court house or independently evaluate the value of possible legal help. Other states have undertaken similar efforts and achieved appreciable increases in access to and satisfaction with their civil justice system. Ohio should endeavor to join those states that have successfully harnessed such technology to more widely open the court house doors.

ALTERNATE LEGAL SERVICES

7. SELF-HELP CENTERS

The task force recommends a review of Self-Help Centers as a means to respond to the unmet needs of those who are unable to afford legal services. The Franklin County Municipal Court, through the use of a special assessment fund, will launch a Civil Legal Self-Help Center in Fall 2015. The center will be staffed by one attorney and offer information to pro se litigants. Services will include assistance with completing forms, answering questions regarding the court system, and making referrals when necessary.

The Maryland Judiciary initiated self-help centers to assist with domestic and juvenile matters. The centers are staffed with a combination of court staff, contracted private attorneys, contracted legal services providers, and some volunteer attorneys.

In 2014, the Maryland centers assisted 49,082 pro se individuals with domestic case issues.. In addition to operating during court hours, the self-help centers are open two evenings a month from 6 pm to 8 pm, using meeting rooms in the local public library. By

partnering with the public library, the self-help center has been able to offer extended hours and reach the "working poor who are unable to pay for legal services."[31]

Counties are required to track demographic and statistical information from individuals they serve to provide the judiciary with a record of who is being served and identify trends or need for services. Information such as assistance type, income level, education, race, and gender provide a portrait of the users. Courts determine the criteria for accessing the services. Out of the 24 counties with self-help centers, 8 counties limit access to those who are income-eligible for legal aid.

Self-Help Centers provide limited legal services for pro se litigants. Services are focused on assistance with completing forms, answering questions about legal problems, and preparing for trial.

The Maryland centers were evaluated for their effectiveness in providing satisfactory services to clients, increasing the user's knowledge of the judicial system, and removing barriers to accessing the justice system. The study revealed the following:

a) SHCs are used heavily, with most centers running at or near full capacity.

b) Client satisfaction rate of SHCs is high, regardless of region, demographics, case type or services provided. Criteria included whether the client's questions were answered, if the client experienced a long wait time, and whether the experience increased their trust in the judicial process.

c) Positive impact on court procedure: court administrative staff reported that SHCs have a positive impact. For example, pro se litigants file more complete paperwork and gain a better understanding of the law.

[31] Brewer, Sandy, "Howard County Circuit Court's Self-Help Program Growing by Popular Demand," Justice Matters, Vol. 13, No. 1, Winter-Spring 2010.

8. LIMITED-SCOPE REPRESENTATION (UNBUNDLED LEGAL SERVICES)

Many unrepresented litigants require legal assistance for only limited phases of civil litigation. For instance, a divorcing couple with children but with no real estate, retirement accounts, or other assets may require only the preparation of a shared parenting plan that complies with statutory requirements. Most lawyers in Ohio are unwilling to take on representation of a client for a limited task. Moreover, they are unsure whether the Rules of Professional Conduct permit such limited representation. The task force recommends the promotion of limited-scope representation, also known as unbundled services, as a way to provide legal representation to litigants who may have the means to hire an attorney for a limited purpose, even if not for an entire legal matter. That limited purpose could include drafting a document, appearing at a hearing or negotiating on the client's behalf.

Rule 1.2(C) of the Ohio Rules of Professional Conduct states: "A lawyer may limit the scope of a new or existing representation if the limitation is reasonable under the circumstances and communicated to the client, preferably in writing." Neither this rule nor any other rule defines "reasonable under the circumstances," however. Without definition, lawyers find it difficult to discern when or whether the rules allow limited representation on specific matters. Compounding this difficulty is the tendency of some Ohio judges to reject the notion of limited representation altogether and insist on the continued appearance of an attorney hired only for a limited purpose.

The Dispute Design Workshop of The Ohio State University Moritz College of Law, led by Professor Nancy Rogers, conducted a preliminary survey of Ohio attorneys regarding unbundled legal services.[32] Attorneys in Columbus, Ohio (urban area) and a rural county were invited to participate in a voluntary survey. The trend emerged that the attorneys reported they were more likely to provide unbundled services if the limited scope representation was in writing and if there were safeguards regarding malpractice and ethics complaints.

32

Twenty-nine other states have addressed the issue of the permissibility of providing unbundled legal services in their states by amending rules of civil procedure to specifically include provisions regarding unbundled legal services in addition to having a provision similar to Rule 1.2(C).

To address the lack of clarity in Rule 1.2(C), the task force recommends issuance of a more definite statement of what constitutes "reasonable under the circumstances." In conjunction with the Director and staff of the Board of Professional Conduct, the committee should consider providing comments or guidance on Rule 1.2(C) that addresses common questions about when a lawyer may provide limited representation.

