

President's Message

Louisiana Civil Legal Aid – Are We There Yet?

By President E. Jane Sherman

Hot summer months spark memories of my childhood family road trips. The six of us, and often our two basset hounds Maude and Claude, would cram in our Vista Cruiser station wagon with its stylish woodgrain paneling, and off we would go from our home in Monroe to adventures to be discovered. My three siblings and I would draw straws for who would get the two prime locations on the back seat and who would have to curl up on the hard floor board and risk first-degree burns if flesh skimmed the scalding metal seatbelt bolts. At least hourly, one of us would send out a plea to our parents, “Are we there yet?” We journeyed many miles in that Vista Cruiser with high and sometimes low experiences. Such is true of our Louisiana Bar Foundation’s funding journey of civil legal aid.

The Louisiana Bar Foundation (LBF), although founded in 1969, reactivated its charter in 1985 and gained resources primarily from voluntary IOLTA (Interest on Lawyers’ Trust Accounts) income and memberships. Thus began the journey of LBF’s funding of civil legal aid to low-income qualifying citizens. In 1990, the Louisiana Supreme Court initiated mandatory IOLTA, requiring interest on all pooled attorney-client trust accounts to be paid to the LBF for funding of state civil legal aid services. This mandatory IOLTA ruling, along with a later Louisiana Supreme Court order (LASC) implementing rate comparability—requiring financial institutions to pay the same interest rate on IOLTA accounts as on similarly situated accounts—helped to fuel the LBF funding efforts. Although the LBF funding journey experienced a federal fund target rate of 5.25 percent post the LASC order, interest rates began falling significantly thereafter to a new historic range of 0-.25 by the end of 2008. Like all journeys, there are unexpected encounters

that bring challenges. Since the interest rate market decline in 2008, the funding road has suffered several bumps. In 2010, Louisiana lost approximately 40 percent of its federal funding from LSC due to census adjustments. In 2011, the Louisiana Legislature ceased providing a general appropriation for civil legal services. In 2014, Louisiana lost an additional approximately 16 percent of its federal LSC funding from the previous year due to significant poverty population increases in other states, thus lowering Louisiana’s percentage of the total. In other words, Louisiana’s poverty population had not decreased but its share of federal funding decreased. As a result, in 2015, LBF’s funding to legal service providers was sufficient to serve only 25,000 of the 161,000 total households in poverty.

The LBF wisely sought supplemental funding sources and, with these new resources and the use of reserve funds, has managed to stay the course and maintain its grant funding levels despite the cuts from state and federal funds, as well as the interest rate decline. However, continued use of reserve funds will cause us to come to a dead halt if not refueled with other funding.

I am happy to report that the LBF has recently secured three new funding sources to maintain our journey of funding civil legal aid services during these next few years of low interest rates.

In June 2015, the LBF and the Louisiana Attorney Disciplinary Board (LADB) entered into an agreement regarding the increase of pro hac vice fees from \$250 to \$450 to be in line with other state’s fees. The LADB agreed to transfer to the



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LBF, in an annual single payment, funds generated by the fee increase. Through this agreement, the LBF will award the funds to the three legal services corporations for the provision of civil legal aid services to the indigent. The funds generated by the increase in the initial period of July through Dec. 31, 2015, totaled \$54,400 and were disbursed to our three Louisiana legal service corporations in January 2016. We thank Chris Ralston, Larry Shea and the Access to Justice Committee for their work on this new source of funding for civil legal aid.

In March 2016, the LBF, with the support of the Louisiana State Bar Association’s (LSBA) Rules of Professional Conduct Committee and the Louisiana disciplinary counsel, submitted a proposed amendment to the Louisiana Rules of Professional Conduct Rule 1.15, “Safekeeping Property.” The amendment will help lawyers properly dispose of unidentified funds remaining in their IOLTA accounts for at least one year after diligent efforts to document them as belonging to a client. The Louisiana Supreme Court adopted the amendment on March 23 mandating the unidentified funds be transferred to the Louisiana Bar Foundation. The funds will generate revenue to support legal aid. Guidance and instructions for remitting unidentified funds are available on the LBF’s website, www.raisingthebar.org.

Finally, and most financially impactful, the LBF was advised in April of a distribution to be made from the U.S. Department of Justice Bank of America settlement of just over \$6.5 million to the LBF. Last year, the LBF received \$532,000 from the U.S. Department of Justice Bank of America settlement. This year’s new funds of \$6.5 million will be used over the next few years to continue helping families stay in their homes and out of foreclosure and bankruptcy. More specifically, the LBF

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will utilize these funds to restore some of its reserves and to provide sustainable direct legal services with an increase in grant awards moving into future years until hopefully more funds become available.

These three new funding sources bring continued mileage to civil legal aid services in Louisiana. Are we there yet? Are we able to fully serve the legal needs of our Louisiana poverty population? Sadly, no. Our journey this year has new vistas, but our destination of full funding of our civil legal needs is yet ahead. Our Campaign to Preserve Civil Legal Aid will soon begin. With funding efforts from

the LBF, the LSBA and the new Access to Justice Commission, along with all legal aid stakeholders in Louisiana, it is hoped that funding for civil legal aid will continue its long journey to help those in need who cannot help themselves. Are we there yet? No, but we are motoring ahead and making history. These new funding sources will provide us with funds these next few years to sustain our grantees and offer some expansion of service. More is needed. More will be done. After all, as the adage says, life is a journey, not a destination.

**Louisiana Bar Foundation
Announces New Fellows**

The Louisiana Bar Foundation announces new Fellows:

- Michael W. RutledgeNew Orleans
- Hon. E. Paul Young..... Shreveport
- Hon. Glenn B. Ansardi Gretna
- Hon. Edward D. RubinLafayette

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The Louisiana State Bar Association/Louisiana Bar Foundation's Community Action Committee supports the SOLACE program. Through the program, the state's legal community is able to reach out in small, but meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience a death or catastrophic illness, sickness or injury, or other catastrophic event. For assistance, contact a coordinator.

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For more information, go to: www.lsba.org/goto/solace.