

ACCESS TO JUSTICE UPDATE

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The Justice Action Group is a coalition of individuals and organizations established in 1995 to provide leadership and coordination in planning for the provision of civil legal aid to low-income and elderly Mainers.

KATAHDIN COUNSEL RECOGNITION PROGRAM

Next month, in observation of National Pro Bono Week, the Maine Supreme Judicial Court will announce the creation of the *Katahdin Counsel Recognition Program*. The Court is creating this program in response to a proposal of the Justice Action Group in order to focus the public's attention on the critical role that pro bono publico plays in maintaining a vibrant civil justice system. The goals of the program are twofold: first, to annually recognize and honor the pro bono work of Maine's lawyers, and second, to encourage more lawyers to provide such services for Maine's low-income and elderly residents in order to help address the growing unmet legal need.

Maine lawyers are among the most generous in the nation in donating their time to pro bono representation for people who cannot afford an attorney and in donating money to support Maine's legal aid providers. Sadly, in the

face of Maine's current economy, the need continues to rise while resources, such as IOLTA funding, continue to decrease.

The program will be voluntary and based on self-reporting. The Supreme Judicial Court is in the process of establishing a Commission to oversee the program and ensure that it is responsive to the needs of the Maine Bar. Ralph Lancaster, Esq. has agreed to Chair the Commission.

This achievement would not have been possible without contributions made by many in the access to justice community, and, in particular, Margaret O'Keefe, Esq. and Rick Stauffer, Esq.

More information will be available soon. Support from the greater access to justice community will be an integral part of the success of this program.

Maine Bar Foundation Receives Two Million Gift from Anonymous Donor

PORTLAND, Maine (August 31, 2011) – The Maine Bar Foundation recently received a two million planned gift from an anonymous donor. The gift, the first one of its kind for the Foundation, is dedicated to providing support for people in need of legal assistance in Washington and Hancock counties.

Sally Mills, the attorney representing the donor notes, "The donor was impressed with the way the Maine Bar Foundation strategically funds access to legal assistance in Maine. It is clear to this donor that legal aid means more than just attorneys in the courtroom. It means keeping families safe and healthy, helping our elderly with their needs,

and making sure our children have the opportunities they deserve."

The Maine Bar Foundation will research the best way to use the gift to serve the legal needs of people living in Washington and Hancock counties.

"We are, obviously, thrilled to receive this donation," remarks Calien Lewis, Executive Director of the Maine Bar Foundation. "With more people than ever in need of help combined with a catastrophic drop in our major source of funding, Interest on Lawyers Trust Accounts, this gift couldn't come at a better time."

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SPECIAL POINTS OF INTEREST:

- National Pro Bono Week is October 23-29, 2011
- 2012 Access to Justice Symposium: SAVE THE DATE. January 25 & 26, 2012
- JAG's fourth annual Access to Justice Day will be held on March 13, 2012

AUGUSTA NOW HAS A CHAPS (COURT HOUSE ASSISTANCE PROGRAM)

Juliet Holmes Smith

Director, Volunteer Lawyers Project

The Augusta CHAP clinic has been up and running since early March and has quickly become as useful to Augusta area clients as VLP's three other CHAP clinics in Portland, Biddeford and Lewiston. The Augusta CHAPs clinic now sees an average of 10 clients every Wednesday afternoon. These low-income Maine people meet with the attorney volunteer for up to a half hour consultation. The volunteer attorney provides limited face to face *pro bono* representation to the otherwise self-represented family law litigants. This help includes filling out forms and advice about process and strategies. Difficult cases may be picked up for full representation.

The Augusta clinic now has a committed core group of four attorneys who work on a rotating schedule. The attorneys report satisfaction with the

project, which allows them to give meaningful advice to a number of clients on a planned schedule. The clients have the benefit of getting advice from some of Augusta's top family law attorneys and are able to return to the clinic as their cases proceed through family court. The pro bono attorneys in Augusta are supported by student volunteers from University of Maine Augusta and Bowdoin College. The students intake clients to make sure they qualify for the clinic and provide the pro bono attorney with a brief written description of the clients question or problem. The students also explain to the client what they can expect from the clinic and go through the limited retainer agreement that the client will sign with the pro bono attorney.

