

# Family Law Forum

*A Publication of the Minnesota State Bar Association Family Law Section*

**Spring 2008**  
*Volume 16, No. 4*

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# Letter from the Editor

Linda Wold

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Greetings to you all!

First of all, I would like to take this opportunity to thank those of you who have so generously given of your time and talents, your comments and suggestions, and your compliments on the publications. Each edition was a success through your contributions and interest. Kudos to you all!

Secondly, it is with great pleasure that I offer you this current edition on Pro Bono Work in Family Law. Never more than now, are legal services for the disadvantaged, more in demand and needed. More cases, with issues of greater complexity, and dwindling financial assistance, are at an almost overwhelming state. Without the willingness of attorneys to offer and commit time to pro bono legal assistance, clients are disserved, the courts are bogged down, and justice for all is chipped away in a hurry. In an effort to encourage all of you to do some, and maybe even more, pro bono work, this edition offers ways for you to do so, tells of your colleagues' experiences, shares new developments as to earning credit for such work, gives you tools you can use to aid your clients, and highlights an exceptional pro bono volunteer: Mark Carter. It is my hope that you find the edition to your liking and that you are inspired to do some pro bono work.

This edition additionally includes some resources, which should assist you and your clients. Take the time to utilize them. An Addendum section is also included which has two articles that cover topics from past editions. One is the article by Bruce Kennedy regarding use of the summary real estate judgment and was to have been in the Solo/Small Firm edition. The other article is by Ellen Abbott on the Early Neutral Evaluative Process as it regards domestic abuse. It is reprinted in this edition

since part of her article was omitted in the Domestic Violence edition. We apologize for that publishing error and thus offer it now in its entirety.

**An announcement about the previous Domestic Abuse Edition:** The International Information Centre and Archives for the Women's Movement in the Netherlands, as stated on their website "*is a both a repository for historical material and a dynamic, activist organization working to ensure that answers to questions about women's history and the position of women in society are available and accessible.*" They set up a link from their website to our domestic violence online edition. You can visit their site at: <http://www.iiav.nl/eng/iiav/index.html>.

Thirdly, the next issue of the Family Law Forum, scheduled for release in the fall, has as its topic: **Children in the System(s)**. As family law attorneys we are always asked and perhaps involved in cases where our client's children are involved in a system, be it the juvenile system, child protection, tribal system, school system, to name a few. I'd appreciate you thinking about these and the many other systems that children are involved in and consider writing an article for the edition. I would like to thank Mary Lauhead for the inspiration and suggestion for the Children In the System(s) topic.

As always, your suggestions for topics and requests for information, your participation in any way are encouraged and appreciated. I hope to hear from many of you and to work with you in the upcoming year on the Family Law Forum.

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# CLE Credit for Pro Bono Activities

Caroline Palmer

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## Introduction

Foreclosure, child custody conflicts, domestic violence, bad debt, eviction, deportation – these and many other legal issues are common experiences for low-income individuals and families. Each requires extensive and often complex interaction with the judicial system but many people end up facing these life-changing challenges alone, without an attorney, either because they cannot afford representation or qualify for legal services. According to *Documenting the Justice Gap in America*, a 2005 report of the Legal Services Corporation, “only a small percentage of the legal problems experienced by low-income people (one in five or less) are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer.” At least 80 percent of the civil legal needs of low-income Americans go unmet, the report concluded. This estimate holds true in Minnesota, despite the combined efforts of a strong, well-respected legal services network and a private bar committed to significant pro bono activity.

Pro bono service is voluntary in Minnesota but it is widely encouraged by the Minnesota Supreme Court, the Minnesota State Bar Association (MSBA), law firms, and law schools, among others, and all indicators show that many attorneys willingly donate their time and talent to volunteer legal work. Pro bono commitment often exceeds the aspirational requirement set forth in Rule 6.1 of the Minnesota Rules of Professional Conduct, which states: “Every lawyer has a responsibility to provide legal services to those unable to pay. A lawyer should aspire

to render at least 50 hours of pro bono publico legal services per year.” Attorneys volunteer to assist clients with limited means through a number of stand-alone and legal services-affiliated located programs statewide. Some provide brief advice at legal clinics while others represent their clients in court, administrative hearings, or mediation sessions. Whether the commitment involves an hour a week or several months, there are many attorneys in Minnesota willing to apply their skills to assisting low-income clients. They do pro bono work to improve the lives of others but they also realize a personal and professional gain as well.