To address ongoing questions about limited scope representation, we recommend the development of Continuing Legal Education courses to educate lawyers about limited scope representation and how, ethically, to provide unbundled services.

And finally, to address the concerns and questions judges may have about limited representation, we recommend the development of courses within the Judicial College to educate judges about limited-scope representation and its benefits to litigants and the legal system.

By encouraging the use of unbundled services, Ohio will join several other states that have addressed limited-scope representation in statutes or rules of procedure. In Maryland, the Court of Appeals adopted amendments to its rules of civil procedure to permit attorneys to enter an appearance limited to participation in a discrete matter or judicial proceeding. When filing the notice of appearance, the attorney is required to attach an acknowledgment signed by the client that sets for the purpose and scope of the representation.[33] Further, once the attorney has completed the services outlined in the agreement, the rules of civil procedure allow for the attorney to withdraw by filing a notice of withdrawal.

[33] Maryland Rules of Procedure, Title 2 – Civil Procedure – Circuit Court, Rule 3-131.

Florida's Family Law Rules of Procedure has several provisions regarding limited scope representation, including one that requires that pleadings filed by pro se litigants and prepared with the assistance of an attorney must contain a certification that the party received assistance from an attorney.

And in Georgia, a firm called The Justice Café offers limited scope services in criminal law, juvenile law, and family law at a rate of $75 per hour. The services include negotiation, drafting, and court appearances.

Use of limited-scope representation could give litigants legal representation where and when they need it most. It can only be successful, however, if lawyers know the circumstances under which they can provide unbundled services and judges know the limitations of those services. As immediate steps toward those ends, we recommend clarification of Rule 1.2(C) and education for lawyers and judges.

9. REVISING OHIO'S LICENSE REQUIREMENTS IN SUPPORT OF MILITARY SPOUSE ATTORNEYS

RECOMMENDATION

The Supreme Court should adopt a rule allowing spouses or registered domestic partners of a member of the United States Uniformed Services, stationed within this jurisdiction, to obtain license to practice law. From, *Proposed Rule: Revisions to Ohio's License Requirements in Support of Military Spouse Attorneys,* May 15, 2014, and updated September 4, 2014.

Discussion

In October 2014, the Military Spouse JD Network and Ohio Women's Bar Association submitted to the Supreme Court a proposed rule that would permit spouses of service members stationed within Ohio to obtain a license to practice law in Ohio. The proposed

rule would permit "military spouses" to be admitted to practice law in Ohio outside the normal admissions channels. Proponents of the rule believe that such a rule will support military families by making the admissions process less cumbersome and lengthy for military spouses.

A military spouse admissions applicant would be required to meet some standard admissions criteria, such as submitting an admissions application and being approved as to character and fitness. The military spouse applicant also would be required to demonstrate presence in this jurisdiction as a spouse of a service member and complete a course on Ohio law within sixty days of licensure in Ohio. Unlike other applicants, however, a military spouse attorney would not be required to take and pass the Ohio bar examination or go through the admission without examination process before practicing in Ohio. Under the proposed rule, if the military spouse attorney was found to possess the qualifications required of other applicants for admission, the military spouse attorney would be licensed to practice law in Ohio without restriction. The military spouse attorney's license to practice would terminate upon certain conditions, such as, the service member is no longer in the United States Uniformed Service, the military spouse attorney is no longer married to the service member, or the military spouse attorney is admitted to the "general practice of law under any other rule of the" Supreme Court.

The Supreme Court has considered military spouse proposals in the past. In 2009, the Ohio Women's Bar Association (OWBA) submitted a proposal that would permit military spouses to practice law in Ohio under the supervision of a supervising attorney who is an attorney in good standing in Ohio. Under the 2009 proposal, the military spouse's license would automatically expire in five years. The Court directed the Office of Bar Admissions to notify the OWBA that there were other avenues of admission for military spouses and it declined to take further action on the proposal.

The Task Force on Access to Justice is aware that, if adopted, a military spouse rule would have minimal effect on meeting the unmet civil legal needs of Ohio residents. However, a majority of the Task Force believes that, by eliminating licensure barriers for

military spouse lawyers, access to justice is furthered for military personnel and their families.[34] As military spouse attorneys have unique skills and experience concerning military life, they are better equipped to serve clients who are in the military, either through paid or volunteer work. Many military personnel lack adequate resources to obtain legal services. Qualified military spouse attorneys, if given the opportunity to gain admission to the practice of law in Ohio, would be uniquely situated to assist the many Ohioans who are military personnel and their families.

Veterans, active-duty servicemembers, and their families represent segments of the population needing and consuming pro bono and legal aid services. Their needs, however, are unique and best served by individuals who understand them.

10. EMERITUS RULE

RECOMMENDATION

The Supreme Court should explore adopting an "emeritus rule" that would permit senior attorneys who are no longer actively engaged in the practice of law to provide pro bono legal services.