VLP is pleased to now be supporting CHAP clinics in four district courts. The clinics are one place where qualifying clients can re-

ceive pro bono help when and where it is needed without having to make their way through the intake phones to set up an appointment. This court/ VLP collaboration is helpful for the clerks who can now direct self-represented litigants to the clinics when they are asked for legal advice. The litigants themselves are also better prepared to fully participate in Family Court and are more likely to participate as they become educated about the process.* In the first six months of 2011, VLP opened almost 400 new cases for clients through the CHAPs clinics. The CHAPs model is an important and successful method of providing limited representation for the many self-represented litigants in Maine who make their way through Family Court every year. VLP's long term planning (as funding allows) includes opening and sustaining CHAPs clinics throughout Maine.

* Periodically VLP conducts phone surveys for past CHAPs participants asking about the benefits and outcomes from CHAPs participation.

TIG GRANT AWARD TO MOVE COLLABORATION VISION FORWARD

A recently awarded Technology Innovation Grant (TIG) from the Legal Services Corporation (LSC) will help to move the Collaboration vision forward.

This Spring, JAG's Collaboration (including members from the court, the legal service providers and Maine's public libraries) supported Volunteer Lawyers Project's (VLP's) (with PTLA) application for the TIG grant. The application envisioned new video content on HelpMeLaw that would assist individuals in navigating the court system. In addition, a series of informational video clinics will be presented live to rural libraries throughout the State.

This phase of collaboration between the providers, the libraries and the courts was built upon the previous support from Collaboration members to the libraries in their award of a Broadband Technology Grant that significantly increased the technological capabilities of the Maine public library system.

It was also built upon JAG's creation of the Collaboration and the Collaboration's training of public librarians with respect to legal needs and resources.

The grant proposal noted that Maine is a rural state, and many counties have very few practicing attorneys, which limits the availability of local pro bono services. Many small towns, however, have libraries that function as vibrant community centers, where librarians are focused on providing their communities with access to information and services, especially through technology.

The grant envisions bringing pro bono attorneys into the libraries through video-conferencing. Beyond the value of the general clinic series itself, this project is likely to form the basis of future "limited representation" video clinics, where low income rural clients will be able to consult individually by video with an urban-based pro bono attorney.

As the Collaboration moves toward finding new ways to support "unbundled attorney services" for pro se litigants, it has also identified the need to push forward with fresh, user-friendly content on Maine's HelpMeLaw website. As more parts of rural Maine are gaining access to high-speed connections, video is often the learning tool of choice for many people. These new videos will also be a useful resource for the Clinic attorneys who are "coaching" pro se's through the court process.

Work on the project will begin in January 2012.

CY PRES FOLLOW-UP

The topic at the May 25, 2011 meeting of the JAG Board was the *Cy Pres* Doctrine. Following the meeting, a working group consisting of Attorneys William Kayatta, Debora Shaw, and Margaret M. O'Keefe in consultation with Maine Bar Foundation President Eric Stauffer began meeting to consider this topic for Maine.

Specifically being considered is the allocation of funds that remain from Class Action awards or settlements under M.R.Civ.P 23. There are often remainder funds that cannot be allocated or cannot be disbursed to class members for some reason.

Those funds have generally been disbursed under the *cy pres* doctrine.

Nine states have rules that guide the disbursement of residual funds, naming civil justice action programs as an appropriate beneficiary. Such rules give confidence to judges in their awards and, it could be argued, legal aid programs are a logical beneficiary under the rationale for class action suits and the doctrine of *cy pres*.

JAG is grateful for the initiative taken by the working group members and looks forward to a report.