Still, the significant legal needs of the disadvantaged continue to grow, especially in tough economic times, and creative approaches are necessary to encourage even more attorneys to do pro bono work. For example, the state’s four law schools, in partnership with the Minnesota Justice Foundation, have integrated public service into legal education and students graduate with a greater understanding of how their skills can improve the community. This initiative is important because it instills pro bono service as a value that defines one’s identity as an attorney. Such long-term initiatives are critical to transforming the profession and improving pro bono commitment, but other approaches are needed as well. Among these is continuing legal education (CLE) credit for pro bono. It is likely this year that the Minnesota Supreme Court will adopt a rule allowing for limited CLE credit for pro bono service. This article provides background about how this rule was

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developed and explains how pro bono attorneys may have an opportunity seek credit for their work.

### **Developing the Rule**

The Minnesota State Bar Association's Legal Assistance to the Disadvantaged (LAD) Committee, under the leadership of Tom Conlin and Katie Trotsky, and later Pat Burns, began researching and writing a proposed rule in 2005. Members of a subcommittee met with the CLE Board and Minnesota CLE, looked at similar rules in other states (Colorado, Delaware, New York, Tennessee, Washington, and Wyoming) and crafted language suited to Minnesota's pro bono needs. In addition, the subcommittee reviewed the Rules of the Minnesota State Board of Continuing Legal Education to ensure that the proposal met the purposes of CLE, namely enhancing a lawyer's professional development, improving a lawyer's knowledge of the law, and addressing a lawyer's special responsibilities to improve the quality of justice administered by the legal system. The subcommittee concluded that CLE credit for pro bono offered many educational benefits, including the opportunity to "learn by doing," similar to a law school clinical setting. Further, pro bono work connects attorneys to clients with new cultures and communities, and increases understanding of how poverty affects individuals, families, the legal system and society as a whole. Finally, access to a lawyer is access to justice. Many legal issues are complicated even for lawyers with years of education and experience; it is unreasonable to expect pro se clients to represent themselves competently in such situations, especially when they are in the midst of other related life stressors.

Over the course of two years the subcommittee developed a rule providing for a limited number of CLE credits for pro bono legal services. In essence, a lawyer could earn a maximum of six hours of credit during any one reporting period. One hour of standard CLE credit equaled six hours of eligible pro bono service. Volunteer attorneys could not claim these credits for any pro bono activity; the service must be rendered through an eligible legal services or pro bono provider in order to provide a measure of accountability to guarantee that services were reaching those who needed them the most.

All efforts were made to ensure that the proposed rule would meet its stated purpose of increasing pro bono activity while at the same time ensuring lawyers receive the required educational benefit. Nonetheless, the rule had its detractors. Some argued that receiving even a small number of CLE credits invalidated the altruistic purpose of pro bono. Others worried that the rule diminished the importance of CLE, or undermined its pedagogical purpose, by creating a means to avoid classroom requirements. Some feared it would diminish revenue for CLE providers. LAD countered these concerns by noting that although pro bono is most often a selfless act it cannot be ignored that there is a professional benefit as well. Lawyers do pro bono to learn new skills, expand their resumes, network in the community, and improve their public image. Further, the amount of total credits available represented a very small "quid pro quo" since an attorney would have to commit up to 36 hours of pro bono service to receive the maximum credit in a reporting period. LAD also noted that the educational benefits were many. Attorneys would experience real-world activity that would complement their educational experience, in much the same way law school students combine clinical and classroom

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course work. And finally, LAD offered that the rule could increase CLE attendance and revenue because attorneys would require training to competently represent their clients in pro bono matters.

