



ACCESS TO JUSTICE

A COMMITTEE OF THE MEMPHIS BAR ASSOCIATION

These comments are submitted to the Legal Services Rulemaking Committee by Linda Warren Seely, President, Memphis Bar Association, Member of the House of Delegates for the Tennessee Bar Association, Member of the Tennessee Bar Association Access to Justice Committee, Member of the Memphis Bar Association Access to Justice Committee, Member of the Subcommittee on Faith Based Initiatives for the Tennessee Supreme Court Access to Justice Commission and Director of Pro Bono Projects for Memphis Area Legal Services.

TOPIC ONE:

How are legal services providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?

One of the more exciting developments over the past 10 years has been the increase in the number of Bar Association and Court related Access to Justice or Pro Bono committees, taskforces and commissions. In my experience at the state and local levels, a broad range and category of new volunteers have made their way onto these committees, taskforces and commissions. From the Memphis Bar Association's Access to Justice committees inception paralegals (from private firms all the way to the Sheriff's department), social workers (from the Veterans Administration), law students, other agency service providers, judges, clerks and law professors have been welcomed as key stakeholders in the development of innovative programs and projects in the delivery of legal services in Memphis.

One project I will mention of the Memphis Bar Association and Memphis Area Legal Services is our monthly Saturday Legal Clinic. We began on the second Saturday of November in 2008 at a church, First Baptist Church on Broadway, in a lower income part of Memphis. We began with a handful of volunteer attorneys and a number of the church congregants who came out to feed us and ply us with coffee. Although we didn't have huge numbers of applicants, we had such a great volunteer turnout that we did it again, this time at a different church in a different part of Memphis. As we began to grow, we added a paralegal volunteer component, then law students started coming. Mediators wanted to offer their services and we split them off to serve weekly at our General Sessions Courts and used social work graduate students to coordinate their sessions. The clinic expanded significantly after the then Chair of the MBA Access to Justice Committee and MALS staff met with staff from the Memphis and Shelby County Library system to partner on a more permanent community venue for our clinic. The main library location in Memphis is a large, spacious building with 3 community rooms available for non-profits to use*

free of charge. The main library has a large parking lot and sits on the main bus line. As of 2013, we have institutionalized our Saturday Legal Clinic. We are open from 10 am until about 1 pm the second Saturday of each month at the main library in Memphis. Each month a different firm or corporate legal department or bar association acts as the event sponsor; in June the Ben F. Jones chapter of the National Bar Association served as the sponsor. The sponsor's job is to make sure there are at least 20 volunteer attorneys available at the clinic. We have paralegals and administrative assistants who regularly staff the clinic providing much needed and valuable coordination for the applicants, making sure forms are completed and kept in some order. Volunteer law students and students in the local paralegal studies programs often come to volunteer and will be assigned to work with one of the volunteer attorneys providing forms and internet research, helping the attorneys complete documents and other related tasks. A local investment group, the Marston Group and a local bank, Bank Tennessee, send over coffee and treats for the volunteers.

We encourage churches to also sponsor these clinics and sometimes we go into Senior Centers and other community centers to provide clinic operations.

Memphis Area Legal Services has volunteers and externs from law schools and paralegal schools and undergraduate schools. We have used social worker volunteers, community volunteers, retired lawyers and just about anyone who calls and says, "I want to help". They staff clinics, help applicants with forms, do research, make community education materials or packets, provide in house clerical help, represent clients, attend hearings, write newsletter articles; if it's something our community or clients need, we count on volunteers to help. We have office space available for volunteer attorneys who don't have an office- mothers with small children or attorneys who cannot find a job but want to contribute- and give them cases to handle.

The volunteers, all of them regardless of whether or not they are attorneys, need access to office space, a place to work if you will, they need to know we value their contributions through recognition events and awards, they need appropriate equipment including access to computers, the internet, copiers, fax machines, file folders, pens, paper to name a few items, and they need a sense that they are contributing to a cause greater than themselves.

What are the obstacles to full use of these volunteers?

The only volunteers we get to count for LSC purposes are the ones who are attorneys. Only cases handled by an attorney, a fully licensed attorney, are considered important enough to be included in our CSR reports. Memphis Area Legal Services has an ongoing relationship with the Cecil C. Humphreys School of Law, which is located in a newly renovated building, two blocks from our office. The law school offers clinical courses to the students and all of the 'cases' they handle are through MALS. The students are provided with a third year provisional law license and are supervised by attorney-clinical instructors. Unfortunately, only the hours provided by the attorney-clinical instructors are counted. None of the hours donated by the provisionally licensed lawyer-students count for those of us with LSC funding towards our LSC mandated PAI requirement. The law school has implemented a mandatory pro bono requirement for graduation and we would like to be able to take full advantage of this new development.

We have a number of paralegals who represent individuals at social security disability hearings, which is permitted by the Social Security Administration provided the paralegals pass certain testing requirements. We are not able to make use of cases handled by these paralegals as they don't 'count' as lawyers.

None of the work done by many of our volunteers is countable towards our PAI obligation because they aren't lawyers. This can be a huge disincentive to working with these nonlawyer volunteers for our agency. It's hard to understand why LSC encourages and even demands these relationships but won't let us count as part of our PAI requirement cases handled by provisionally licensed lawyer students directly supervised by our staff or paralegals authorized to practice in certain administrative tribunals or even mediators who are frequently licensed attorneys.

Should LSC implement regulations to allow PAI credit for training and supervision of these volunteers?

Yes, LSC funded agencies should be permitted a little more latitude with regard to the types of volunteers, cases and services provided by non-attorneys that count toward the PAI requirement.

Ensuring against fraud or waste and/or unintended consequences.

As for concerns in this regard, it might be helpful to fund some pilot programs to see what if any problems or unintended consequences arise. I will note, however, that there are plenty of legal aid type agencies that eschew LSC funding and have been very successful at growing their service delivery model and providing excellent services in their communities. It might be helpful to conduct a review of these agencies and model services after those programs.

*Please note that this particular description encompasses a description of how we handle advice and counsel/brief service clinics. All of the applicants are screened for eligibility and sufficient information is obtained from them to properly open a file consistent with LSC requirements including signing of Citizenship Attestations and limited scope retainer agreements. However, at a recent Tennessee Supreme Court Access to Justice Commission conference in Tennessee designed to encourage churches and bar associations to sponsor clinics, the point was made repeatedly that partnering with an LSC funded agency is a huge problem for the bar associations and churches because of regulatory compliance issues. The speaker indicated that LSC funded agencies were unnecessary to the success of these clinics, that LSC requirements inhibited applicants from coming because of the paperwork burden and was an unwelcome intrusion by the private attorneys. He encouraged those present to eschew a partnership with LSC funded entities to avoid these difficulties. The speaker in this instance is a well known attorney in the Access to Justice arena having served as the Chair of the Tennessee Bar Access to Justice committee.