

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

PAI RULEMAKING WORKSHOP

Tuesday, July 23, 2013

1:45 p.m.

Warwick Hotel
Millennium Ballroom
1776 Grant Street
Denver, Colorado 80203

BOARD MEMBERS PRESENT:

John G. Levi, Chairman
Martha L. Minow, Vice Chair (by telephone)
Sharon L. Browne
Charles N.W. Keckler
Harry J.F. Korrell, III
Victor B. Maddox
Laurie Mikva
Father Pius Pietrzyk, O.P.
Julie A. Reiskin
Gloria Valencia-Weber
James J. Sandman, ex officio

STAFF AND PUBLIC PRESENT:

Lynn Jennings, Vice President for Grants Management
 Rebecca Fertig, Special Assistant to the Preside
 Ronald S. Flagg, Vice President for Legal Affairs,
 General Counsel, and Corporate Secretary

Mark Freedman, Senior Assistant General Counsel,
 Office of Legal Affairs

Carol A. Bergman, Director, Office of Government
 Relations and Public Affairs

Carl Rauscher, Director of Media Relations, Office of
 Government Relations and Public Affairs

Marcos Navarro, Office of Government Relations and
 Public Affairs

Jeffrey E. Schanz, Inspector General

Thomas Coogan, Assistant Inspector General for
 Investigations, Office of the Inspector General

Lora M. Rath, Deputy Director, Office of Compliance
 and Enforcement

Janet LaBella, Director, Office of Program
 Performance

Eric Jones, Office of Information Technology

Silvia Argueta, National Legal Aid and Defender
 Association (NLADA)

Steve Gottlieb, Atlanta Legal Aid Society

Judge Mary Katherine Huffman, Greater Dayton
 Volunteer Lawyers Project

Joan Kleinberg, Northwest Justice Project
 (Washington)

Kenneth Penokie, Legal Services of Northern Michigan

Lisa Wood, ABA Standing Committee on Legal Aid and
 Indigent Defendants (SCLAID)

Bev Groudine, American Bar Association Commission
 on IOLTA/SCLAID

Christine Stolarskyj, PAI Coordinator, Legal Aid of
 Nebraska

Jonathan Asher, Executive Director, Colorado Legal
 Services

Deborah Perluss, Northwest Justice Project
 (Washington)

Chuck Greenfield, National Legal Aid and Defender
 Association (NLADA)

Don Saunders, National Legal Aid and Defenders
 Association (NLADA)

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III. Topic 1 17

- Panel Discussion

- Silvia Argueta, NLADA
- Steve Gottlieb, Atlanta Legal Aid Society
- Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project
- Kenneth Penokie, Legal Services of Northern Michigan
- Lisa Wood, ABA SCLAID

- Public comment and further panel discussion

LSC Pro Bono Task Force Recommendation 2(a) -- Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.

- a. How are legal services providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
- b. What are the obstacles to LSC grant recipients' full use of these volunteers?
- c. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
- d. How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- e. To the extent applicable, discuss how any approaches you recommend might be implemented.
- f. Other issues related to Topic 1.

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IV. Topic 2

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- Panel Discussion

- Silvia Argueta, NLADA
- Steve Gottlieb, Atlanta Legal Aid Society
- Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project
- Joan Kleinberg, Northwest Justice Project
- Lisa Wood, ABA SCLAID

- Public comment and further panel discussion

LSC Pro Bono Task Force Recommendation 2(b) --
Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low income clients.

- a. How are recipients currently using integrated intake and referral systems?
- b. Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
- c. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
- d. How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- e. To the extent applicable, discuss your organization's ability to execute any recommended approaches.
- f. Other issues related to topic 2.

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V. Topic 3

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- Panel Discussion

- Silvia Argueta, NLADA
- Steve Gottlieb, Atlanta Legal Aid Society
- Joan Kleinberg, Northwest Justice Project
- Kenneth Penokie, Legal Services of Northern Michigan
- Lisa Wood, ABA SCLAID

- Public comment and further panel discussion

LSC Pro Bono Task Force Recommendation 2(c) -- LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

- a. How are recipients currently using or supporting pro bono volunteers in brief service clinics?
- b. What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
- c. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?

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- d. If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
- e. How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- f. To the extent applicable, discuss your organization's ability to execute any recommended approaches.
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- Charles Keckler, Chairman, Operations and Regulations Committee

1 PROCEEDINGS

2 (1:45 p.m.)

3 I. OPENING AND INTRODUCTORY REMARKS

4 MR. KECKLER: Good afternoon. I'm Charles
5 Keckler, on the Board of Directors of the Legal
6 Services Corporation. And I also have the honor to
7 serve as Chairman of the Operations and Regulations
8 Committee, in whose jurisdiction the recommendations of
9 the Pro Bono Task Force regarding Legal Services
10 Corporation's regulations have now fallen.

11 The Committee decided in pursuing the
12 recommendations to convene this rulemaking workshop and
13 the one subsequent to it as part of an effort to
14 involve multiple stakeholders, including former members
15 of the Pro Bono Task Force and other interested
16 parties, in developing changes to this important rule.

17 It's to some extent a procedural reflection of
18 the nature of our private attorney involvement, which
19 by its nature involves members of the profession
20 outside of our grantees. And so we thought it was
21 particularly appropriate to have a procedural way to
22 incorporate that input.

1 This is a tool that has been available for the
2 Corporation for some time, but it has been quite a
3 while since anybody has used it. Has anybody here
4 participated in a prior rulemaking for us? I see a nod
5 back there.

6 Any input that you might have on how today
7 goes I'd be very happy to receive, in part to know to
8 what extent the Committee should use this tool in the
9 future and for the more immediate purpose of organizing
10 the rulemaking workshop that will be coming up in
11 September as a follow-on to this.

12 A couple of other notes about the rulemaking
13 workshop. By its nature, it involves members of the
14 Board. In this case it's attached directly to our
15 Board meeting.

16 But of course, you should realize that we're
17 at a very early stage of our regulatory development
18 here, and so the members of the Committee or the Board,
19 you might find them to be circumspect with regard to
20 whether they think, yes, that's a fantastic idea. Oh,
21 sure, that's the way we're going to go. We're here to
22 listen. We're to contribute, and to encourage comments

1 to come in. And so please excuse our circumspection if
2 you notice it.

3 I also should note that sometimes Board
4 members -- this is the end of our quarterly Board
5 meeting, and many of the Board members will have to
6 depart during the course of the rulemaking workshop.
7 They're here as long as they can. If they leave, it's
8 certainly not a commentary on the workshop as a whole
9 or upon the person who last spoke before they had to
10 leave.

11 The other thing that I will say before we
12 begin is that when we receive the recommendation of the
13 Pro Bono Task Force and when we receive the thoughts
14 that you're going to help offer today, there's going to
15 be a variety of considerations that go into how we
16 ultimately handle this.

17 From a personal perspective, I hope that in
18 addition to the thoughts and questions that the
19 Corporation has offered in its Federal Register notice
20 and that have brought us together today, that we all
21 think about the broader purposes of private attorney
22 involvement as we develop changes to the rule.

1 There are a lot of good reasons to involve
2 private attorneys in the work of the grantees. So the
3 three that I'm going to offer are not exclusive;
4 they're just the ones that I thought about and really
5 find valuable.

6 First, our private attorney involvement
7 leverages the resources that the Corporation can bring
8 to our grantees and expands the reach of what our
9 grantees can do. It's an important multiplier of tax
10 dollars.

11 Secondly, it brings in expertise that our
12 grantees have developed, incredible expertise in many
13 areas. But they can't have expertise in all of the
14 cases that people can have. Private attorneys are an
15 invaluable resource for that.

16 Finally and somewhat more qualitatively, I've
17 found that the involvement of private volunteers in
18 service organizations like our grantees is critical to
19 building community and integrating that grantee into,
20 in this case, the broader profession, making it a
21 pillar and an institution within that community.

22 So building those networks, building those

1 relationships, is something that I think the rule does
2 and that I hope it will continue to do, and that I hope
3 that the changes that we ultimately put forward help to
4 strengthen.

5 So with that, I will simply say thank you for
6 coming, and thank you for everybody else who's
7 participating in this webinar. The webinar itself is
8 something that is -- to some extent, there's components
9 of it that are technologically unprecedented for LSC.

10 So thank you very much to the technical staff
11 that is doing this not only with a new system, but
12 doing it at a remote location far from LSC. And so
13 welcome to you in the room and welcome to everybody on
14 the web to the first of our two rulemaking workshops.

15 I will now turn over for introductions to the
16 distinguished President of the Legal Services
17 Corporation, Mr. James Sandman.

18 PRESIDENT SANDMAN: Thank you, Charles. I'm
19 Jim Sandman. I'm President of the Legal Services
20 Corporation. I'll be serving as moderator for the
21 workshop this afternoon.

22 For those who are participating by phone or on

1 the webinar, I'd like to recognize those members of
2 LSC's Board who are currently present in the room. We
3 have our Board chair, John Levi, and Board members Vic
4 Maddox, Julie Reiskin, Laurie Mikva, Harry Korrell,
5 Sharon Browne, Gloria Valencia-Weber, in addition to
6 Charles Keckler. And Father Pius Pietrzyk is in the
7 back of the room waiving. Thank you, Father.

8 The topics and related items for discussion
9 today were published in the Federal Register on May 10,
10 2013. They're also available on a special page on
11 LSC's website. The workshop this afternoon will be
12 divided into four sessions.

13 We will have 45 minutes for each to address
14 the three topics that have been identified in the
15 published notice, and in addition, we will reserve 30
16 minutes at the end for discussion about what the agenda
17 should be for our second workshop on September 17,
18 2013.

19 Each session will begin with 30 minutes for
20 panelist presentations. We have six panelists, whom
21 I'll introduce in a moment. On any one of the three
22 topics, only five of the six panelists have asked to

1 speak. So we will split the 30 minutes up among five
2 people; that gives each of you six minutes.

3 We will need to enforce the time limits
4 because one of the purposes of this workshop is to
5 stimulate discussion not only among yourselves but with
6 members of the public who are participating here in
7 person or on the webinar or by telephone.

8 The workshop is limited to discussion of the
9 topics and related issues that have been identified.
10 Other aspects of the PAI rule and other LSC
11 requirements and restrictions may be addressed as they
12 relate to those topics.

13 The panelists should assume that the Board
14 members are familiar with the materials that have been
15 posted on the website and with the submissions that
16 each of the panelists made.

17 There will in each of the four sessions today
18 be an opportunity for public comment following the
19 panelists' presentations. Comments should be brief.
20 We ask that they be no more than two minutes each. We
21 will take live comments first here in Denver, and will
22 then allow webinar participants to offer their comments

1 as well.

2 If you would like to make oral comments as a
3 webinar participant, please click "Raise My Hand" on
4 your computer screen and wait for me to recognize you.

5 If you'd like to submit typed comments, put them in
6 the "Questions" box on the webinar page and I will read
7 them, time permitting.

8 We will be keeping a record of all comments
9 that are submitted; we may receive typed comments that
10 are made through the webinar format that we don't have
11 an opportunity to address or acknowledge today, but
12 they will be part of the record and will be considered.

13 We do not expect LSC Board members or staff to
14 be making presentations or to be participating, except
15 that Board members may ask questions of the panelists.

16 I'd remind the panelists and those in the live
17 audience and participating by webinar that this
18 workshop isn't intended to develop specific regulatory
19 language, although the discussions may involve
20 identifying areas for clarification of or changes to
21 the PAI regulation.

22 //

1 II. INTRODUCTION OF PANELISTS

2 PRESIDENT SANDMAN: I'd now like to recognize
3 our six panelists and thank them for participating.

4 Silvia Argueta is here in her capacity as
5 Chair of the Regulations and Policies Committee of the
6 National Legal Aid and Defender Association. She is
7 also Executive Director of the Legal Aid Foundation of
8 Los Angeles.

9 Steve Gottlieb is Executive Director of the
10 Atlanta Legal Aid Society.

11 Judge Mary Katherine Huffman is a General
12 Division Judge in the Court of Common Pleas in Dayton,
13 Ohio. She is also Immediate past President of the
14 Greater Dayton Volunteer Lawyers Project, and continues
15 to serve on its Board of Trustees.

16 Kenneth Penokie is Executive Director of Legal
17 Services of Northern Michigan.

18 Joan Kleinberg is the Director of Strategic
19 Initiatives and Private Bar Involvement at the
20 Northwest Justice Project in the state of Washington.