An additional concern was that the experiences of other states demonstrated the rules did not improve pro bono activity by any significant measure. In truth, the rules have not been active long enough to create any statistically meaningful data to date. Tennessee, however, appears to have had some encouraging results. According to research conducted by the MSBA and the Philadelphia Bar Association Report of Task Force on CLE and Pro Bono (published May 5, 2006), between 1998, when the rule was implemented, and 2004, when the most recent report was available, the number of participants grew from 60 to 836. While it is not clear how many of these participants were new to pro bono service, the growth is significant and combined they reported 10,358.56 volunteer hours. Other states such as Delaware and Wyoming reported light usage of the rule but one reason for low numbers may be lack of public awareness about the credits. LAD concluded that no matter the outcome it was better to have the rule than not; participation equals pro bono service and any tool that addresses the urgent need for legal assistance is worthy of support. The results of the 2005 Pro Bono Survey conducted by the State Bar of Wisconsin bear this out: Of the 2,064 members who responded to the survey, 805 said receiving CLE credit for pro bono would increase pro bono participation. According to the Wisconsin report, “[o]f the lawyers who selected CLE credit for pro bono service, 63% were in private practice and 66% were in offices with five or fewer attorneys.”

After thoroughly researching the issue, LAD submitted the rule to the MSBA Assembly

for approval in order to move forward with a petition to the Supreme Court. Several MSBA sections and committees expressed support for the rule including Administrative Law, Civil Litigation, Family Law, New Lawyers, Human Rights, and the leadership of Children and the Law. The HCBA and RCBA boards both voted to support the proposal, as did the Legal Services Planning Committee (appointed by the Supreme Court) and Pro Bono Council. After a lengthy debate, the Assembly approved the rule at its September 2006 meeting.

### **The Supreme Court Considers the Rule**

Mary Vasaly, a partner at Maslon, Edelman, Borman & Brand, agreed to write and present the petition to the Supreme Court (on a pro bono basis). The petition was filed in the spring of 2007 and scheduled for a hearing in September.

Individual members of the clinical faculty at the University of Minnesota Law School submitted a statement in support of the rule, noting that “[c]linical legal education and service learning are established pedagogical methods. Learning by doing has been an integral part of legal education for more than fifty years.” The faculty members went on to state that clinical education “[t]he available pro bono programs in Minnesota are typically connected with more traditional training programs providing instruction in the basic principles of the relevant areas of law. Allowing credits for the pro bono representation itself, recognizes that it is in practice that we deepen our knowledge of particular areas of law, and expand our understanding of the nature of practice itself.” The faculty members noted that the proposed rule would “encourage a broadening of knowledge even within the confines of particular subject matters.

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Expansion of a lawyer's knowledge and experience is an important goal of CLE as well as professional growth."

The CLE Board also submitted a statement adopting a "neutral" position yet nonetheless outlining several concerns similar to those noted above. Some of the board's statements indicated worries about administrative burdens related to managing the program while at the same time noting that such rules are underutilized in other states. At best, the Board was willing to support a pilot project to allow more time to identify administrative challenges.

At the hearing the Supreme Court actively engaged with Vasaly and Margaret Corneille from the CLE Board, addressing many of the issues raised throughout the development process and in the petitions and statements. On January 31, 2008 the Court issued an order promulgating amendments to CLE rules but after receiving several comments from the MSBA and other advisors to the effect that the order was too narrow and excluded participation by several pro bono programs in the state, the court issued a new order on April 15, 2008 establishing a deadline of June 4, 2008 for submitting comments on proposed amendments to the rules.

The amended rule retains the essence of the rule originally proposed to the Court by the MSBA, including the allowance of one standard CLE credit for every six hours of pro bono legal representation, up to six hours of credit in total. It defines "pro bono legal representation" as "providing legal representation to a pro bono client without compensation, expectation of compensation, or other direct or indirect pecuniary gain." A "pro bono client" is "an individual, not a corporation or other organizational entity, who has been referred to the lawyer by an approved legal services provider or by a Minnesota Judicial Branch program." Several

requirements are set forth defining an "approved legal services provider." A program must be funded by the Legal Services Corporation, the Minnesota Legal Services Advisory Committee, or the Minnesota Lawyer Trust Account Board, or must be designated by the Minnesota Lawyer Trust Account Board as an approved legal services provider. Designation criteria include programs operating within 501(c)3 organizations "that have as their primary purpose the furnishing of legal services to persons with limited means," law firm pro bono programs "that have as their primary purpose the furnishing of legal services to persons with limited means and are under the supervision of a pro bono coordinator or designated lawyer," or law firms providing "pro bono legal services on behalf of a Minnesota Judicial Branch program, including, but not limited to, the Guardian ad Litem program." Attorneys seeking credits must submit an affidavit of pro bono representation to the Minnesota Lawyer Trust Account Board.

