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Pro Bono in action

By Marc Kalish

Mediation — free of charge

A retiree who was evicted from her apartment finds a new one, but her former landlord refuses to return her security deposit. Without that \$900, she cannot make the required deposit on her new apartment. She calls her local legal aid agency, but like the other 80-85 percent of such callers nationwide, she is told they cannot take her case.

She might become another homeless statistic or have to impose on friends or relatives for assistance, but she is lucky. She lives in Phoenix, and is referred by the legal aid agency to its pro bono mediation program. A mediator helps her recover her \$900 and she moves into her new home.

The mediation program of Phoenix-based Community Legal Services (CLS), a Legal Services Corporation-funded legal aid law firm, was established in 2001. It is designed to serve both those who are directly represented by CLS or its adjunct, the Volunteer Lawyers Program. It also works with those who qualified financially for legal aid but cannot be directly represented, either because their dispute falls outside the limitations on the types of cases CLS and VLP can handle or because those agencies lack the resources (that is, no available lawyers) to accept the representation.

To date, approximately 200 cases have been referred to the mediation program; and of those where both parties to the dispute agreed to mediate, the settlement rate is about 90 percent.

With the help of the Paralegal Division of the Maricopa County Bar Association and Arizona State University law students involved in the Lodestar Mediation Clinic, the approximately 2,000 calls a week to CLS are screened to identify those that would be appropriate for mediation. The program administrator then contacts the parties to explain the mediation process and the program. If all agree to mediate, the administrator finds a pair of mediators, one experienced and one not, to conduct the mediation; schedules the mediation; and locates a site for it, usually conference rooms made available by law firms. The administrator provides the participants with evaluation forms so that the quality of the administrative services and mediators can be monitored and any problems corrected immediately.

The program uses both lawyer and nonlawyer mediators who have volunteered to provide pro bono services. Mediators must receive training about the program and special problems that may arise in conducting mediations for indigents. Volunteer mediators who do not meet the program's minimum experience requirements can receive that experience by serving as a co-mediator with highly experienced mentor mediators.

For family-law disputes, mediators must also have specialized training in that area of practice. A select few are also qualified to conduct mediations involving claims of domestic violence. Some mediators are bilingual, and several of the mediations have involved non-English-speaking parties. The program now has more than 40 mediators.

With the help of a grant from the JAMS Foundation, the ABA Section on Dispute Resolution has developed a manual (authored by the administrator of the Arizona program) for establishing such programs, and is helping establish or improve mediation programs in legal service and pro bono programs nationwide. The manual can be found on the Section's Web site. To date, the Section has awarded five mini-grants as part of the JAMS Foundation grant. The recipients are pro bono and legal aid agencies in Norfolk, Va.; King County, Wash.; Idaho; Eastern Tennessee; and Alabama.

The ABA's CLE department has also included a one-hour pro bono mediation program on the ABA Web site at www.abanet.org/cle/clenow that addresses how and why to get involved with pro bono mediation, as well as pro bono mediation from both the advocate's and mediator's perspectives.

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