21 And Lisa Wood is Chair of the American Bar
22 Association's Standing Committee on Legal Aid and

1 Indigent Defendants. She's also a partner and chair of
2 the litigation department at Foley Hoag in Boston.

3 With that, we'll begin with our first topic.
4 And I would ask Silvia if she would like to lead off.
5 Six minutes, please.

6 III. TOPIC 1

7 MS. ARGUETA: Good afternoon, everyone. To
8 all the members of the Board, thank you for the
9 invitation to be here and provide comments on behalf of
10 the National Legal Aid and Defender Association.

11 As the Pro Bono Task Force report accurately
12 states, pro bono plays a vital role in providing legal
13 services to those who cannot afford attorneys. They
14 work in conjunction with legal aid organizations in
15 order to maximize our resources.

16 As you well know, the legal aid community has
17 been hard-hit with funding reductions from many
18 entities. These funding reductions necessitate for us
19 to be creative, innovative, and to find new resources
20 for clients to have the adequate representation that
21 they need in order to live the lives that they are
22 meant to have.

1 As such, the NLADA has reviewed the proposed
2 recommendations and we are very happy to see that these
3 recommendations would open doors and new avenues for
4 legal aid programs to continue the vital work that they
5 do with private attorneys.

6 And it would have the effect of ensuring that
7 private attorneys continue to be the vital resource
8 that many programs throughout the nation are currently
9 working with. It would expand the resources that we
10 need at this particular moment in time.

11 To address the first topic that was received,
12 regarding the supervision and training of students, law
13 graduates, paralegals, and attorneys who have yet not
14 been admitted, we are very encouraged to see that there
15 is a movement to expand the ability to count the
16 supervision and training of these individuals to our
17 programs.

18 Many of us already work with those
19 individuals. We would be able to show to our funders,
20 to our supporters, that we have engaged in some very
21 creative advocacy with those students, with those
22 attorneys who have not yet passed the bar but who have

1 come to work with us.

2 A specific example that I give you are the new
3 and creative ways that law schools are using fellows.
4 They create three- to four-month fellowships for young
5 people to come and work in legal aid programs and to
6 provide legal services that are needed in very creative
7 programs.

8 They sometimes create new, innovative work
9 that the young person will do for four months. And we
10 are not allowed at this time to count that time. We're
11 not allowed to show what a creative way for the law
12 school to work in conjunction with the legal aid
13 program.

14 We also have many new soon-to-be-admitted
15 attorneys who want to work with us, who want to gain
16 some experience, whose heart is in the right place in
17 terms of ensuring that there's equal access for folks
18 that are low income.

19 But we don't have the ability to report the
20 terrific work that they do, so that not only we can
21 show that we are helping more clients but so that LSC
22 can actually show that we are maximizing resources at

1 so many different levels.

2 It's not just about having the pro bono
3 attorneys, whom I will speak about in a second, but
4 also maximizing the resources and the assistance that
5 other members of the community are providing and
6 happily willing to work with us in providing legal
7 services.

8 Attorneys are vital to our work, but so are
9 the students who we train, the volunteers that we
10 train. We currently do this work. It is not work that
11 would be new to us, but we would be able to report on
12 it. We would be able to show you how we maximize what
13 we get from individuals who volunteer their services to
14 us. It would be a win/win for the LSC. It would be a
15 win/win for the programs.

16 This would encourage us to also have creative
17 solutions to some problems. Right now veterans issues
18 are huge throughout the nation, and many of the
19 students that come to work for us want to work in our
20 veterans programs.

21 They want to expand what veterans work means
22 by including domestic violence issues that veterans are

1 being affected by. They want to expand some of the
2 employment issues that they have. They have great
3 ideas.

4 We should be able to report on these and
5 maximize the fact that they are coming to us with
6 incredibly innovative programs to help us work with new
7 populations that continue to arrive at our doorsteps.

8 As to topic No. 2 , very important in terms of
9 --

10 PRESIDENT SANDMAN: Silvia, I'm sorry. We're
11 going to proceed topic by topic, one at a time --

12 MS. ARGUETA: Topic by topic? I'm sorry.

13 PRESIDENT SANDMAN: -- so that we can have a
14 thorough discussion of each topic separately.

15 MS. ARGUETA: Got it.

16 PRESIDENT SANDMAN: So if you're finished with
17 your comments on topic 1 --

18 MS. ARGUETA: Yes.

19 PRESIDENT SANDMAN: -- we'll then move to
20 Steve. I just would like, for those who are not in the
21 room and are participating by webinar, to remind people
22 of what issue No. 1 is. It is the Pro Bono Task Force

1 recommendation that resources spent supervising and
2 training law students, law graduates, deferred
3 associates, and others should be counted toward
4 grantees' PAI obligations, especially in incubator
5 initiatives.

6 Steve Gottlieb, would you like to address that
7 recommendation?

8 MR. GOTTLIEB: Thank you for inviting me to
9 participate. What I would like to do for you today is
10 to not talk in the abstract about the theory of why
11 these recommendations would be helpful, because I
12 endorse them, but rather to use our program as a kind
13 of a prism to illustrate how they could be helpful in
14 our context.

15 First of all, a little bit of background.
16 Legal Aid in Atlanta has a long history of involvement
17 of private attorneys, and in fact when LSC did a
18 program quality visit, they complimented us on having
19 private attorneys who were fully integrated into
20 service delivery, and they described a myriad, as they
21 put it, of programs that we have for that purpose,
22 examples being our Saturday attorney program, where

1 Saturday lawyers, private lawyers, come into our
2 offices every Saturday and have been doing that for 45
3 years in a row; associate fellowship programs -- we've
4 had over 50 associate fellows from various law firms,
5 and we're the only program in the country to have one
6 from a corporate legal department.

7 We have law school fellows, the kind of thing
8 that Silvia mentioned, where law firms -- excuse me,
9 law schools -- pay a stipend to lawyers to work with
10 us, or graduates; they're not lawyers. Also, we have
11 lots of volunteers of folks who are not lawyers yet
12 when they're volunteering.

13 We have retired attorneys who work on our
14 senior hotline. We have non-attorney programs, where
15 we have Emory law students to do intake, where we have
16 a paralegal from Coke that does intake on our Spanish-
17 speaking clients. We have administrators in a large
18 law firm that help the hotline schedule calls.

19 We have firm signature projects for work with
20 cancer, for people who are representing grandchildren,
21 grandparents to adopt grandchildren, eviction defense,
22 unemployment cases. And then we have more traditional

1 kinds of panel programs.

2 Now, I mention these not just to brag,
3 although I'm bragging a little bit, but I'm mentioning
4 them because many of these programs would not be
5 eligible for credit under 1614 as it is now written and
6 now interpreted.

7 Let me say that again. These innovative
8 programs that LSC commended us on are not eligible
9 under 164 under the current reading of that regulation.

10 Now, I'm not going to get into an argument
11 with my friends in the General Counsel's office about
12 why -- although I would if they want me to -- but more,
13 I want to talk about it as going forward to make sure
14 that we can figure out a way to give these kinds of
15 innovative programs credit.

16 The first one, the first comment, is about
17 representing or recognizing the work that programs like
18 ours do for law students and other non-lawyer people.
19 As I noted, we have an ongoing program of associates
20 from law firms. Now, what we do is we use them for
21 things like eviction defense, temporary protective
22 orders, administrative hearings, things you can get

1 them up to speed on pretty quickly and that are a short
2 turnaround.

3 We'd like to try to get third-year associates.

4 But in fact, we can't always do that. And sometimes
5 law firms send us people who have just gotten out of
6 law school, haven't taken the bar, have not practiced.

7 Or we may get deferred associates. We had five
8 deferred associates two years ago. Again, these are
9 people who are not -- they're out of law school but
10 they haven't practiced. The point of the matter is, of
11 course, the reading of 1614 does not allow us to get
12 credit for the work we do with these people.

13 Now, it's absurd in a couple of different
14 ways. First of all, folks like that can be almost as
15 valuable as regular lawyers in our program. They can
16 do the kind of cases that I've talked about. In
17 administrative hearings, you don't even have to be a
18 lawyer. So you can get value out of people like that
19 regardless of whether they're attorneys or not.

20 But more importantly, it's an investment in
21 the future. As Mr. Keckler just talked about, the
22 third thing he was talking about was integrating legal

1 aid and legal aid programs into the larger community.

2 Well, when we have young lawyers who have just
3 graduated school, and they go back to their firms after
4 they've worked with us, that's the integration that we
5 get. That's the institutionalization. Those are the
6 ambassadors that go to law firms and support legal aid
7 and our work and support work with poor people.

8 Let me add one more thing. Let me address the
9 one other point, and that is, the same reasoning that
10 leads to not allowing us to count time with law school
11 students and non-barred lawyers also might lead to not
12 counting time for out-of-state lawyers who are not in
13 the same jurisdiction.

14 And I'll tell you, that is a very difficult
15 thing for both the hotline, where we use them
16 extensively; and number two is, it really has a
17 residual effect on getting corporate legal departments
18 involved because, as you all may know, many lawyers in
19 corporate legal departments are not members of the bar
20 in the jurisdiction they happen to live. So if we want
21 to make an inroad into these legal departments, we've
22 got to be more flexible with our ability to count the

1 time that we spend with them.

2 I frankly think we've gotten caught up in our
3 own language, and we've called it "private attorney
4 involvement." We really shouldn't be calling it
5 "private attorney involvement" because we've gotten
6 caught up in our own rhetoric. And I can talk about
7 that more when I have more time.

8 PRESIDENT SANDMAN: Judge Huffman?

9 JUDGE HUFFMAN: Thank you, and I appreciate
10 the opportunity on behalf of the Greater Dayton
11 Volunteer Lawyers Project to be here.

12 Before we started today, I was talking with
13 Mr. Gottlieb, and I said I was rather intimidated and I
14 would just defer to all of his comments. And after
15 hearing him, I defer to all of them --

16 MR. GOTTLIEB: Thank you.

17 (Laughter.)

18 JUDGE HUFFMAN: -- in the sense that he really
19 laid the foundation for what I'd like to talk about. I
20 agree completely with his concerns and the things that
21 are of interest to him, and VLP is firmly in favor of
22 the recommendation.

1 Our focus, however, is on the structure of the
2 programs. I want to give you just a slight amount of
3 background on VLP. VLP is in its 25th year, started by
4 four attorneys in Dayton who saw a need for volunteer
5 legal services to serve as a complement to legal aid.

6 We are a subgrantee of Legal Aid of Western
7 Ohio, but the funds we receive from LSC make up less
8 than 50 percent of our budget. Instead, the balance of
9 our budget, which is a total huge sum of \$240,000 a
10 year, is provided by private donations.

11 We have 850 attorneys who are registered to
12 provide services through the Greater Dayton Volunteer
13 Lawyers Project in a seven-county area. However,
14 despite our commitment to Legal Aid of Western Ohio
15 that we provide service in seven counties, we typically
16 will provide service in any one of 23 different
17 counties.

18 That is because of our executive director,
19 Helenka Marculewicz. I have only, after knowing her
20 for about 25 years, finally learned to say her last
21 name. Helenka is retiring this year after 25 years;
22 she's been the sole executive director of VLP.

1 And in our efforts to find a new executive
2 director, it's been very clear to us that having a
3 full-time, dedicated professional who is there to serve
4 as the coordinator of volunteer services is extremely
5 important.

6 While we may be very fortunate at VLP to have
7 a full-time volunteer coordinator in our executive
8 director, we're well aware of the fact that many other
9 programs are forced, because of budget issues, to rely
10 on -- whether it's a staff person, a secretary, an
11 attorney with a full caseload, who is also at the same
12 time trying to manage volunteers.

13 We've been able to provide over \$14 million in
14 donated service in the last 25 years because of having
15 a very structured program. That structured program is,
16 as I said, as a result of having that full-time
17 professional pro bono coordinator.

18 If it weren't for that, I don't believe that
19 we would have the culture in Dayton, Ohio that we do
20 have, and that culture is, there is an expectation that
21 pro bono service be provided. It's not the exception;
22 it is the norm. It is the expectation.

1 Attorneys who are involved with VLP know that
2 if they have a question, it's going to be answered by
3 Helenka. She will provide whatever service is
4 necessary for them to be able to provide service.