### **Conclusion**

The Legal Services Planning Commission, appointed by the Supreme Court, stated in its 2005 "Recommendation on the LSC-Funded Programs" that "[a]ccess to justice is a fundamental need in a democracy." The CLE credit for pro bono service rule, if finally adopted by the Supreme Court later this year, will help further access to justice. If the rule inspires even one new attorney to take up a pro bono case or encourages longtime pro bono attorneys to continue their work it will be worth the time and effort.

Pro bono programs need a variety of tools to attract more volunteers because the need for legal assistance is increasing with each passing year. Expanding the CLE rules to allow for pro bono credit is yet another valid means of

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meeting critical needs that would otherwise go unmet – a family remains in their apartment, a child stays in a loving home, a foreclosure is averted, a woman finds safety away from an abusive husband, an immigrant escapes persecution. It is impossible to quantify the value of these outcomes. Any lawyer who participates in such cases cannot help but be transformed professionally and personally. This is the true essence of an educational experience measured not just in CLE credit hours but, more significantly, in lives transformed.

*Caroline Palmer was the Pro Bono Development Director at the Minnesota State Bar Association from December 2004 until January 2008. She is currently the staff attorney at the Minnesota Coalition Against Sexual Assault. Other work experience includes five years as staff attorney at the Minnesota AIDS Project. Palmer is a graduate of Barnard College and Hamline University School of Law.*

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## Working with Pro Bono Clients

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Bench & Bar of Minnesota  
The Official Publication of the Minnesota State Bar Association  
Vol. 62, No. 7 | August 2005

*Martha Delaney & Scott Russell*

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Attorney Larry McDonough, a Legal Aid attorney since 1983, recalls a 48-year-old female client who had rented a run-down apartment which the city condemned after she moved in. She withheld rent; the landlord filed eviction papers.

Although the city had condemned the apartment twice before, the landlord continued to try to rent it, each time removing the “condemned” sign.

McDonough faced what might seem an odd barrier to helping the woman resolve her case: She initially refused to call the housing inspector. The woman didn’t understand her options, he said. She didn’t understand the law. She had an overriding sense that whatever happened, it wouldn’t go well for her.

McDonough could easily get frustrated with the client who won’t pursue the “obvious” solution. Yet it’s a common situation faced

by McDonough and other attorneys who work frequently with clients living in what could be referred to as “generational poverty.”

Drawing any generalizations about class differences between middle class attorneys and poor clients<sup>1</sup> is treacherous ground; some would call it stereotyping or patronizing. Yet for *pro bono* attorneys who work with impoverished clients only occasionally, failing to understand and deal with these differences has its dangers. Ignore them and *pro bono* service can become frustrating and burdensome instead of a source of satisfaction — and clients may not get the help they desperately need.

### UNWRITTEN RULES

Educator Ruby Payne lectures on the challenges faced by middle class teachers working with students from chronically poor families. Growing up in those different

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economic worlds teaches students and teachers different survival skills and promotes different “hidden rules” regarding how people relate to each other, she said.<sup>2</sup>

Many of Payne’s ideas apply to the relationship between *pro bono* lawyers and their clients. For instance, Payne says differences between persons growing up middle class (“M.C.”) and persons growing up in generational poverty (“G.P.”) can include:

- Logistical obstacles to planning ahead, *e.g.*, failure to keep appointments (greater in G.P.)
- The degree of belief in own ability to control events (greater in M.C.)
- Willingness to share money with friends and relatives, even when financially strapped (greater in G.P.)
- Dependence on written communication vs. oral communication (greater in M.C.)
- The influence of work, achievement, and material security in decision making (greater in M.C.)
- The influence of survival, entertainment, and relationships in decision making (greater in G.P.)

The authors interviewed eight people with hands-on legal experience with clients from generational poverty, asking for reactions to these and other Payne observations. They included private attorneys with a long-term *pro bono* practice, legal aid attorneys, courthouse staff helping *pro se* clients, and a district court judge.