Discussion

In 2011, the Ohio State Bar Association (OSBA) submitted to the Court recommendations from its Masters at the Bar Task Force. The task force recommended that the Court adopt a rule permitting "emeritus" attorneys to engage in a limited practice of law for pro bono service and mentoring under certain circumstances. Under the OSBA proposal, "emeritus" attorneys would be required to meet their continuing legal education requirements, but would not be required to pay the biennial attorney registration fee. The Court declined to adopt this recommendation, noting that because the proposed emeritus rule did not have an age demarcation, attorneys of any age could register as an

[34] Jack P. Sahl, *Cracks in the Profession's Monopoly Armor*, 82 Fordham L. Rev. 2635, 2641 (2014).

"emeritus." The Court further noted that, unlike emeritus rules adopted by other professions, the OSBA's proposal was not a permanent status and emeritus attorneys could return to active practice at any time. Lastly, the Court cited the possible financial impact of waiving the registration fee.

The Task Force on Access to Justice urges the Supreme Court to revisit the emeritus rule as a way to meet some of the unmet civil legal needs in Ohio. It was brought to the task force's attention that an emeritus rule proposal is currently being considered by the Ohio State Bar Association Section on Senior Lawyers. The task force believes that many senior attorneys would be eager to perform pro bono legal work but are precluded from doing so because they are on "inactive" registration status. The task force further believes that many senior attorneys register for inactive status not only because they are no longer practicing but also because they no longer wish to take minimum continuing legal education hours and pay the biennial attorney registration fee.

Therefore, the task force encourages the Supreme Court to consider adoption of an emeritus rule that would allow senior attorneys to provide pro bono legal services to persons of limited means.

11. **FORMS**

RECOMMENDATION

The task force encourages the Supreme Court to continue to lead the effort in developing and implementing standardized forms. As a critical part of that effort, we recommend that the job duties of the new Access to Justice Director include prioritization, development, and implementation of standardized forms.

The Task Force on Indigent and Pro Se litigants recommended in 2007 that the court take the lead in developing standardized forms for Ohio courts. Since then, with significant effort by attorneys, judges, and other stakeholders, the court has approved standardized

forms for Probate, Domestic Relations, and Juvenile matters. Nevertheless, we recognize that additional forms in other practice areas are needed.

The lack of standardization of court forms and instructions across Ohio counties constitutes a lack of access to useful and reliable information. Pro se litigants who have more than one pending legal matter in different counties must file distinct documents for each case. To properly file the documents, they must decipher a separate set of court forms and instructions for each county, often while possessing limited skill or understanding. In addition, the lack of standardized forms becomes an impediment not only for pro se litigants, but also for attorneys who practice in multiple jurisdictions, particularly those working with pro bono organizations and volunteering their time. For these reasons, the lack of standardized court forms and instructions prevents those with limited financial means from accessing the justice system.

Recognizing that many standardized forms have been developed in recent years, but also recognizing that additional standardization would improve litigants' and lawyers' access to the judicial system, we recommend that the court direct the new Director of Access of Justice to assess the current needs for standardization and lead the development of more standardized forms that best address those needs.

OTHER CONSIDERATIONS

Fellowships and Incubator Programs to Employ New Attorneys

A growing number of Ohioans have no ability to procure legal representation in civil matters. At the same time, hundreds, and perhaps thousands, of recent law graduates, have been unable to obtain employment in the legal field. This current failure of professional and market forces to match potential legal capacity with desperate need for legal services warrants serious review, analysis and recommendations by a collaborative effort of deans of Ohio law schools, the Ohio State Bar Association new lawyer's

committee, representatives of legal aid organizations, and representatives of the judiciary. Once convened, this study group should make recommendations for potential new methods of: 1.) transition to practice for new lawyers; 2.) appropriate training; 3.) strategies for mitigating potential financial barriers to enhanced service to low income Ohioans; and 4.) greater integration of pro bono service with the transition from law school to law practice.

Cleveland-Marshall College of Law

The Solo Practice Incubator Program at Cleveland-Marshall College of Law provides new attorneys with a means of starting their own law practice with the guidance from the law school's faculty and experienced practitioners. The program provides office space with discounted rent, basic office amenities, and free secure wireless internet. Tenants are provided guidance in the practical management of their firms and their cases.

There are many types of incubator programs available. Law schools, bar associations, and legal aid organizations are establishing incubator programs to support new attorneys who intend to begin a solo practice and meet the needs of moderate and low-income individuals. These programs focus on training attorneys to handle client matters while building an economically sustainable practice.

There are approximately two dozen incubators currently operating throughout the nation. It is expected that the number will increase rapidly, as the model is an inexpensive way to provide a guided entrance into the legal practice for newly admitted attorneys.