5 Our concern with the proposed changes is that
6 there may be some dilution in the service actually
7 provided. While I agree with Mr. Gottlieb that it's
8 very important that the services of paralegals, law
9 students, et cetera, be counted, we want to make
10 certain that the programs that they're working in are
11 viable pro bono programs, that they have a structure,
12 they have a full-time pro bono executive, and that
13 they're able to provide the service that is so
14 important. As I said, our focus is that the service be
15 provided.

16 I do want to talk about, very briefly, one
17 program that we have, and that is, we have a large firm
18 program. We're well aware of the fact that at larger
19 firms, the associates or the attorneys in larger firms
20 may not necessarily be able to handle, because of time
21 restraints, specific cases. Therefore, we have
22 developed projects for these attorneys, and I want to

1 talk about one of them in particular.

2 There's a firm in Dayton, Freund, Freeze &
3 Arnold, that is a defense civil litigation firm. Their
4 female attorneys go into the jail every week, and they,
5 along with their paralegals and law students, provide
6 service to women in the jails. It's obviously a short-
7 term arrangement, hopefully, for the people in jail.
8 But it provides very valuable service.

9 We cannot count the service of the paralegals,
10 who are vital to that program, as well as the law
11 students. But the importance of programs like that is
12 to provide practicing attorneys with an opportunity to
13 mentor law students, to give paralegals an opportunity
14 to provide service, as well as to provide service --
15 or, excuse me, opportunities -- for those who have not
16 yet passed the bar. That program would not be possible
17 if it were not able to be managed by our full-time pro
18 bono professional.

19 I do want to add one other thing about law
20 schools and law school involvement. At the University
21 of Dayton School of Law, they have a very vibrant and
22 active student volunteer lawyers project. What is

1 important about that program is that they have a full-
2 time staff member, faculty member, who works with
3 students, who provides the opportunities for service.

4 So with a law school partner, it is very
5 important that they be invested, with a faculty member
6 who coordinates the pro bono service for the students.

7 Thank you.

8 PRESIDENT SANDMAN: Thank you, Judge Huffman.

9 We'll hear next from Ken Penokie.

10 MR. PENOKIE: Threw me a loop taking me out of
11 order here. I want to thank the task force for their
12 hard work so far, and I do embrace their
13 recommendations. And I also want to thank the
14 organizers of this session for allowing me to use topic
15 1 to talk about obstacles to recruitment of pro bono
16 that were absent from the Task Force list.

17 Legal Services of Northern Michigan is an
18 exclusively rural program. We have no city center, no
19 urban center, anywhere close to us. Our geographic
20 area is large -- not as large as Colorado, but it's a
21 12-hour drive from one end to the other, and it's made
22 up of small communities. We do not have big firms.

1 The normal firm is two to three people, with a lot of
2 single practitioners.

3 For us to get pro bono, we have to be very
4 careful of their needs and we have to design programs
5 around their needs. And some of the things that
6 weren't considered in the report is, we have to avoid
7 having conflicts of interest for these people because
8 in small communities, in marginal firms, they need all
9 the cases they can get, and if they take a case where
10 it's going to conflict them from a personal injury case
11 or a workers comp case or whatever, that hurts their
12 business, and they're disinclined to do pro bono.

13 They want us to limit their exposure, and
14 normally we think of limiting exposure based on how
15 much time it's going to be on a case. But in rural
16 areas, limiting exposure means limiting the amount that
17 the public knows that they're the free attorney.

18 If they get known as the free attorney, they
19 will not be able to go out to eat. Their office will
20 be inundated by calls. There's no end to the exposure
21 that they have.

22 They also have very little tolerance for

1 recordkeeping and oversight involvement. They just
2 want to take cases, and they want to do them, and they
3 do a good job. They don't, amazingly, even want
4 recognition. It's amazing.

5 Our board chair has done pro bono for 40
6 years, and when we put him up for an award to our state
7 bar, it was really hard to document the pro bono
8 because he'd never told anybody about it. We had to
9 get his partners to come forward and document his pro
10 bono.

11 They did so that sort of grumbling that, yes,
12 he takes so much time on it, doing pro bono, that he
13 doesn't do the other stuff. But he did receive the
14 award, and we're grateful for it. But he is the norm
15 in rural areas.

16 We've had bar efforts dedicated toward trying
17 to get rural attorneys to do pro bono, and they come to
18 the bar meetings, and what they here is almost a
19 defiant attitude, saying, our accounts receivable are
20 our pro bono. Of course, we all know that that's not
21 the issue, but that's what they hear.

22 So what we need is flexibility. I'm very

1 grateful to see flexibility being somewhat of the tone
2 of the Task Force, and I'd appreciate it if you
3 consider the obstacles of the rural bar when you
4 consider revising the rules. Thank you.

5 PRESIDENT SANDMAN: Thank you, Ken.

6 We'll hear next from Joan Kleinberg. I'm
7 sorry. Joan had not asked to speak on this subject.
8 Thank you for that, Joan.

9 We'll hear next from Lisa Wood.

10 MS. WOOD: Thank you. And thank you very much
11 for allowing me and SCLAID to have the opportunity to
12 participate. And we also commend you on this exercise,
13 and look forward to participating in future such
14 exercises.

15 The ABA Standing Committee on Legal Aid and
16 Indigent Defendants has spoken forcefully and
17 passionately about the need to expand the PAI rule for
18 some time now, and we're encouraged to see that the Pro
19 Bono Task Force was making the same recommendation.

20 So, having read the guidelines, I'm not now in
21 my comments going to repeat what the ABA has said in
22 its comment letters over the last several years and in

1 its written comments for this workshop.

2 Instead, what I thought I would do in response
3 to topic 1 is start by going back to the subject that
4 Charles Keckler brought up at the beginning of asking
5 the question of what is the objective of the PAI rule.

6 That really is a question for LSC to answer.
7 But if I were answering the question, I can think of
8 four goals of the PAI rule that I think are important
9 to the vibrancy of LSC.

10 Certainly an important goal is to leverage, as
11 you talked about, sir. This is a way to increase the
12 amount of attorney time available to meet the justice
13 gap.

14 It's also an opportunity to achieve your
15 communication mission that we've heard Jim talk about
16 so much over the last year. The more lawyers you have
17 involved in any way in delivering pro bono work to
18 traditional legal services clients, the more we will
19 solve this challenge that we have of most people are
20 just not aware of what it is that LSC grantees do, and
21 they're not aware of the significant challenges that we
22 face in our country on access to justice issues.

1 The PAI rule also gives grantees a great
2 opportunity at development and developing resources
3 from other than the federal government. And I speak to
4 that with experience.

5 I've been on the board of the LSC grantee, the
6 Volunteer Lawyers Project of Boston, for over 26 years
7 now, and some of our most passionate and generous
8 contributors, financial contributors, are our
9 volunteers.

10 And they also are most effective at convincing
11 others to give. So the more people you have handling
12 cases for the local LSC grantee, the more likely
13 they're going to be able to raise money from private
14 funds.

15 The last objective that I think the PAI
16 program helps is helping with the building community
17 integration point that you made also. This is a way to
18 collaborate with the other stakeholders in the system
19 effectively and be a part of the larger legal
20 community, which I think feeds into all the other goals
21 that we talked about.

22 The other thing I wanted to raise, and being

1 the only big law partner on the panel today, is just
2 two points about the context in which we're looking at
3 this. And we heard a little bit about this from the
4 judges who spoke yesterday.

5 We are really at an extraordinary time of
6 change in the legal profession. All of us who provide
7 legal services, whether to paying clients or to those
8 who aren't able to pay, are having to figure out how to
9 do what we do more efficiently, and do it differently,
10 and whatever it is we do, do it with less. We heard
11 the judges talk about that. No one can afford the
12 current legal system.

13 We are also at a point when the legal
14 education system is under traumatic pressure and
15 criticism and has to change, and we're only beginning
16 to look at that.

17 With that in mind, I think flexibility, which
18 is something that was very much a part of the ABA's
19 comments, is very important because none of us can
20 really predict where we're going to be in the legal
21 world. So I would encourage you to come up with a rule
22 that allows for continuing creativity and innovation

1 because all of us are trying to solve these problems in
2 a very dynamic environment.

3 So with all of that introduction in mind, when
4 looking at topic 1, to me it's critical for LSC
5 grantees to be able to engage law students and
6 incubator programs in the work that they do. This is
7 clearly available talent. These are people that don't
8 have enough to do right now and want to be doing legal
9 work, and so they can help on the leverage point.

10 By doing this, you cultivate long-life
11 advocates for LSC work. I am an example of this; I
12 worked in a legal aid clinic as a second-year law
13 student, and although I've spent my life in large
14 firms, I have been active as a volunteer on legal
15 services issues my entire career, and I attribute it to
16 my experience in the clinic.

17 It is an opportunity to have partnerships with
18 key stakeholders. It's certainly a development
19 opportunity; students will remember LSC if you help
20 them at the beginning of their career, and they will be
21 contributors lifelong.

22 And it's also an opportunity for the Legal

1 Services Corporation to be part of the solution of the
2 problem that the legal community and law schools are
3 facing of not doing the job they need to do, and I
4 would love to see LSC seen as a creative problem-solver
5 to those national debates rather than off to the side.

6 PRESIDENT SANDMAN: Thank you, Lisa.

7 The floor is now open for public comment. If
8 there is anyone in the audience here who would like to
9 comment, I would ask him or her to raise him or her
10 hand and come up to a microphone.

11 I don't see anyone volunteering. If anyone on
12 the webinar would like to participate, you may either
13 raise your hand electronically and we will recognize
14 you, or you may type a question in the question box.

15 We have a question from Pat Rizer at CRLA.
16 You may go ahead and speak, Pat.

17 (No response.)

18 PRESIDENT SANDMAN: Pat, we're not able to
19 hear you. Your phone may be on mute.

20 (No response.)

21 PRESIDENT SANDMAN: Pat, we're not hearing
22 you. If you're trying to communicate through your

1 computer microphone, it may not be working. There is a
2 telephone number provided that you can phone in on to
3 give us your comments that way.

4 There are no other questions. While Pat is
5 trying to connect, I saw a couple of Board members with
6 their hands up. First, Julie Reiskin.

7 MS. REISKIN: Yes, Judge. Your comments, I
8 just wanted to clarify. You said you were concerned,
9 and it sounds like your concerns were around wanting to
10 make sure that whatever was happening, there were full-
11 time or dedicated pro bono coordinators. We've heard
12 other places that that's best practice.

13 I don't understand the connection to this rule
14 and what you're worried about. And maybe that's just
15 me, but I just didn't understand exactly what you were
16 worried was going to happen if PAI was opened up here.

17 JUDGE HUFFMAN: Our concern is that if
18 resources are spent supervising and training law
19 students, law graduates, deferred associates, and
20 others, and that's counted, we still have to provide
21 the service from attorneys. We still have to have a
22 viable program.

1 Our concern is not just opening up what that
2 12-1/2 percent can be counted towards, but it's making
3 sure the program is viable before you are counting
4 those dollars towards those programs. It's very
5 important to have those persons involved.

6 MS. REISKIN: More about the criteria than --

7 JUDGE HUFFMAN: Correct.

8 MS. REISKIN: Thank you.

9 PRESIDENT SANDMAN: Harry Korrell?

10 MR. KORRELL: Thanks, Jim.

11 I don't have this as a specific question for
12 anybody. But in the course of the comments, I think it
13 would certainly help Board members and the people
14 participating in this process to understand what the
15 implications are as a practical matter of not being
16 able to record time against this 12-1/2 percent.

17 Because to someone a little new to this, it
18 seems like if the work is being done and the money's
19 there to provide the support, the training, the
20 assistance, it's not as compelling, not immediately
21 obviously compelling, why how it's accounted for makes
22 a big difference in terms of delivering the services.

1 PRESIDENT SANDMAN: Would any of the panel
2 members like to respond to that?

3 MR. GOTTLIEB: Sure. Atlanta Legal Aid more
4 than meets its --

5 PRESIDENT SANDMAN: Excuse me, Steve. Could
6 you identify yourself for the people participating by
7 phone?

8 MR. GOTTLIEB: Okay. Sure. I'm Steve
9 Gottlieb from Atlanta Legal Aid. Atlanta Legal Aid
10 more than meets its 12-1/2 percent. So in some sense,
11 whether the LSC says that certain kinds of activities
12 are covered or not isn't all that amazingly relevant to
13 us.