We asked them for ideas on how *pro bono* attorneys could head off common pitfalls that can emerge when serving people from an impoverished background. They offered many concrete ideas, but three key themes emerged:

1. Getting to know your client and the client’s circumstances may take a little more diligence;
2. Communicating effectively may require that you be more explicit in your speaking and listening; and,
3. Teaching your client how to succeed in the legal system probably will have dimensions that differ from teaching your paying clients.

### GETTING TO KNOW YOU

Mark Vyvyan of Fredrikson & Byron PA in Minneapolis has handled *pro bono* housing cases for eight years. He takes it for granted that he can pick up his phone and call his paying clients, he said. Not so for his *pro bono* clients.

To illustrate the point, he recalled one particular client, a blind man, Marvin (not his real name), who asked for help with a landlord who had rented him a roach-infested apartment. Vyvyan wanted to see the place for himself. The client didn’t have a phone or, as it turned out, even a doorbell. The client said he had a first floor apartment and told Vyvyan to stand in the alley at 8:30 a.m., yell his name, and he would come and get him.

“So I’m in this alley, in not the greatest neighborhood, at 8:30 in the morning, yelling ‘Marvin, Marvin’ and of course he is not home. So I stand there for 15 minutes yelling his name like an idiot.”

Vyvyan and others who frequently work with generationally poor clients say *pro bono* attorneys must understand the barriers their clients face and ask direct questions to figure out a workable strategy for achieving success. Clients may not have reliable transportation, day care, an employer who allows time off for appointments, a phone, or in some cases,

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even a doorbell. To stay in touch and keep appointments, he and others suggest asking questions like:

- What is the best way for me to get a hold of you?
- Do you have your own car, use public transportation or rely on friends?
- Do you work? Does your company allow you time off for an appointment?
- Do you have children? Do you have day care?
- Are you ever in this area for other reasons?

Armando Vilchez, a senior clerk at the Hennepin County District Court Self-Help Center, has learned to ask such questions. He helps *pro se* clients complete legal paperwork, *e.g.*, name changes, criminal expungements, and car title transfers. A number of the Self Help Center's customers are those who can't afford an attorney and aren't knowledgeable about the legal system, he said.

"If I know more about their limitations or the situation they are going through, I am better able to make a connection and help them," Vilchez said.

He recalls being perplexed with "Bill," who needed a follow-up appointment to finish his paperwork. Vilchez knew from the conversation that Bill was unemployed, yet Bill wouldn't commit to a specific date and time to come back. After Bill rejected a couple of his suggestions, Vilchez thought to himself, "You're not employed, what's wrong with 8:30 a.m.?"

Yet when he asked the direct question "Is there a problem with coming early," he got the information that Bill was too embarrassed to volunteer on his own. Bill lived in a shelter across town, Vilchez said,

and a morning time would conflict with his ability to get a free breakfast. Others might not be sure if they could come because they didn't have bus money.

With longer-term, more in-depth *pro bono* cases, getting to know the client's circumstances can be particularly important.

Fred Ojile of Messinger & Ojile, PLLP, has a private family law practice and has handled *pro bono* divorces for clients from battered women's shelters for years. These clients have a particularly good reason not to trust people who have authority over them, and that can affect the attorney-client relationship, he said. His first goal is to gain the client's trust.

"I never write down anything when I first meet with a client," he said. "I just sit there and let them talk to me for ten minutes, because just through that experience people get looser. If you're not sitting there taking notes, they just open up more. People in general don't like to sit across from somebody taking notes. It's like you're a cop or something."

Melissa Froehle, an attorney with Central Minnesota Legal Services, works mostly with low-income, noncustodial fathers trying to get parenting time or custody.

She recalled a case where her male client, 24, was trying to establish a relationship with the four-year-old girl he had just learned was his daughter. Child protection had become involved and Froehle's client had been portrayed as the abuser. It turned out that the mom had a history of ongoing abuse/neglect with this child — which the client only learned about once the matter ended up in court.

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Like many fathers Froehle works with who have cases in the child protection system, this client was frustrated that the child had not been protected in the past by the system, and that *he* was now being blamed for the mother's abuse. As they talked more, Froehle learned that he himself had been in the child protection system as a child and it had been a "rotten experience." He had no faith that the system would protect his daughter. Understanding his background helped Froehle understand the extent of his concern, distrust and anger toward the authority figures in the case — and helped her advocate more effectively for her client.