Rutgers Law Associates Fellowship Program

Providing legal services to low and moderate income New Jersey residents at below-market rates, the Rutgers Law Associates Fellowship Program hires newly licensed New Jersey attorneys. The fellows devote two-thirds of their time to client matters, and the rest is spent participating in seminars and classes related to business development and

management and professional responsibility. Funding to start the program included a $100,000 gift to the law school intended to fund clinics specifically for this population.

The program, which began operations in 2014, provides new lawyers with training and an opportunity to practice in a collaborative setting, while also meeting a critical need of serving the portion of the population that is not income eligible for legal aid but unable to afford a private attorney. The fellows work under the supervision of an experienced practitioner to meet the needs of those unable to afford legal services. The firm charges a reduced fee of $50 per hour and provides legal assistance in landlord/tenant disputes, divorce, consumer fraud, veterans' issues, and others.

During the first eleven months of the program, the fellowship undertook more than 100 matters for moderate or low-moderate New Jersey residents, generating more than $115,000 in attorney fees. The majority of clients served by the program were referred by legal aid agencies or by the courts. Without representation from the program, these clients would have proceeded in their matters pro se. Many of the clients needed assistance with family court matters, but other practice areas addressed include consumer protection, education law, and employment discrimination. It is anticipated that as the program continues, the fellows will be able to cover their stipends (currently at $30,000 per year) and malpractice insurance from the work generated from the firm.

Skadden Fellowship Program

Skadden, Arps, Slate Meagher & Flom LLP established a fellowship program in 1988 to commemorate the firm's 40th anniversary and as a way to acknowledge "the dire need for greater funding for law students who wish to devote their professional lives to providing legal services to the poor (including the working poor), the elderly, the homeless and the disabled, as well as those deprived of their civil or human rights."[35]

[35] Skadden Foundation, http://www.skaddenfellowships.org/about-foundation (accessed March 23, 2015).

With an initial fund of $10 million to sponsor 125 fellowships over five years, the program has remained an important source of projects that highlight access to justice issues. Including its 2015 class, the Skadden Foundation has funded 733 fellows to work in the public interest, including representation for low-income tenants, access to mental health services, and systemic advocacy in education.[36]

The stipend given each fellow is approximately $46,000, with the foundation paying for healthcare and law school debt, if the law school from where the applicant graduated does not offer a loan repayment program for those who go into public interest work. Fellows work on a project of their design with a sponsoring organization. It is the firm's mission that through their efforts, Skadden Fellows increase and improve access to justice to those who are disadvantaged.

90% of all Skadden fellows have stayed in public interest. 100% of those who stayed in public interest stayed within their area of interest.

When interviewed by the New York Times about the firm's decision to begin the foundation, then executive partner Peter P. Mullen stated, "This will tend to contradict the view that the established bar has about large law firms, the view that we take from society and do not give back. We have been successful, and we have made money, and we have decided to put some of it back."[37]

Squire Patton Boggs Foundation

The Squire Patton Boggs Foundation has a strong record of public contributions and achievements. Its origins are rooted in a history of civil rights advocacy. To endow the Foundation, the Firm dedicated attorneys' fees from a 25-year pro bono case, the Ironworkers Case. In the case, a federal court in Washington D.C. struck down racial barriers faced by African-American construction workers. The Foundation's endowment

[36] http://www.skaddenfellowships.org/statistics?year=&sort=school
[37] Labaton, "Big Law Firm to Help Poor In Civil Cases," *New York Times* (June 8, 1988).

continued to grow through partner contributions and the proceeds of a second large pro bono victory, the Yachtsman Case, won by Rick Talisman who successfully settled a federal racial discrimination suit against a hotel resort that discriminated against African-American bikers during Black Bike Week in Myrtle Beach.

Since its formation, the Foundation has funded Public Policy Fellowships for more than150 law students at 15 US law schools, as well as the College of Law in Qatar. These Fellowships have enabled students to work during the summers of their law school years at public interest organizations and government offices in the US and in many other countries. The Fellows work on a range of issues including domestic, civil and international human rights, women and children, legislative policy, immigration, election law, business and finance.

The Foundation is making grants this year to 14 law schools in the United States – George Washington, Georgetown, Brooklyn, Yale, Howard, Virginia, Texas, Catholic, Washington College of Law (American University), SMU, Denver, Colorado, Case Western Reserve, the University of California at Hastings, and the College of Law in Qatar.

In identifying the financial, structural, and cultural barriers to accessing the civil justice system in Ohio, the task force recommends the consideration of these recommendations and an annual evaluation of the progress and effectiveness of the initiatives. Through increased funding, alternative legal services, and technology, Ohio can improve access to justice for all.

APPENDIX A

TITLE

The Supreme Court *of* Ohio

65 South Front Street
Columbus, Ohio 43215-3431