14 However, we also have to recognize that any
15 time LSC says that some activity is something that they
16 want to urge people to do and they want to give people
17 credit for it, people follow that lead. So when you
18 start saying that certain things are countable and
19 certain things are not countable, you have a way of
20 pushing people toward things that are countable, which
21 may not be kind of initiatives that you really want
22 people to take.

1 By the way, the second reason to do this -- I
2 actually think you ought to talk about, and we maybe
3 talk about -- the numbers as well, not only counting
4 the dollars, but actually counting the numbers of cases
5 because I think that actually pushes people in certain
6 directions, too.

7 PRESIDENT SANDMAN: Board member Laurie Mikva
8 has a comment.

9 MS. MIKVA: Thank you. I just wonder whether
10 anyone wants to address -- there was stuff in the
11 comments, but I'm not sure anyone here addressed
12 counting the time of paraprofessionals, non-legal
13 people.

14 JUDGE HUFFMAN: I'll address that in one
15 sense, and that is, again I agree with Mr. Gottlieb.
16 We more than meet our commitment pursuant to our LSC
17 subgrant. Without paralegals, I think any practicing
18 attorney would admit without a paralegal they can't
19 accomplish what they do. And they are so vital to
20 providing services to our clients.

21 Again, if we can't count those hours, it's not
22 going to make any difference in the amount of service

1 that we provide. VLP, as I'm sure Atlanta Legal Aid,
2 is still going to provide the same service.

3 But that may be very important to some smaller
4 programs that don't have the same resources and the
5 same number of volunteers. They may need more of their
6 budget for some administrative costs that we don't
7 experience. So for a smaller program, that may be
8 vital to meeting their obligations to LSC.

9 MS. ARGUETA: And if I may, also from the law
10 firm perspective, in Los Angeles, where LAFLA, my
11 organization, is located, we see more and more law
12 firms bringing in their paralegals to work with us on
13 the smaller cases under the supervision of their
14 associates, and to the point where you're now seeing
15 law firms giving awards to paralegals at their annual
16 summer events because the paralegals have put in so
17 many hours.

18 That's helpful to the program. Like Steve, we
19 more than meet -- and Judge Huffman -- we more than
20 meet our requirement. But I think it's an incentive to
21 the firms to have some involvement in pro bono with
22 you.

1 Even when they cannot provide you five or ten
2 associates to do that work, they staff it with
3 paraprofessionals who are very motivated, very eager to
4 become involved. And then that cements that
5 relationship with the law firm. They become more
6 vested in you as you bring in not just their
7 associates, but other members of their firm into the
8 mix.

9 FATHER PIUS: This is Father Pius. Thank you,
10 Jim. This is Father Pius Pietrzyk, on the Board.
11 There's an ancient scholastic maxim that the order of
12 intention is opposite to the order of execution, for
13 those of you who don't study scholastic philosophy, and
14 I have great pity for you all.

15 (Laughter.)

16 FATHER PIUS: What that means is that you come
17 up with your goals first and then -- in the order of
18 intention, that is, you think of your goal, your end,
19 first, and then all the steps that you need to get
20 there. But when you actually do it, you actually have
21 to take the first step first, and then you get to the
22 end last.

1 I just wanted to thank Lisa for her thoughts
2 as to what is the goal, what is the end, of the PAI
3 rule. The PAI rule is not a creation of Congress; it's
4 a creation of the Board, and it's about 30 years old
5 now. And I think that kind of thing is helpful.

6 So I would encourage Lisa, if you could, to
7 take what you said, perhaps, and submit it in writing
8 to us as well; and if there are others who have
9 thoughts on what the goal of the PAI rule is and should
10 be, to also consider submitting that.

11 It's not quite on topic, but I think it's
12 relevant to the overall -- to this particular topic,
13 but I think it's overall relevant to what we're doing.

14 And so I would again thank you, Lisa, and encourage
15 others to do the same.

16 PRESIDENT SANDMAN: I believe Pat Rizer may
17 now be on the phone. Pat, if you're there, could you
18 try to speak?

19 MS. RIZER: Well, I can speak. Can you hear
20 me?

21 PRESIDENT SANDMAN: We can hear you.

22 MS. RIZER: Okay. Good, well, in the

1 meantime, several people made the point that I was
2 going to ask about, and that is using
3 paraprofessionals, because we find that our lawyers are
4 regularly -- particularly firm lawyers -- are regularly
5 reporting their paralegal hours when we ask them how
6 many hours they have invested in our cases. And
7 sometimes they're up to 50 percent of the total hours
8 invested.

9 PRESIDENT SANDMAN: Thank you.

10 MS. RIZER: So it's something that should be
11 captured and capitalized on.

12 PRESIDENT SANDMAN: Thank you, Pat, and thank
13 you for your persistence in trying to be heard.

14 We'll take a final comment from Gloria
15 Valencia-Weber, and then we'll to move on to topic 2.

16 PROFESSOR VALENCIA-WEBER: First, thank you
17 for all your insightful comments. I'd like to address
18 or ask you about the use of law students.

19 As a law professor and one who has worked in
20 our own clinics, I'd like to know from you what is it
21 that makes it -- put aside the PAI credit. What makes
22 it easier for you to use law students, and what is it

1 that makes it more a relationship that you want to
2 pursue? And anything that you can add about what might
3 be obstacles to using law students.

4 And I'd like to leave you with a third item.
5 Have you looked at the ABA rules that are used for
6 accrediting clinical law programs? There are some
7 rules that might help work with you, and that many of
8 the key clinical programs in the very devoted law
9 schools that have full-time clinics to provide pro bono
10 services, the state court rules have allowed those
11 supervised students to be the attorney in the case,
12 assuming the student meets certain requirements.

13 And in those states, you might find it easier
14 to count that, not just as a non-lawyer, and might make
15 it easier for you. But I would like to know what
16 enables or makes it more inviting for you to use law
17 students, and what are the barriers.

18 JUDGE HUFFMAN: I appreciate the opportunity
19 to respond to that question because I wear a couple of
20 different hats. I also am an adjunct professor at the
21 University of Dayton School of Law.

22 We utilize law students in a variety of

1 different ways. We do not count clinic hours at the
2 law school towards our hours; instead, we use law
3 students by pairing them up with practicing attorneys,
4 giving them an opportunity to do research.

5 But also on some of the projects, the large
6 firm projects that we do, law students are involved in
7 those projects. They then have an opportunity to meet
8 practicing attorneys, have mentoring opportunities, and
9 get to know what the practice of law is like.

10 So we use this very viable and vibrant program
11 at the University of Dayton, which is, as I said, the
12 Student Volunteer Lawyers Project, in conjunction with
13 our program to really help the people that we perceive
14 as our clients.

15 And at VLP, we consider our clients to be the
16 volunteer attorneys. Their clients are those in need
17 of legal services. So the assist our clients in
18 providing service. I hope that was --

19 PRESIDENT SANDMAN: Thank you, Judge Huffman.

20 IV. TOPIC 2

21 PRESIDENT SANDMAN: We'll now move on to topic

22 2. Topic 2 is the Task Force recommendation that

1 grantees should be allowed to spend PAI resources to
2 enhance their screening, advice, and referral programs
3 that often attract pro bono volunteers while serving
4 the needs of low income clients.

5 And I'll ask Silvia if she will please lead
6 off to address that issue. Six minutes, please.

7 MS. ARGUETA: Sure. Thank you very much.

8 So this topic to me is about the last item
9 that Mr. Keckler mentioned, building community and
10 building relationships, because it's in this topic
11 truly where programs, if they are able to work with
12 their local pro bono programs, their local bars, they
13 are then able to create long-lasting relationships.

14 The fact that we are programs that can be
15 relied on by, for example, an L.A. County Bar
16 Association, the Women Lawyers Association, to refer
17 domestic violence TROs to them that they then handle
18 completely, is very important and vital to the work
19 that they do and the partnership that we build so that
20 it builds on other programs that will come in the
21 future.

22 And those programs have come in the future for

1 LAFLA. The future is now for us. We've been able to
2 expand our reach with the local bar associations so
3 that they are able to come to us as experts in various
4 other areas of law because a relationship was created.
5 The community-building took place.

6 One area that's been vital for us to see is
7 the development of relationships with minority bar
8 associations. Those associations have traditionally
9 not been looked at in terms of developing relationships
10 with legal aid programs, but they're vital in various
11 urban areas where there are many organizations that
12 exist to provide specific legal services, for example
13 to Korean-speakers.

14 So I'll give you an example of LAFLA. We have
15 a very strong relationship built with the Korean-
16 American Bar Association, where they handle many of the
17 domestic violence cases that we have and many of the
18 consumer debt cases that we have.

19 We refer many cases that we can't handle to
20 them, and they are now very glad to take those because
21 they have a relationship and they have an expertise
22 that they can come back to, say, if they have a

1 question or a concern.

2 It's not simply passing on a case and
3 forgetting about it. It's knowing that you have a
4 leadership of advocates of pro bono leaders in the
5 community that come back to you and say, this is an
6 important relationship that we now want to take to a
7 different level. And it's opening the doors to
8 ensuring that you have long and stable programs.

9 In Los Angeles, we are very fortunate that the
10 local bar association, the L.A. County Bar, is very
11 invested in the domestic violence issues that happen to
12 our client community. They, through that program, have
13 established a courthouse presence.

14 And with their courthouse presence, we share a
15 courtroom where all of the TROs are heard, and
16 literally refer those people who come to us and say, I
17 need an immediate TRO, to LACBA so that their
18 barristers can handle that case.

19 It is not just a simple referral. It
20 continues a relationship with them to ensure that they
21 know that they can trust us, that they can work with
22 us. We do some of the screening for them, and off the

1 case goes to them for handling in the broader sense.

2 Those are vital relationships that this
3 recommendation addresses. But one obstacle to that
4 recommendation, frankly, is LSC Office of Legal
5 Affairs' Advisory Opinion 2011-001. That opinion
6 essentially says that the dollar amount of time spent
7 on advice and referral of LSC-eligible applicants
8 cannot be counted toward the PAI obligation.

9 I think that doesn't make sense. If the goal
10 here is to build that community, to enhance resources,
11 this opinion goes exactly contrary to that goal. And
12 it should be reviewed, and it should be pulled. It
13 does not do anything to enhance what the Pro Bono Task
14 Force worked for so long to come up with in the various
15 recommendations that it provides.

16 I think that would go a long way in helping
17 programs understand that they can have and should have
18 these relationships with their local bar programs, and
19 it would go a long ways to ensuring that this approach
20 to referral and screening is rejected by LSC. Thank
21 you.

22 PRESIDENT SANDMAN: Thank you. Before we

1 continue, I want to note that I received a message from
2 Board member Martha Minow, who is also Dean of Harvard
3 Law School. She is listening by telephone, but said
4 it's not easy to hear. So I'd ask everyone to try to
5 speak directly into his or her microphone.

6 But she did submit this comment: "I am
7 strongly in favor of adjusting the rule to support
8 collaborations with law schools, law students, and pro
9 bono attorneys, and you may quote me." Done.

10 Steve Gottlieb?

11 MR. GOTTLIEB: I'll try to remember my
12 microphone, especially in light of that comment.

13 It seems like you put the judge and I
14 together, and we're going to echo one another on this
15 comment, too, I have a feeling. Let me illustrate
16 exactly what Silvia was talking about about why it is
17 kind of absurd that we're not allowed to count the time
18 we use to support independent pro bono programs.

19 We have a program called the Atlanta Volunteer
20 Lawyers Foundation, which was started in -- well, the
21 idea of it was started in 1968, where lawyers from
22 Atlanta Legal Aid would be in the offices on Saturday

1 and volunteer lawyers would be in the offices with
2 them, and the volunteer lawyers would handle the cases.

3 That has been going on for 45 years.

4 In 1977, because we were creative, we created
5 an organization called the Atlanta Volunteer Lawyers
6 Foundation to actually run that Saturday attorney
7 program. Since that time, the program has been
8 separate and run by the Atlanta Volunteer Lawyers
9 Foundation, and they have gotten separate funds,
10 leveraging funds, to add to the ability of them to
11 handle volunteer programs.

12 The point being, and I don't know if I made it
13 very articulately, is that a program that we had
14 started to get volunteers is now being handled by an
15 independent nonprofit organization which is focused on
16 getting volunteers.

17 There's a collaboration that we continue to
18 have. We screen the cases. We select appropriate
19 cases to go to volunteers. We decide. We write memos
20 of law for the volunteers so that they know what
21 they're doing sometimes.

22 (Laughter.)