### COMMUNICATING EFFECTIVELY

To communicate effectively with their *pro bono* clients, attorneys often need to use simpler language, double-check their assumptions, and provide extra explanations about the legal system.

For example, those we interviewed suggested that rather than just sending clients written material, attorneys should take the time to go over all materials verbally with their clients. Clients will let an attorney know when they are ready to pick up the pace.

Several interviewees also suggested avoiding legal jargon or complicated words, like "writ," or "in lieu of."

McDonough observed that "There's no real downside to explaining things at a more basic level, unless the person gets the impression that you think he's a dope. But I haven't felt that."

When asked about stereotyping the poor, McDonough didn't hesitate. "It's okay to start with a stereotype if it leads you to do something positive. I mean, if you go in with the idea that people speak different languages

based on class, so you're explaining things in a little more detail, the worst that's happening is that the person is getting it quicker! [But it may be that] you're explaining it *better* to someone who's *not* getting it quicker."

Several of the eight interviewees observed that sometimes attorneys need to explain why they are asking certain questions. For example, Froehle said her clients get angry at what they think are irrelevant questions, especially about the past. It feeds into their experience of being constantly judged.

Froehle tries to head off the frustration before it surfaces. "I do a lot of education and explanation up front on the child protection system. 'This is how the system is set up. This is what the system is supposed to do. I can understand that you are angry about having to do X, Y and Z. But if you don't do X, Y and Z, these are the results. Here's where I can see it helping you.'" Others use visuals with clients to help explain the legal system clearly, including flowcharts.

It's also easy to judge or jump to conclusions, and it's worth taking the time to question your first impressions. Froehle recalled again the client who was trying to get custody of his four-year-old daughter. Shortly into the case, Froehle saw that the child's mother had given the child her client's last name. "So I assumed — and I'm sure the social workers in the case would have — this kid has your last name, how could you not have been involved [in the past four years]? How could you not have cared?"

Knowing this perceived past indifference could be devastating to her client's case, Froehle asked him about it. He said, "I had no idea she had my last name. I'd never heard her last name, never seen her last name in writing." Recognizing that the client's case could be harmed if others in the case shared

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her assumption, Froehle took time to clarify the situation with them.

Clients often have an unrealistic view of how fast the system works, and it takes patient explaining. Vilchez said he has had people come to him thinking they could complete the forms and get the judge to sign them the very same day. He first empathizes with their frustration, and then explains the paperwork process and timeline they have to follow.

But Vilchez often asks more questions to determine whether there's any way to help in the meantime. Vilchez recalled one man who said his employer was going to fire him because of an old misdemeanor on his record. Vilchez could not speed the expungement petition process, but by listening to the man's concerns, he came up with a partial solution. He wrote a letter to the man's employer explaining that he had started the process which, while not binding, might convince the employer to keep the employee on the job pending the outcome of the expungement case.

## TEACHING YOUR CLIENT

Unless the client has legal experience, all attorneys need to teach their clients how to succeed in the legal system. *Pro bono* attorneys, however, need to start with the basics.

For example, *pro bono* attorneys often need to stress the importance of appointments and court dates. Froehle said some of her clients are overwhelmed with problems; they may be unemployed, face a driver's license suspension, or be dealing with other low-level offenses. Often living from week to week, they are more used to reacting to events than planning ahead. In this context, an appointment with an attorney may not seem that important. So, at the outset, she

tells her clients: "If you have an appointment with me and you are not going to make it, that's OK. But you need to let me know."

If she tells them that it is disrespectful of her time if they don't call ahead, they get it, she said. "Most of us would take that for granted, but our clients don't have a history of knowing those kinds of things."

Helping clients with important papers can be another point of service. Some provide manila envelopes for clients to keep all case-related papers. Others, like Vilchez, offer to keep important papers for them so they won't get lost.

Teaching what's relevant is also key. Vyvyan said some of his eviction clients have the attitude "I just want to go in there and tell the judge my story. I know he is going to see it my way."

Vyvyan has to explain that, "No, on a legal level, the judge doesn't care if you don't have money to pay the rent because you lost your job or your drug-dealing boyfriend stole it, or whatever." You try to focus your client on the issues that will help in court."

