Defining Modest Means—Creating the Answer for the Commonsense Solution

Connecticut Pro Bono NETWORK

By Matthew Necci

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The legal profession as we have known it has permanently changed. Both internal and external factors are altering the way we practice law, interact with clients, and manage the operations of our respective organizations. Perhaps even more pressing, the model for training and employing new members of the legal community is becoming unsustainable. The cost of legal education has skyrocketed over the last 20 years, yet the availability of jobs for attorneys has not exponentially grown. It is without question that young attorneys in Connecticut are either unemployed or underemployed.

Surprisingly, the lack of employment opportunities for new attorneys appears to be in direct conflict with another truth in the legal community, that being a continuous rise in the number of unrepresented parties. Connecticut courts are flooded with pro se parties who cannot afford attorneys, but who also cannot qualify for pro bono services. This results in an inefficient use of court resources, a delay in the litigation of claims, and the creation of a class of citizens that lack access to the courts, and therefore access to justice.

In response to these challenges, the Connecticut Bar Association's Young Lawyers Section is proposing the implementation of a statewide Modest Means Initiative. The Modest Means Initiative will have a dual-purpose: First, provide access to the courts for individuals who are ineligible for pro bono services based on their income levels, but who also cannot afford standard attorney billing rates; and, second, to serve the state's young lawyers by providing them with the necessary resources, mentoring, and experiential training needed to build their own law practices. In bringing these two constituencies together, we hope to address two of the largest problems facing the legal community today.

Per Statewide Legal Services, Connecticut citizens qualify for pro bono services if their income is approximately 125 percent of the federal poverty level (or $24,000.00 annually for a family of four.)[1] Consequently, it would be accurate to say that the vast majority of Connecticut citizens do not qualify for pro bono services. In truth, the organization turns away tens of thousands of inquiries per year from people who cannot afford an attorney, but do not qualify for pro bono services. Such statistics do not even take into account the numbers our state's other legal aid organizations turn away. But if the ultimate goal is to create a self-sustaining and permanent Modest Means Initiative that matches the needs of these low income clients with the occupational needs of unemployed or underemployed attorneys, the question remains: *What is the most efficient manner to reach that end?*

This problem is not exclusive to Connecticut, which is both a benefit to our endeavor, as well as a sign of the magnitude of this problem. A variety of states and cities throughout the United States have created their own methods for identifying and addressing the access to justice issue, including a program created by the New Haven County Bar Association.[2] This means that there are models across the country that we are studying to determine the type of platform that will best fulfill our state's needs. Perhaps what will make our program unique is the desire to create an initiative that not only addresses access to justice concerns, but that also implements an equally important training and mentoring package that for young attorneys and provides them with the skills required to be competent practitioners.

To ensure that training will be an essential component of our efforts, beginning this fall the Young Lawyers Section will be creating a Modest Means Academy, where recent law school graduates and current students will have opportunities to not only learn about substantive law, but to also learn basic attorney skills. These will include, but not be limited to, learning how to create a solo law firm, attending short calendar arguments, and preparing for a first trial.

There are obviously many players that need to be involved with the implementation of any program the CBA pursues. To begin this process, the CBA will be forming a committee that will determine the type of program that will best serve the needs of both Connecticut citizens and its attorneys. This committee will

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and failed to refund unearned retainer fees. The attorney was also found to have failed to file an answer to the grievance complaint. *Ramirez v. Garlinghouse*, #12-0826 (5 pages).

Reprimand ordered by agreement where the attorney admitted violation of Rule 1.4(a)(2) of the Rules of Professional Conduct by failing to consult with the complainant about the means by which the complainant's objectives were to be accomplished. *Johnson v. Giacomi*, #13-0170 (7 pages).

Attorney ordered by agreement to attend one three-hour in-person continuing education course in advertising after the grievance panel found probable cause the attorney violated Rules 7.3(a) and 8.4(3) of the Rules of Professional Conduct by hiring a private investigator to approach an accident victim to solicit the victim as a client. *Lepisto v. Jazlowiecki*, #13-0271 (9 pages).

Attorney ordered by agreement to attend one three hour in-person continuing education course in legal ethics after the grievance panel found probable cause the attorney violated Rules 1.4(a)(2) and 1.4(b) of the Rules of Professional Conduct by failing to adequately advise a client concerning the client's sentencing review and failed to explain the sentencing review to the extent reasonably necessary to permit the client to make informed decisions regarding his representation. *Hall v. Harris*, #13-0453 (8 pages). CL

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consist of a variety of parties in the legal community, including members of the CBA and of the local bar associations. Realistically, we may conclude that the best program for our state will be for the CBA to assist in providing resources to the local bar associations, which will allow them to enhance their current pro bono and modest means models.

In summary, we have identified the problems and know what the common sense solution is: match up those who need legal services with those who can provide them—The Modest Means Initiative. But to accomplish this goal, we will all need to work collaboratively to determine the best method for bringing those two classes of people together. CL

Notes

1. *See*, Statewide Legal Services of Connecticut, Inc., *Frequently Asked Questions About Pro Bono Work*, http://slsct.org/pro-bono/faqs
2. *See*, http://www.newhavenbar.org/?page=MMP

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fiancés have been living together; a non-cohabiting fiancé cannot recover for emotional distress caused by witnessing injury to the other fiancé. *Rudolph v. Muhammad Islamic Center*, 57 CLR 905 (Vitale, Elpedio N., J.).

Workers' Compensation Law

Beaupre v. Department of Mental Health & Addiction Services, 57 CLR 771 (Huddleston, Sheila A., J.). Sovereign immunity bars an employer from intervening to recover paid compensation benefits in an employee's personal injury action against a state agency.

The opinion in *Spradley v. Gleason*, 57 CLR 682 (Huddleston, Sheila A., J.), interprets an ambiguity in the Worker's Compensation Act with respect to sole proprietors who have exercised the statutory right to elect coverage under the Worker's Compensation Act by notifying the Commissioner in writing of an intent do so. The Act provides that a proprietor making such an election is an "employer" for purposes of applying the exclusive remedy provision of the Act, thereby gaining protection from common-law liability for injuries to employees. However, another portion of the Act provides that such a proprietor is an "employee" for purposes of determining personal eligibility to receive benefits under the Act. This dual classification, as an "employee" and an "employer," raises an ambiguity as to whether an electing sole proprietor is a "co-employee" for purposes of the provision of the Act that authorizes common-law tort actions between co-employees for injuries allegedly caused by one employee's negligent operation of a motor vehicle. The opinion applies the Supreme Court's 1979 holding in *Velardi v. Ryder Truck Rental* (decided before the amendment authorizing common-law claims between co-employees that arise out of motor vehicle accidents), that the sole owner of a *corporation* is an "employer" rather than "employee" and therefore protected from common-law claims by employees. CL