1 MR. GOTTLIEB: I shouldn't have said it that
2 way. Excuse me. I should have said that they know what
3 they're doing, and sometimes they need our help.

4 The lawyers come in every Saturday, and we
5 make our offices accessible, and our lawyers are in the
6 every Saturday to talk to them. AVLF, on the other
7 hand, gets the volunteers, does screening, provides the
8 logistics, has training, has mentors, and tracks the
9 results. They keep up with what happens to the cases.

10 But because we don't manage that program, we
11 can't get PAI credit, for a program that's been going
12 on in collaboration with them since 1977, and which we
13 even had earlier than that. It doesn't make a lot of
14 sense, especially given the fact that they probably
15 manage their volunteers better than we would manage
16 them if we were doing it, given the fact that they
17 focus completely on doing that.

18 This is just the kind of joint effort that you
19 would think that the LSC would want to push. In fact,
20 as I mentioned, this was one of the programs that the
21 LSC, when they visited us, congratulated us on doing.

22 It's ironic because it's such a disservice to

1 the Legal Services Corporation. It means that those
2 cases which we were so involved with, hundreds of those
3 cases every year, are not cases that end up LSC getting
4 any credit for, either in terms of time or in terms of
5 numbers. And it's exactly the kind of project that LSC
6 would want to support.

7 I actually, frankly, would go further than
8 what was recommended by the Task Force. I would
9 recommend that it not just be a situation where we are
10 allowed to use the 12-1/2 percent, but rather, we
11 should be allowed to actually count those cases as
12 cases which are PAI cases as a way of illustrating that
13 LSC grantees have been involved in promoting PAI cases
14 with the private bar.

15 So I guess my point is that the idea of having
16 an independent program which we support and which we're
17 integrated with, to have LSC not say that we can use
18 LSC dollars or LSC requirements to meet it, doesn't
19 seem to make much sense to me.

20 PRESIDENT SANDMAN: Thank you, Steve.

21 Judge Huffman?

22 JUDGE HUFFMAN: Thank you. I do think you sat

1 us next to each other for a reason because I think VLP
2 would be that complement to legal aid that Mr. Gottlieb
3 is talking about.

4 We're a little bit different in that we are a
5 subgrantee of Legal Aid of Western Ohio, so our hours
6 are counted towards their 12-1/2 percent. I want to
7 focus a little bit differently, though, on the referral
8 system.

9 We utilize Legal Aid of Western Ohio's legal
10 aid line, and they provide us with referrals. The
11 problem is, they don't have enough money to provide us
12 with sufficient referrals. Their referral system shuts
13 down in the middle of the month because they cannot,
14 with their resources, handle all of the referrals.

15 We have attorneys waiting to take cases. As I
16 said, we have 850 attorneys who are on our panel.
17 Every year only about half of those attorneys are
18 actually assigned a case; because of the intake process
19 and referral process, we simply can't get enough cases.

20 So if there was some relaxation of the rules
21 relating to that 12-1/2 percent and the referral and
22 the intake process, we could meet the goal that I

1 perceive as being the goal, and that is, providing
2 legal services to those in need.

3 We do have two programs that we have developed
4 that obviously are not counted towards PAI hours, and
5 that is, we have attorneys from LexisNexis, which has
6 its home office in Dayton, and attorneys from Wilmer
7 Hale, who office have their back office functions in
8 Dayton. They do additional intake and referral as well
9 as short advice for us. That is not counted because it
10 is not -- it is an intake process; it's not necessarily
11 part of the provision of services.

12 But that is a method by which we can engage
13 the attorneys from those two areas of practice where
14 they otherwise would not be in a position to volunteer
15 or provide services. And so in an effort to give them
16 an opportunity to provide some service, we have
17 developed these programs that currently don't count
18 towards that 12-1/2 percent. Thank you.

19 PRESIDENT SANDMAN: Thank you, Judge.

20 Joan Kleinberg?

21 MS. KLEINBERG: Thank you for this opportunity
22 to address you, and I want to thank the Task Force for

1 identifying these important issues.

2 I've been involved in private attorney
3 involvement in a legal aid program since 1982, and I
4 will say that the landscape has changed. One key thing
5 is that the Corporation needs to remain flexible and
6 allow programs to change with the times, and allow
7 programs to design PAI programs that fit into their
8 state's delivery system or their service area delivery
9 system.

10 By way of example, I'm just going to tell you
11 a story about how we function in Washington, which is a
12 little bit different from many other states.

13 Washington has a highly integrated delivery
14 system, and we have a history of independent, local
15 bar-affiliated volunteer lawyer programs that have been
16 carrying out the primary pro bono activity in the state
17 for many years.

18 In 1995, when our access to justice board
19 created our state plan for the delivery of legal
20 services to low income people, it assigned a specific
21 role to the Northwest Justice Project. And that role
22 was to serve as the primary entry point for all

1 components of the delivery system, meaning the primary
2 entry point for both staffed and pro bono programs.

3 To carry out that role, we created our
4 statewide centralized intake hotline, which we call
5 CLEAR. Clients have one number to call. They call
6 CLEAR. They are screened for eligibility. They speak
7 with a lawyer. There's analysis of the case and the
8 issues. They receive some advice, sometimes more.

9 When they need more, though, we always look to
10 see if there's another entity in the client's community
11 to which we can refer the client. It might be our
12 field office. It might be a local pro bono program.
13 We have all of the referral criteria that are
14 articulated by these programs.

15 When it is a pro bono program, we refer the
16 client. We also refer the case, which we can do
17 electronically because we are all on the same case
18 management system, although separate instances of it.

19 We are able to tell, through this electronic
20 transfer, whether the program has accepted the case
21 into their system, and in response to comments by OCE
22 in 2007, we built the ability to hear upon case closure

1 whether that client actually met with a private
2 attorney through the pro bono program.

3 This kind of integrated system enhances the
4 ability of the pro bono programs to recruit and retain
5 volunteer attorneys. And we're not just making that
6 up; we know that through feedback that we've gotten
7 from a number of sources.

8 In a conversation I had with one of the
9 volunteers from one of those programs, he said, "I love
10 CLEAR, and here's why. When I go in to volunteer, I
11 know it's a legal problem. I'm not just seeing
12 somebody cold who maybe was screened for eligibility by
13 a non-lawyer coordinator, but this case has been vetted
14 by CLEAR.

15 "I know it's a legal problem. I know it's a
16 meritorious legal problem. And I have some notes from
17 CLEAR that tell me what I need to do. And so I feel
18 like it makes a very good use of my time." So that's
19 the volunteer attorney perspective.

20 The coordinators, who were recently surveyed
21 about how CLEAR is working for them, had a variety of
22 comments. One mentioned that it's very client-centered

1 because a client can get help with an urgent problem at
2 CLEAR, which a volunteer attorney program frequently
3 can't do, but then can be referred to the pro bono
4 program for further assistance.

5 Knowing what the client needs at the pro bono
6 program helps those coordinators know how to place that
7 case. And having that intake process handled at NJP
8 frees up those coordinators to do the things they need
9 to do locally -- recruit lawyers, make ten calls to
10 place a case, work with the lawyers to keep them
11 engaged with the program.

12 So what we do in our integrated screening and
13 referral program really supports the entire pro bono
14 delivery system in the state of Washington. And it
15 should be recognized by LSC as doing that, which we
16 currently, under the current interpretation of the
17 rule, cannot do. So -- I'm getting the time sign.

18 Anyway, I urge you to amend the rule so that
19 it can be flexible enough to allow this kind of
20 activity to be counted.

21 PRESIDENT SANDMAN: Thank you, Joan.

22 Lisa Wood?

1 MS. WOOD: I'm going to make two comments on
2 this topic. First is the point about efficiency, and
3 just to reflect an anecdote in my years as being on the
4 board of VLP, during my three years as chair we had a
5 visit from LSC as part of the statewide planning
6 exercise, in which all of the providers in the state
7 were encouraged to work more effectively together and
8 to integrate our operations, including our screening
9 and intake system.

10 So when I look at this rule and its
11 interpretation, I see a disincentive to be efficient
12 about how you integrate the delivery system in the
13 state, and that does not make sense to me. That to me
14 is LSC not operating in a consistent manner because it
15 certainly expects its grantees to be efficient in
16 everything that they do.

17 The other thing about this issue is that
18 screening advice and referral programs offer an
19 opportunity for pro bono time from lawyers that you
20 might not otherwise convince to do pro bono work.

21 In-house lawyers really like these kinds of
22 programs because it's harder for them to managing their

1 time. Corporate lawyers, who are intimidated by
2 litigation, are willing to take on these types of
3 matters.

4 And busy lawyers, who might have earlier in
5 their career taken legal services cases, may feel now
6 as though they can't make that commitment -- not that
7 younger lawyers aren't busy, but senior lawyers may
8 just be juggling more and may not want to make that
9 commitment, but they bring a lot of wisdom and they can
10 really provide a valuable service in this context.

11 So I would encourage you to count this to
12 demonstrate that you believe that this work is
13 important so that your grantees will encourage other
14 lawyers to do pro bono work.

15 PRESIDENT SANDMAN: Thank you, Lisa.

16 We'll now receive public comments. Is there
17 anyone here in the room who would like to speak to
18 topic No. 2. Charles Keckler?

19 MR. KECKLER: Thank you, Jim.

20 Prompted by the discussion, I again went back
21 to looking at the Advisory Opinion. One of the factors
22 that was in that Advisory Opinion, and I'm looking at

1 it here if you did bring it or have a copy of it, was
2 the concern that the grantee, I guess in this
3 particular context, wasn't able to track whether the
4 client had been served or what the outcome of the case
5 was. That was in the opinion.

6 I think that's a fair point to make, and
7 particularly in light of our concern at the Corporation
8 in terms of, overall, the Corporation is trying to look
9 more at outcomes for clients as a way to understand our
10 success and the success of the grantees.

11 So I was wondering how easy it would be or how
12 difficult it would be for grantees, for recipients, to
13 get some kind of information on that back. They're at
14 the front end with intake and referral, which is what
15 this recommendation is about, but this opinion ties
16 that, counting that work at the front end, to some kind
17 of report at the back end. Was the client served?
18 What happened in the case?

19 How easy would it be to get that information
20 for the private attorney or the person it's referred
21 to, to get that back to the recipients to at least
22 allay that element of the concern in the opinion?

1 MS. KLEINBERG: Maybe we're unique because we
2 are on the same case management system as the pro bono
3 programs that we refer to. We were able to come up
4 with a technological solution to that and can get a
5 report back that confirms that a particular client did
6 see a private attorney. We don't know necessarily what
7 happened at the end of that engagement, but we know
8 that private attorney activity was involved.

9 I do want to point out, though, that the CSR
10 Handbook permits counting of time where a staff pro
11 bono coordinator spends trying to refer a case to a
12 private attorney, whether he or she is successful in
13 making that referral or not. And this seems to be a
14 sort of corollary to that except that those referral
15 efforts may be made by an independent pro bono program.

16 PRESIDENT SANDMAN: Judge Huffman, did you --

17 JUDGE HUFFMAN: Go ahead.

18 MR. PENOKIE: I just want to say when you have
19 a very small PAI staff, the first part is not
20 difficult, tracking that it went to the attorney.
21 Beyond that it gets very difficult, especially again
22 dealing with attorneys who don't necessarily want to be

1 bothered, but also with clinical programs, where they
2 will track results, but if they refer beyond to a
3 second level of clinical, then it becomes difficult.

4 So if you have the resources, it's not. If
5 you do, it's very time-consuming and flies, at least
6 for my program, in the face of the parts of the PAI
7 that talk about an economical program. And it becomes
8 not very cost-efficient then.

9 PRESIDENT SANDMAN: Judge Huffman?

10 JUDGE HUFFMAN: Thank you. I do want to make
11 one comment. I don't think, at least in our program,
12 it would be difficult to track whether those services
13 were actually provided. But we have to remember also
14 that some of those intake conversations end the
15 service.

16 The client realizes that they don't have a
17 legal issue. It is not a legal issue that belongs to
18 them -- it might be a family member, something like
19 that. Or, which is often the case, the client doesn't
20 follow up.

21 The fact that that attorney or professional is
22 providing that brief either advice or referral is

1 important because I do think it alleviates concerns by
2 the public, who obviously are calling that legal aid
3 line or that referral system for a reason; it allays
4 their concerns, that this is not a legal issue or this
5 is not an issue that I can resolve.