2012 ACCESS TO JUSTICE SYMPOSIUM

Plans are well underway for the second annual Access to Justice Symposium to be held on Wednesday afternoon, January 25th at the Sable Oaks Marriot in South Portland. *Changing Maine* will be an interdisciplinary dialogue on the impact of Maine's changing population (particularly the aging and immigrant populations) on access to justice in Maine. National experts on the aging and on immigration will join with local experts to discuss how Maine professionals might better serve these growing populations and to consider how the growth of these populations may and will impact access to justice for all Mainers. Associate Supreme Court Justice Ellen Gorman will moderate the panel of experts.

On Thursday, in conjunction with the Maine State Bar Association's Winter Bar meeting, the Symposium will present Judge Fern A. Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access to Justice Program as the keynote

speaker. Judge Fisher will address the impact of this changing demographic on the delivery of justice in court systems. Judge Fisher's keynote will be followed by substantive law sessions that will provide attorneys with important information about the unique legal concerns of the elder and immigrant populations in Maine and best practices for serving these populations.

Breakout sessions will consider both elder and immigration law issue from the perspective of both Bench and Bar. Topics will include:

- Cross-cultural Lawyering: a session geared towards understanding the needs of both elderly and immigrant clients.
- Immigration Law: Abuse and Exploitation.
- Elder Law: Guardianship alternatives.
- Immigration Consequences of various court proceedings.
- Elder Law: The Potential Pitfalls of Long Term Care Planning.

A website will soon be launched for registration and further information.

TURNER V. ROGERS THE U.S. SUPREME COURT AND CIVIL RIGHT TO COUNSEL

By a 5-4 vote, the Supreme Court reversed the South Carolina Supreme Court in *Turner v. Rogers*. After finding the case was not moot, it found that Turner lacked both counsel as well as any procedural safeguards and so reversal was required, but that counsel is not required for all civil contempt cases, particularly where the state is not the litigant on the other side.

Some have concluded that "While the Court found no categorical civil right to counsel it usefully clarified the obligations of trial court judges and courts toward unrepresented litigants, particularly those facing the risk of incarceration. Our panelists identified a range of possible positive jurisprudential and access-to-court impacts for *Turner* over time:" R. Zorza and D. Udell. For a more detailed discussion go to: <http://www.concurringopinions.com/archives/2011/05/the-turner-symposium-coming-soon.html>

Turner v Rogers links

opinions are below.

<http://www.supremecourt.gov/opinions/10pdf/10-10.pdf>

SCOTUS blog, with all the briefs, etc, as well as the opinions.

http://www.scotusblog.com/case-files/cases/turner-v-price?wpmp_switcher=desktop

CAMPAIGN UPDATE



CAMPAIGN FOR JUSTICE

SUPPORTING LEGAL AID IN MAINE

Campaign Chair Paula Silsby and Campaign Director Meghan Smith report that, as of September 2nd, **\$314,800** has been raised in gifts/pledges from 1,100 donors. As expected, Campaign contributions slowed over the summer - with the majority of gifts coming in through the CFJ insert included in the Board of Overseers registration packets.

Though we are tracking slightly ahead of this time last

year, there are roughly 500 donors who gave last year who have not yet renewed. This is typical at this point in the Campaign (early September); and as usual, our focus will be on ensuring that these renewals happen over the next few months.

Paula and Meghan are developing a year-end plan/timeline. In addition to personal follow-up from Campaign volunteers, we have also planned a year-end mailing to past donors who have not yet renewed;

an email appeal; and a possible phone-a-thon.

To further increase Campaign visibility and increase year-end giving, we are exploring the idea of placing a small ad in the Maine Lawyers Review and Maine State Bar Journal/ Supplement to remind Maine's attorneys and judges that the 2011 Campaign is in its final few months.

And finally, a committee of past campaign chairs is working to identify a 2012 chair.

We are on the web!

www.mbf.org/jag.html

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