Helping clients keep emotions in check during the hearing can save a case from devastating results. While true for all clients at some level, McDonough tells his housing clients, "Going into court is not a venting experience, it is a persuading experience. If you want to vent you should do it with someone who is not going to get angry over it. So when you come to court, it is strictly a persuading-someone-to-do-you-a-favor experience."

What most experienced attorneys and judges use as cues to determine reliability may not translate well to their *pro bono* clients. Michele Garnett MacKenzie, an immigration

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attorney at Minnesota Advocates for Human Rights, notes that people who have survived abuse often do not display the emotions or the chronological memory of details that most attorneys or judges look for to evaluate credibility. Attorneys need to spend extra time preparing such clients in advance to make sure they are ready to testify in a way that the judge will perceive as credible. For example, Garnett MacKenzie notes that she often needs to encourage her clients to have eye contact with the judge.

### CONCLUSION

All lawyers must strive to understand their client, communicate clearly and effectively, and help their client succeed in the legal system. *Pro bono* lawyers representing people in chronic poverty often will find that the concrete steps to achieving these goals play out in unfamiliar ways. *Pro bono* clients have grown up in a different world with different survival skills. In order for the legal system to work effectively for these clients, *pro bono* lawyers need sensitivity, awareness, and extra diligence. Successfully understanding and accommodating these differences results in higher quality services to the client and a greater level of satisfaction for the attorney for a job well-done.

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#### Notes

<sup>1</sup> This article talks about clients in generational poverty. Typically, that is defined as a person who comes from a family where two or more of the past generations have lived in a household whose annual income is at or below 125% of the federal poverty guideline. In 2005, 125% of the poverty level for a household of four is \$24,188 per year.

The patterns of behavior described herein are selectively chosen and have exceptions. It is not the intent to stereotype, only to provide a framework of understanding poverty so that those individuals who may fit the overall pattern may be better understood and better served.

<sup>2</sup> Much contained in this article is based upon the ideas and input of Ruby K. Payne, Ph.D. author of *A Framework for Understanding Poverty*. For more information on Ruby Payne and her work, see [www.ahaprocess.com](http://www.ahaprocess.com).

### VIEW FROM THE BENCH

“In family court, we work a lot with *pro se* litigants from generational poverty. One of the main things I’ve learned is not to expect most *pro se* persons from generational poverty to have good written materials or an accurate summary of the issues. Deadlines can’t be strictly enforced.

“I also watch very closely to make sure that they are always talking directly to me. I’ve found emotional discourse is common with some poor people, and I want to keep them focused on the issues by keeping them talking to me, not each other.

“I try to make my courtroom informal. If I think it will help in reaching a settlement, I invite them to my office rather than staying in the courtroom. I try to keep my language simple.

“I allow plenty of time for hearings. I explain my rulings to them and what the order will say. And often I’ll give them my clerk’s phone number so if a problem comes up we can try to work it out over the phone. It doesn’t help to make them file paperwork that won’t be useful to me anyway. Sometimes, people start using that option too much, though, and I stop offering it as an alternative.

“In sum, the important accommodations I make are 1) to allow more time for the hearings; and 2) to expect to do more follow-up.”

-HON. BRUCE PETERSON,  
4<sup>th</sup> Judicial District

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## DIFFERENCES IN STORY STRUCTURE

Finding out “what happened” from a client in poverty can be frustrating to middle-class lawyers and judges who are used to chronological, plot-driven stories with a cause and effect. The story structure in generational poverty tends to be a more random, episodic, and entertaining replay that starts at the end and includes a number of brief episodes followed by listener participation. Events are included to the extent that they have emotional significance to the teller.

If a *pro bono* attorney is having a difficult time understanding what happened to the client, one way to find out the whole story is to ask the client to tell the story several times. The first time, the attorney just listens. The second time, the attorney interrupts and takes notes. The third time, the attorney tells the story back to the client, asking the client to

correct any inaccuracies. Often, the best information is gathered this third time. The teller is so intent on the attorney getting it correct that they will recount new (often important) parts of the story.