6 So I think those hours or that time, even
7 though it doesn't result in a referral, is still
8 extremely important to access to justice and to
9 understanding the legal system.

10 PRESIDENT SANDMAN: Steve Gottlieb?

11 MR. GOTTLIEB: Let me add also another note of
12 reality. Even when we do it ourselves in situations
13 where we try to monitor outcomes that come from the
14 private attorney's work, even in situations where we've
15 done it for long time, the results are about 50 percent
16 about whether you can actually get people to respond.

17 In fact, we end up having to go to the court
18 to find out whether the divorce was done because
19 volunteer attorneys, as was pointed out, just want to
20 do the volunteer work. They don't want to be bothered
21 with reporting to you about the outcomes.

22 So even in the best of circumstances, it's not

1 really likely you're going to get as much information
2 on the back end as you think you will.

3 PRESIDENT SANDMAN: Is there other comment
4 here in the room?

5 (No response.)

6 PRESIDENT SANDMAN: We do have a question from
7 Helenka Marculewicz, if I'm pronouncing her question
8 correctly. Her question is, "How does expanding what
9 you can spend the 12-1/2 percent on grow pro bono?"

10 Does any panelist want to respond to that?

11 MS. WOOD: I'll give it a try. This is Lisa
12 Wood. In a sense, I'm circling back to a question that
13 Harry had asked as well. We have in this workshop and
14 in the programs that have submitted comments some of
15 the leaders across the nation in terms of integrated,
16 established, expansive pro bono programs.

17 But that isn't the case for every LSC grantee
18 around the country, and I think in part we would want
19 the PAI rule to encourage everyone to do their best.
20 And especially in this time with very limited resources
21 and people having to answer some very tough questions
22 about what are they going to spend their resources on,

1 I wouldn't want to have a restrictive definition of PAI
2 that would discourage them from doing whatever maybe in
3 their region made the most sense for how to do pro bono
4 and what would be most efficient, given the limited
5 dollars that they have.

6 So while every program here represented
7 exceeds the 12-1/2 percent, and certainly that's the
8 experience I have in Boston, too, with VLP of Boston,
9 that isn't the case for all programs.

10 My sense is there are some grantees who really
11 struggle to make this work, and I would think we want
12 to encourage them. Certainly I would hope the goal is
13 that everyone exceeds the 12-1/2 percent, but that may
14 not be realistic.

15 PRESIDENT SANDMAN: Judge Huffman?

16 JUDGE HUFFMAN: I want to echo a comment,
17 though, I think that Helenka is making through her
18 question, and that is, even though there is a concern
19 about relaxing the restrictions, we still have to make
20 certain that there are rules in place so that we have
21 the adequate provision of services, that we are not so
22 diluting this 12-1/2 percent to the point where we are

1 not providing services, to the point where it's all
2 going to administrative costs and it's not going to the
3 actual provision of services. That is our overriding
4 concern.

5 PRESIDENT SANDMAN: If there's anyone
6 participating by webinar who would like to submit a
7 comment, now is the time.

8 (No response.)

9 PRESIDENT SANDMAN: Silvia, did you have a
10 comment here in the room?

11 MS. ARGUETA: Oh, just one last thing related
12 to that. I think that the expansiveness of programs
13 that even exceed is the innovation and the creativity
14 that you allow your partners that work with you to
15 bring to the table.

16 I think that cannot be ignored because there
17 are so many other pro bono attorneys who really want to
18 help you, and they have ideas on how you expand your
19 work. And I think that looking at these
20 recommendations, you see that that innovation is now
21 even more possible for those who exceed it, and
22 definitely for those who need to have more support in

1 order to do that.

2 They can come up with innovative ways to work
3 with their bar associations and with others. And that,
4 I think, is part of the goal of enhancing PAI in
5 general, is to have more creativity so that more people
6 are served.

7 PRESIDENT SANDMAN: Joan?

8 MS. KLEINBERG: I just want to make one more
9 comment in response to the question, why expand the
10 definition of what can be counted as PAI. And I think
11 a really important reason is to allow LSC to tell the
12 full story of what kind of private attorney involvement
13 activity is happening.

14 Right now a lot is happening that can't be
15 recorded as part of the 12-1/2 percent PAI requirement
16 because it's not permissible, either under the rule as
17 written or as interpreted. And a very important aspect
18 of expanding that definition is to allow that full
19 story to be told.

20 V. TOPIC 3

21 PRESIDENT SANDMAN: We'll move now to topic
22 No. 3, which is the Task Force recommendation that LSC

1 should reexamine the rule, as currently interpreted,
2 that mandates adherence to LSC grantee case handling
3 requirements, including that matters be accepted as
4 grantee cases in order for programs to count toward PAI
5 requirements.

6 We'll hear first from Silvia.

7 MS. ARGUETA: Thank you. So this final
8 recommendation, I think, is very important because I
9 think it has the ability to expand, especially for
10 programs that are challenged in terms of their support
11 internally to do pro bono PAI work, to not be hamstrung
12 by having to count every case as an LSC case.

13 When you do the actual work with pro bono
14 programs in clinics, you come quickly to realize that
15 those programs who have the ownership of the clinic,
16 they own the clinic. It's their program. They came up
17 with it. Their members are tied to the work that is
18 being done.

19 Having the restriction that the case must be
20 counted as an LSC grantee case then, I think, really
21 serves as an impediment to allowing a program to be
22 able to provide the training, the technical assistance,

1 the materials that are needed to enhance that clinic,
2 that set of lawyers, that local bar association that
3 very much wants to call that project their own.

4 But they're restricted because if you don't
5 treat it as your case as the LSC provider and it meets
6 all of the CSR requirements, then you really are
7 limiting what that program can do. And frankly, what
8 happens, they'll go elsewhere. They'll go to those
9 non-LSC programs.

10 In Los Angeles we have the very viable issue
11 that we have many providers. We're very lucky that
12 there are so many providers in Los Angeles, and so
13 there's a lot of competition for pro bono involvement.

14 Sometimes, though, it is through the relationship that
15 the clinic comes up.

16 Very few providers, for example, want to be on
17 Skid Row. LAFLA is on Skid Row. We provide homeless
18 vets, homeless families, homeless seniors, a myriad of
19 services. And we've created, in partnership with local
20 bar associations, the training materials and the tools
21 that they need to take it on and own the clinic that we
22 have on Skid Row with them.

1 It's their clinic. We come and train them.
2 We serve as a group that they can come to for
3 expertise. They bring their own expertise, and they
4 don't really want somebody breathing down their neck
5 saying, oh, but it doesn't qualify and we have to make
6 sure that it meets all of the check boxes of a case
7 that LAFLA, for example, would have and carry.

8 And I think that only serves to hamper the
9 delivery of services for the clients rather than moving
10 to an expansive view that we are maximizing resources,
11 that we are using the expertise of a set of lawyers
12 that we may not have in-house.

13 Because, for example, if you have a domestic
14 violence case and you have a divorce, but there are
15 issues related to bankruptcy that come up, well, that
16 private lawyer is going to have that expertise. They
17 want that case and they want to take it with them.

18 They don't want, frankly, me to be saying,
19 well, you have to meet these guidelines, and this is
20 what the CSR requires. They don't want that, they
21 don't need that, and they will gladly go to someone
22 else and seek their support than they would to LAFLA.

1 I think that all that does is really hamper
2 programs that want to be more creative about how the
3 resources are being maximized by the pro bono bar, by
4 the local bar associations, to ensure that new services
5 are being brought to communities that are, frankly,
6 very neglected.

7 So I think that if examining this criteria,
8 this very important one that the case handling
9 requirements must be met in order for them to count
10 towards PAI, it would go a long ways if LSC also looked
11 at the LSC External Opinion 2008-1001, that pretty much
12 mandates that, and really review why that may hamper
13 the efforts that this Pro Bono Task Force is trying to
14 pretty much break through and say, let's think of it
15 expansively. Let's look at new innovations.

16 Instead, this external opinion says, no we
17 won't, and we will hamper your efforts to be more
18 expansive about the types of cases that your local
19 clinic, that's created by a local bar association, can
20 handle and should handle.

21 I think that opinion pretty much hampers those
22 programs that want to be that resource, that want to do

1 all the three things -- building community, bringing in
2 expertise, and leveraging resources. And that's the
3 one that I think must be carefully examined and
4 hopefully not adhered to any longer because it really
5 is a stumbling block for programs to work with our
6 local bars and with our local pro bono programs.

7 PRESIDENT SANDMAN: Thank you.

8 Steve Gottlieb?

9 MR. GOTTLIEB: Thank you. I think one of the
10 changes that people have been alluding to without
11 specifically mentioning it are changes where we want to
12 take advantage of private attorneys in providing
13 service in a number of different, innovative contexts.

14 When Georgia passed 6.5, which allows a
15 relaxation -- ABA 6.5 -- which allows a relaxation of
16 the conflicts rules, we got together with some private
17 firms to try to figure out how we could use that as an
18 opportunity to expand pro bono involvement.

19 And the two things that we came up with
20 related to expanding the ability of private lawyers in
21 firms, particularly, to do limited service where they
22 wouldn't have to be making a large commitment taking on

1 an extended case, where they wouldn't have to go to
2 court, where they might be able to do things at their
3 desk, all of the things for all of those lawyers that
4 we haven't been able to tap as much as we wanted to.

5 And the two areas that we focused on the most
6 were -- one was something where we have a self-help
7 clinic in our local courthouse to talk about landlord-
8 tenant cases, and two, to help out on our senior
9 hotline, both of which allow private attorneys to make
10 limited commitments without a lot of expertise and a
11 lot of training, and help adding to pro bono.

12 Both of them are limited by the LSC rule, for
13 the same reason, and that is because neither -- we
14 would not get credit in either instance for our
15 involvement with either the clinic or the seniors
16 hotline because of the fact that we don't use LSC case-
17 handling requirements.

18 Not only don't we, but we can't. We have a
19 court clinic. The court clinic isn't going to say,
20 okay, we'll have lawyers come down here, but they have
21 to decide whether the people fit the LSC eligibility
22 guidelines, and we have to check assets. That's not

1 going to happen. They're going to open it up to
2 everybody who wants to come in. And the senior hotline
3 similarly -- it's a Title 3 program. You can't check
4 eligibility because it's not allowed.

5 So in both instances, both innovative ways to
6 use private lawyers in ways that we really want to to
7 tap into a segment of the private bar which has not
8 been as responsive -- and I add corporate counsel is
9 another place where we could draw people -- that these
10 were things that LSC wouldn't give us credit for, new
11 and innovative ways of doing things.

12 I think what -- I will just conclude on this,
13 that I think one of the themes on this whole panel on
14 1614 is that 1614, I think, was born out of this
15 paradigm where what would happen would be you'd get a
16 case. You'd have a panel of lawyers. You'd have
17 somebody send the case to one of the panels of lawyers.
18 You'd track whether the case was handled. You'd then
19 keep records of that in your own database. And that's
20 the way it was done. That's the way people thought you
21 should do it.

22 But it doesn't take into account the fact that

1 there are all of these innovative ways of doing
2 business which are not according to the original model
3 when the rule was adopted in 1980.

4 So I would suggest, again, that we talk about
5 expanding -- as the recommendations are -- to expanding
6 the rule to allow us to consider the time of other non-
7 lawyers, to allow us to consider time we spend for
8 other lawyers, other time we spend with independent pro
9 bono, and other kinds of mechanisms like brief
10 services. Thank you.

11 PRESIDENT SANDMAN: Thank you, Steve.

12 Kenneth Penokie?

13 MR. PENOKIE: To use the theme, why does
14 changing the 12-1/2 percent mean anything -- and I'm
15 like everybody else; I way exceed my 12-1/2 percent --
16 but four out of our five private attorney initiatives
17 cannot be reported to LSC.

18 So we're all evaluated. LSC evaluates us.
19 Congress evaluates us. The public evaluates us. We
20 can't tell our story. We have an internet delivery
21 system that was the first in the country and was
22 unique, and I'm proud to say that now has several

1 clones out there. We can't count it.

2 When we developed it, it was developed with
3 the idea of reporting the activity as a matters
4 activity and not as a case activity. Some time that
5 changed, and we were told -- by the way, this started
6 out as a model project, an LSC site. We were told that
7 we could no longer report it as a matters.

8 We have a clinical program that we cannot
9 report because if we did a full LSC intake, we would
10 run the risk of conflicting ourselves from our core
11 value cases -- domestic violence, landlord-tenant
12 lockouts. It is very easy for people on the other side
13 of cases to understand how to prevent you from becoming
14 the antitrust on the case, so we designed systems that,
15 while fully screening, do not gather information that
16 would conflict us.

17 I got an email yesterday from somebody that's
18 trying to clone our internet project, and they are not
19 doing it anonymously, and their question to me is, we
20 have a person we ran a conflict check on. There is a
21 conflict. We can't tell that person there's a conflict
22 because we can't go into the database to respond to

1 them because if we do, we violate our rules of ethics.

2 How do we get around that?

3 If the rules aren't flexible enough to get
4 around that, then our hands are tied. And if we don't
5 have the incentives of both reporting and/or being able
6 to use it for our 12-1/2 percent, then when money is
7 scarce, our choices have to be not to do it. We have
8 continued to do our projects in light of that, and
9 despite that. But it is very, very frustrating not to
10 be able to tell our story.

11 Our online service handles, and I'll put the
12 case in quotes, at \$4 a case. And it's a comparable
13 service to a hotline. And when we were doing -- and
14 it's not perfectly equal to a hotline, I'll admit, but
15 it's pretty close. But we were paying \$55 a case for
16 very similar to a hotline.

17 These are what I think are innovations that
18 technology can help. They solve issues clients are
19 having with cell phones, and there are other technology
20 ways to solve those, too. Joan has come up with a very
21 good one. Hopefully she'll get her TIG.

22 Anyway, that's why we need the flexibility, so

1 that we can both design our programs, report our
2 programs to both LSC and to Congress. I don't really
3 care how they're labeled. I don't care if they're
4 labeled as cases, as matters, or as some other category
5 that the wisdom comes up with.

6 But I think it's important that we be allowed
7 to show and tell what we do, and that gives us our
8 incentive to continue to do it. That's all. Thank
9 you.

10 PRESIDENT SANDMAN: Thank you, Ken.

11 Joan Kleinberg?

12 MS. KLEINBERG: I think I have more along the
13 same theme here. The current difficulty that we've all
14 been discussing arises from the conflation of CSR case
15 requirements with PAI reportable time.

16 And that's a fairly recent phenomenon, and I
17 think that's really what is keeping not just the
18 programs from giving us credit, but keeping LSC from
19 taking credit for leveraging huge amounts of pro bono
20 activity through the investment of its local programs.

21 By way of example, we have a number of
22 different ways in which we provide support to pro bono

1 programs where we do not have CSR-reportable cases. We
2 are looked at as subject matter experts in a number of
3 areas. The housing justice projects across the state
4 and many of the local volunteer lawyer programs across
5 the state look to our staff attorneys for training.
6 And it's that training that makes many of the volunteer
7 lawyers willing to go in and volunteer and take on
8 these cases.

9 We have a debt clinic, another courthouse-
10 based model. We have the CLEAR model, where we're
11 providing a lot of support to local programs. And we
12 have a clinic for refugee and immigrant survivors of
13 domestic violence. So a lot of different models in
14 ways in which NJP is seen as a key partner in the pro
15 bono effort in the state. And yet because in many of
16 these circumstances we do not have a CSR-eligible case,
17 those now come off the table as reportable PAI
18 activity.

19 So I don't want to say again what everyone
20 else has been saying, but it is the same idea that --
21 and I just want to characterize it as a conflation of
22 CSR with PAI activity that's driving this difficulty

1 for so many programs.

2 But while I have the microphone, I want to
3 raise one additional issue that I just want to put out
4 on the radar. We do a fair amount of compensated
5 model, where we pay lawyers less than 50 percent of the
6 going rate in their community.

7 We are subject under Rule 1627, which is the
8 subgrant rule; if we're going to pay a particular
9 attorney or firm more than \$25,000 in a year, we're
10 required to go to a subgrant. That number was set when
11 this rule was created in 1980, and it's a very low
12 number right now.

13 Sometimes you really can't predict, if you
14 have a good lawyer involved and they get involved in a
15 contested custody matter -- which they will do in
16 compensated models -- sometimes it's very hard to
17 predict where the fees will end up. And that \$25,000
18 limit is very low right now.

19 PRESIDENT SANDMAN: Lisa Wood?

20 MS. WOOD: Thank you. Two points. You'll see
21 from SCLAID's written comments that to the extent we're
22 talking about a program that does not do eligibility

1 screening, we are reserving the opportunity to comment
2 until after we've had a chance to hear the discussion
3 at both of the workshops. So I'd anticipate we'd
4 comment on that subject after the second workshop has
5 been completed but before the deadline.

6 But speaking about brief service clinics that
7 involve eligibility screening, we think the time
8 supervising those should be counted, for the following
9 two reasons.

10 Brief service work is an important part of the
11 delivery system in legal services, and frankly now, for
12 paying clients as well. We have to, as the legal
13 community, figure out ways to help people with their
14 legal problems in an efficient way when it makes sense,
15 and we obviously don't have enough dollars to provide
16 every client, every eligible client, with full service.

17 Pro bono lawyers are very well suited to
18 handle brief service opportunities, and it's probably
19 the best division of labor to have the pro bono lawyers
20 handling a lot of those cases, those situations.
21 They're also very attractive to pro bono lawyers, very
22 popular with lawyers in many settings to handle brief

1 service work or limited representation work --
2 different states call it different things.

3 So I think that's why there's been a movement
4 across the country to change the ethics rules to allow
5 lawyers to handle these cases and not be conflicted
6 out, not have conflicts create problems with the
7 caseload.

8 Those are really my two points.

9 PRESIDENT SANDMAN: Thank you, Lisa.

10 The floor is now open for public comment. Is
11 there anyone here in the room who would like to comment
12 on topic No. 3? Jon Asher. Could you come up and find
13 yourself a microphone, please? And could you identify
14 yourself for the record, please?

15 MR. ASHER: I'm Jon Asher, and I am director
16 of Colorado Legal Services, and I honestly tried very
17 hard not to comment this afternoon. I know that'll
18 surprise all of you, but I really had not expected to
19 speak.

20 I waited till after the third issue, but I
21 really have three brief comments to make. First is on
22 referrals. We did ask that the OLA opinion be reviewed

1 and reversed. We have for years run both our own
2 internal PAI programs and collaborated with a number of
3 independent pro bono programs that predated even my
4 time as director.

5 We refer. We screen and refer all of the
6 cases for the big Denver area pro bono program, a
7 number of more rural, smaller bar programs. That
8 amount we always counted as a PAI expense.

9 More recently, the Colorado bar has developed
10 a Colorado Lawyers for Colorado Veterans program. We
11 don't own it. We help train. We provide support. But
12 we also make a number of referrals to that program. We
13 can't count those referrals because once we've handed
14 the case off, we don't track exactly what they do.

15 Now, unlike my colleagues who are on the
16 panel, we exceed the PAI requirement. I don't think we
17 exceed it by a great deal all the time, and it was
18 fortuitous in a perverse way that as the opinion came
19 out, our LSC grant went down significantly. So our 12-
20 1/2 percent requirement was lowered exactly at the same
21 time we wanted it to be lower. That's not the world
22 you want to create.

1 And whether we will meet the requirement, God
2 willing and Congress willing, if the census adjustment
3 and a robust LSC appropriation comes in next year,
4 we're going to have to wisely spend but really increase
5 our PAI involvement next year in a way that we will try
6 to be thoughtful.

7 But certainly a chunk of our work which is
8 legitimately screening -- we want to make sure they are
9 priority cases going to these pro bono programs -- but
10 all of that time scrubbing and doing intake, doing
11 screening, and referral, we can no longer count. And I
12 just don't think that's helpful to clients or to a
13 program. So that's point number one.

14 Point number two, the issue about being
15 licensed in your state, we bumped against. That is, we
16 had a number of corporate counsel who were willing to
17 do pro bono work, and we have a rule in Colorado, not
18 too longstanding, but it allowed single-client lawyers
19 to practice; if they're in good standing in another
20 state and they're in-house counsel, they can practice
21 for that one client.

22 We talked to our access to justice commission.

1 So did General Counsel. And within a couple of
2 months, the Colorado rule now allows single-client
3 lawyers not only to represent that client but to engage
4 in pro bono work through an organized pro bono
5 volunteer program that requires the sort of
6 relationship that you need.

7 Finally, Joan opened the issue of the
8 relationship of 1614 to other LSC rules and
9 regulations. We watch. We in rural areas and in
10 Boulder have a low-fee contract program. We have had
11 that since 1978, as part of the delivery system study
12 that goes back almost as long as the reporting
13 requirement for your committees to Congress.

14 But one thing we have encountered with willing
15 small practitioners in rural areas is not only watching
16 the subgrant requirement but the 1600 definition of a
17 staff attorney. A staff attorney is defined as
18 somebody who where more than half of their professional
19 income comes from LSC or a subgrantee's funds.

20 Well, in a number of communities, we have
21 stay-at-home parents, usually stay-at-home moms, who
22 are licensed in Colorado. They want to do something.

1 They don't want to do all of it pro bono where they
2 have to pay babysitters and take time to do that. We
3 pay them a reduced fee.

4 We may have, we thought, a lawyer for whom, if
5 she did one case of about ten hours, her annual income
6 from us would be \$650 and she would be a staff
7 attorney. That's even less than we pay our staff
8 attorneys.

9 (Laughter.)

10 MR. ASHER: Not by a lot, but it is some. But
11 technically, under 1600, if more than half of her
12 annual professional income comes from LSC sources, she
13 has become a staff attorney. We not only can't count
14 that as a PAI expense, all of the trappings and all of
15 the regulations, we can't do it. She wouldn't do it.

16 And so I encourage you going forward to look
17 at the relationship of 1614 to other regulations and
18 definitions. Thank you.

19 PRESIDENT SANDMAN: Thank you.

20 Is there any other comment here in the room?
21 Chuck Greenfield?

22 MR. GREENFIELD: Chuck Greenfield, chief civil

1 counsel for NLADA.

2 It seems to me as I hear this discussion -- I
3 thought about these issues ahead of time and I read the
4 Pro Bono Task Force report -- that we should step back
5 and look at what the purpose, the overall goal or
6 goals, as Lisa Wood said earlier, of the private
7 attorney involvement or pro bono program is.

8 And as Joan Kleinberg talked about, the
9 difficulty of grafting the case service reporting
10 system onto a pro bono encouragement concept is indeed
11 problematic. And I think it really comes to a head
12 when you look at the purpose of the program.

13 The purpose of the program really is to
14 leverage additional resources for clients. Right? To
15 increase client services. And it has other benefits,
16 as Lisa was talking about, of connecting the private
17 bar and potential fundraising, and partnership
18 possibilities, as Silvia pointed out.

19 But if the purpose is to increase services to
20 clients, then it seems to me that we want to -- LSC
21 wants to be as flexible as possible or allow grantees
22 to be as flexible as possible so that it can be as

1 innovative as possible. And adherence to the technical
2 case service reporting requirements, in fact, runs
3 counter to that flexibility and that innovation.

4 You look at the successes that LSC programs
5 have had and LSC itself has had, for example, in the
6 TIG technology program, where grants have been provided
7 for some innovative, cutting-edge technological
8 approaches to delivery of legal services.

9 If the CSR requirements were applied to the
10 TIG program, I dare to say that many of those
11 innovations would have been prevented because you would
12 have grafted on some foreign concept onto an idea of
13 R&D, essentially. So that with this concept the Board
14 and LSC not restrict the R&D capacity of the
15 organization or of the grantees in coming up with
16 useful and innovative practices.

17 It's also true with websites, which was a TIG
18 project as well, statewide websites. Also true, as
19 mentioned earlier, with -- I think Steve Gottlieb
20 mentioned the court clinics, where you have self-help
21 clinics, et cetera.

22 So in all those situations, TIG, technology

1 grants and court clinics and -- well, the self-help
2 forms, if we looked at the requirement that every user
3 of that innovation, those approaches, had to meet CSR
4 requirements, then I suspect those would not be
5 successful programs.

6 It would also inhibit the kind of partnerships
7 that Silvia mentioned with other bar associations, with
8 other courts, et cetera. So that I think -- I would
9 urge the Board to continue -- to make sure that they
10 build in the concept of allowing flexibility.

11 Of course you want these services to go to
12 eligible clients, and that completely makes sense, and
13 it completely makes sense for Congress to ask for
14 reporting of activity for eligible clients. We totally
15 understand.

16 But if the LSC-funded program provides the
17 architecture, the brick and mortar, for fundamentally a
18 new and creative approach to technology, to court-based
19 services, to PAI, and that approach results in
20 substantial benefits primarily to the LSC-eligible
21 community, then we should not allow the overly
22 technical CSR approach to prohibit that, or to inhibit

1 that, I should say.

2 PRESIDENT SANDMAN: Thank you.

3 Charles Keckler.

4 MR. KECKLER: Thank you. This is in a way
5 following up from Mr. Greenfield's comments on
6 eligibility. I was reading the ABA's letter from Ms.
7 Wood, and here's what it says, the thing that struck me
8 immediately.

9 It says, "The ABA believes that to the extent
10 that eligible clients are being assisted at these
11 clinics, LSC grantees should receive PAI credit." And
12 the key phrase that I was thinking about in your
13 comments was "to the extent."

14 So the question, then, is in order to
15 determine the extent, it seems like some level of
16 screening would have to occur. And then, under this
17 sort of formulation, perhaps on a percentage basis or
18 something like that, there would be an allocability of
19 the support costs.

20 But it still seems, though, that -- I was
21 wondering how feasible that approach might be and if
22 that was where you were going with the letter.

1 MS. WOOD: Where we were going with the letter
2 is that we weren't ready to go on record as ABA policy
3 with comments on a program that didn't involve
4 screening because we wanted to look more on the legal
5 issues that that raises.

6 So we weren't suggesting by that language an
7 apportionment strategy. We really wanted to hear
8 others talk about how you would run a program without
9 screening for eligibility and that would fit within LSC
10 regs, and then comment after that. We just weren't
11 prepared to go that far.

12 And also, when I'm wearing my SCLAID hat, I
13 cannot make comment unless it's established ABA policy.

14 So we weren't there. We didn't have established
15 policy to speak on that subject. So we weren't trying
16 to make programmatic suggestions with that language,
17 and I'm sorry if we were inartful in the way we phrased
18 it.

19 MR. KECKLER: No. There's no apology
20 necessary. I was thinking about that, and of course,
21 like any lawyer, I'm looking for different things that
22 might support it.

1 MR. GOTTLIEB: I think you're absolutely
2 right. I think there should be some mechanism to
3 determine allocability. But I think that's a technical
4 question that we ought to be able to figure out.

5 The point of the matter is, we don't get any
6 credit at all now, and there should be some way. Our
7 auditors test the things. We could test for it. We
8 could determine -- we could do a two-week test and say,
9 well, we've found out that 30 percent of the clients
10 are not eligible and 70 percent are eligible, so we'll
11 allocate 70 percent of it.

12 There are lots of ways that you could
13 doublecheck behind that. The point of the matter is,
14 if we put our mind to it, we'll figure out a way which
15 is, I think, reasonable for all our programs and can be
16 checked behind if you want to.

17 PRESIDENT SANDMAN: We have two comments
18 submitted by Helenka Marculewicz on the webinar. They
19 are:

20 She reports that, "Fifty percent of the cases
21 that her program refers out are not counted on our CSR
22 report because we never get a signed citizenship

1 attestation. More than anything else, I see this as
2 limiting what LSC sees in reporting."

3 Her other comment is, "If you really want to
4 leverage resources, then you must make sure that
5 ownership of pro bono belongs to the private bar. Then
6 they can truly complement the public bar."

7 Are there any further comments here in the
8 room?

9 (No response.)

10 PRESIDENT SANDMAN: If anyone participating on
11 the webinar would like to make a comment, please raise
12 your hand or type it into the question box.

13 (No response.)

14 VI. AGENDA FOR SEPTEMBER 17 WORKSHOP

15 PRESIDENT SANDMAN: We'll now move to our
16 final topic, which is what the agenda should be for the
17 second workshop session on September 17th.

18 And all panel members are invited to make
19 suggestions about that if you have any. Let's start
20 with Silvia.

21 MS. ARGUETA: Not what it should be in
22 September, but one item that I think does need to be

1 addressed, and that is the issue that ran through all
2 three topics and all three recommendations, was fraud,
3 waste, and abuse.

4 And I think that as you move forward with the
5 recommendations, it would be very important not to
6 create more burdens on the programs that are
7 administering their PAI requirements, and that we
8 already have certain requirements in place.

9 Our auditors, the independent auditors, have
10 to review. They have to do compliance reviews for us.

11 So I think that that, in all three areas, is something
12 that already exists, and we don't really see a need for
13 further regulations, further compliance measures from
14 the programs because our independent auditors as well
15 as the compliance reviews that we all go through check
16 for those.

17 That would be our very strong recommendation,
18 that this not become another burdensome task for
19 programs that are already very limited in staff and in
20 funds.

21 PRESIDENT SANDMAN: Thank you.

22 Steve Gottlieb?

1 MR. GOTTLIEB: I'd like the next session to
2 focus on not just the 12-1/2 percent but actually what
3 are counted as PAI cases. I alluded to this earlier.

4 While there is no requirement under the reg
5 that you have a certain number of PAI cases, there is
6 no doubt that having the reg which says what is a PAI
7 case and what is not a PAI case affects the way people
8 do business. Let me give you an example.

9 When we -- Jon Asher was talking about this --
10 when we were not able to count the work that we did to
11 support the independent pro bono program and were not
12 able to count the cases, our numbers went down.

13 So I called -- we have a program which always
14 has a reputation for doing PAI work. But I felt
15 seriously worried enough about this that I called John
16 Meyer in Washington and I said, "Look, John. I want
17 you to know that because of the change of the rule,
18 we're going to have less cases to report. And I want
19 you to understand that that doesn't mean that we're
20 doing less PAI work. It only means that the regulation
21 has been interpreted in a way that we can't count these
22 cases any more."

1 So my point is that I think we ought to focus
2 on not just what the 12-1/2 percent be used for, but
3 also liberalizing what we call a PAI case because that
4 affects people and programs as well, even though it's
5 not a mandate.

6 PRESIDENT SANDMAN: Thank you, Steve.

7 Judge Huffman?

8 JUDGE HUFFMAN: While I appreciate certainly
9 the concern about credit for cases, credit for hours
10 towards the 12-1/2 percent, the issue that I feel
11 strongly that needs to be addressed is how to expand
12 services.

13 While we are very concerned about counting
14 hours towards that 12-1/2 percent, we have not
15 discussed or focused on the substantial additional need
16 for services. While everyone's budgets in the last
17 five years have certainly been compromised -- even for
18 a longer period than that -- the need for service is
19 even greater.

20 So how can, through these rules, we expand
21 service as opposed to being focused on just counting
22 towards that service? Thank you.

1 PRESIDENT SANDMAN: Kenneth Penokie.

2 MR. PENOKIE: I'd like to just echo Steve's
3 sentiments and the judge's. I think, though, that
4 giving us incentive to expand is a good thing.

5 Very much like Steve, I didn't call anybody
6 but I made comments in my CSR reports indicating that
7 our numbers were substantially different because we
8 could no longer report four of the five programs that
9 we run.

10 And I think on the fraud issue, we need to
11 step back a little bit, look at the big picture.
12 What's at risk in most of these programs? Legal
13 services programs puts out a tiny amount of money, and
14 the risk is that a private attorney will give advice to
15 somebody who might not be eligible.

16 We're not giving the advice. The private
17 attorney is giving the advice. We're acting, in most
18 of these programs, more or less as a dating service. I
19 would suggest that we're probably, per person, putting
20 out less money than some of the funds that are put out
21 for the fancy ATJ form sites, which are not subjected
22 to the same regulations. Anybody can get in those and

1 do those.

2 So the amount of money involved and the amount
3 of fraud involved, it's not on our part. We're not the
4 ones delivering the services. The private attorney is.

5 So the fraud is that somebody will get free advice
6 from a private attorney. It seems like a very small
7 risk factor. Thank you.

8 PRESIDENT SANDMAN: Joan Kleinberg?

9 MS. KLEINBERG: I wasn't sure if I was
10 breaking the rules or not to raise 1627, and then Jon
11 Asher rode my coattails to bring in 1600. So I guess
12 that I would suggest that perhaps you invite comment on
13 any of the regulations that affect 1614 and the
14 activity carried out under 1614 just to make sure that
15 if there's going to be change, that it's comprehensive.

16 PRESIDENT SANDMAN: Thank you.

17 Lisa?

18 MS. WOOD: Yes. And this was anticipated in
19 the comments that we did submit, if we could devote
20 some time at the next workshop to talk about,
21 practically, how we would handle a program that doesn't
22 screen for eligibility but we can use sampling method

1 or some other method for determining percentage of
2 eligible clients served.

3 I think the ABA would welcome a conversation
4 about that, and then we would submit comments
5 thereafter. But we just needed some more discussion
6 from people who are dealing with this issue in the
7 field in order to inform our comments.

8 Then there were a few questions raised during
9 the workshop today -- I think you, sir, raised a
10 question that I wasn't in a position to answer. I
11 can't now remember the question, so I apologize.

12 But to the extent questions were raised today
13 by Board members and others that we haven't addressed
14 and that weren't listed in the topics, I think the next
15 session would be a good time to discuss those or
16 address those so that whoever it is that'll be
17 presenting next workshop can be responsive.

18 PRESIDENT SANDMAN: Thank you.

19 Are there comments or suggestions from people
20 here in the room? The topic is the agenda for our next
21 workshop on September 17th. Father Pius?

22 FATHER PIUS: This is Father Pius on the LSC

1 Board. I'll just reiterate the comment I made before,
2 as I think one of the items may be -- one of the first
3 items should be if we could talk about what the goals
4 of the PAI rule are. What values do we intend to get
5 out of that?

6 And perhaps even another one on how has the
7 model of legal services or how has the legal services
8 community changed over the 30 years, the past 30 years,
9 that would necessitate a change in the way we think
10 about the PAI rule? Think about that a little bit
11 more.

12 But the first one, I think, is much more
13 important, and that is the goals to be served by the
14 PAI rule.

15 PRESIDENT SANDMAN: Does anyone else here in
16 person have comments?

17 (No response.)

18 PRESIDENT SANDMAN: We have a comment from
19 Helenka on the webinar.

20 "Steve Gottlieb has centered on the issue:
21 What can be counted as PAI case? This needs to be
22 liberalized."

1 Helenka, Steve agrees with you.

2 (Laughter.)

3 MR. GOTTLIEB: I agree with anybody from that
4 program, it seems like.

5 PRESIDENT SANDMAN: If others on the webinar
6 have comments or suggestions, would you please raise
7 your hand or type a question or comment in the box?

8 (No response.)

9 PRESIDENT SANDMAN: There don't appear to be
10 any other comments. Charles, back thank you.

11 VII. CLOSING OF THE WORKSHOP

12 MR. KECKLER: Thank you, Jim, and thank you,
13 panelists, for a very thoughtful and enlightening
14 beginning to our consideration of this rule.

15 Thank you very much to our technical staff for
16 just very brief bugs. Thank you so much. That's
17 fantastic.

18 (Applause)

19 MR. KECKLER: You know, these things are
20 always good in theory but not always in practice. And
21 I'm glad to see that we're doing this, and I'm very
22 encouraged by it.

1 I hope that people out there in the world will
2 participate further and to an even greater extent in
3 the upcoming webinar, and that anybody here who can't
4 make it to the next workshop in Washington will sign up
5 for the webinar and participate fully at that time.

6 The next workshop addresses generally the same
7 topics that were defined by the Pro Bono Task Force.
8 The Committee, of course, is interested generally in
9 the PAI rule and thinking through it. We've made a
10 decision generally to try to make progress,
11 particularly on those recommendations, but aware of the
12 other, broader issues that relate to them.

13 In light of that, in addition to the other
14 thoughts and suggestions that have been made, my own
15 hope is that participants in the next workshop will
16 bring their good ideas, but also bring some textual
17 suggestions. We opened that up.

18 We're not going to make the rule right here
19 and put it out for comment, and that won't be true at
20 the workshop, either. But certainly people on the web
21 and certainly panelists are welcome to just name the
22 rule and name the phrases that are constraining your

1 work and that you think need change, and we will take
2 all of those suggestions in mind and in consideration.

3 I look forward to the next workshop and to
4 working with all of you, and to everybody who has
5 participated in this in the process going forward.
6 Thank you very much.

7 PRESIDENT SANDMAN: Thank you. The workshop
8 is adjourned.

9 (Whereupon, at 3:56 p.m., the workshop was
10 adjourned.)

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