*Martha Delaney is an AmeriCorps attorney at Volunteer Lawyers Network, working to expand VLN’s capacity to serve low-income individuals by incorporating the energies and work of volunteer law students. In September, she will become VLN’s Clinics Director.*

*Scott Russell is a reporter at the Downtown Journal and Southwest Journal. He writes freelance stories for various publications about the law in his spare time. Scott and Martha are married and live in Minneapolis.*

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## Why I Do Pro Bono Family Law Work

*Linda Wold*

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I consider doing pro bono work as one of my passions. I have always received more from such work than I have given. Throughout my career, I have always done a fair amount of pro bono work and have found it to be the hallmark of my legal work.

I would say that the people I have helped have been the most remarkable individuals. I have met people with more strength, courage, understanding and heart while serving in the pro bono community. They have taught me the most about rectifying problems with dignity, and perseverance. They are my everyday heroes. They bring their respect and come with layers of openness and are willing to do the hard work necessary to

resolve their issues. Many have difficult hurdles to overcome such as language barriers, poverty, physical and mental illness, but they do so with great zeal.

I have heard time and time again that just someone to listen, really listen, to their situation, is what they most appreciate. That act of listening is what conveys my true interest in them and their legal issues. My pro bono clients see and appreciate the value of my skills and talents to society. They arrive worried, frustrated, afraid, angry and befuddled by the legal system and how it works. Our conversation facilitates peeling away those layers of emotions and solutions are offered. Open and frank discussion is

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encountered. Many issues are tended to and some are left for another day, time, or organization.

I am certainly challenged by the issues presented to me from my pro bono clients. A complexity of their situations is a true test of my legal skills and I enjoy putting together the puzzle of solutions. No law school or bar exam questions can compare to those I work on with my pro bono clients. Another challenge is the short amount of time we have in which to devise and implement those solutions. Some are legal and others are not. But the total package of solutions is necessary for me to feel that I have helped in some way.

Every organization that I have sought to work with pro bono clients has been more than supportive, helpful and greatly appreciative of the work that I have done. The services that they offer to their clients and those that work in conjunction with the clients are valuable and top-notch. All the organizations have relied on top people in the field and work diligently to procure funding.

I will always do pro bono work in family law. It is now such a part of me that I cannot even think to give it up. While the work is satisfying and regularly tests my legal skills, it is the clients that bring me back. They feed my soul, they enlighten my mind, they give lightness to my spirit, they offer a grounding presence and they make my work with them a joy.

*Linda L. Wold has been practicing family law since 1994. She earned her Bachelor of Arts degree from Hamline University in 1990 and her Juris Doctorate from Hamline University Law School of Law in 1993. She is a solo practitioner in Maple Grove and currently volunteers at the VLN Family Law Clinic once a month. She is currently a member of the MSBA Family Law Section and is the Publication Director for their publication: Family Law Forum. She also serves on the family law section domestic abuse committee. She is also actively involved in her hobby of miniatures and is a member of the Midwest Miniatures Guild.*

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## Making Children's Voices Heard

*Anne Tyler Gueinzus*

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A fifteen year old child calls your office from the psychiatric unit of the local hospital seeking counsel. She wants a lawyer to help her to live permanently with a family friend with whom she has resided for the last five months. She is afraid to return to live with her parents because she has been verbally, physically, and sexually abused in their care. She does not want to go back into foster care because she "hated it" when she had previously been placed in such care. Despite previously agreeing to have her remain with the family friend, her mother now demands

that the child return to her care. The stress of returning to her parents has resulted in the child's current hospitalization. The child's father is willing to sign releases so you may visit her at the hospital and obtain her medical and school records. The family friend is not currently a licensed foster care provider, but is a safe and stable resource for the child and is willing to permanently care for the child.

As a lawyer for this child, how can you best represent her so she may permanently reside with her family friend?

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There are two main avenues available to achieve the child's stated objectives, each with different standards and outcomes. In family court, the child's permanent custody could be changed through a transfer of legal custody or a third party custody action.<sup>1</sup> An Order for Protection could temporarily change the child's custody on an immediate basis but will not provide a permanent solution for the child. The execution of such documents as a Standby or Temporary Custodian, a Power of Attorney or a Delegation of Parental Authority by the original custodial parent/s can also provide temporary relief for the child. Since these documents are easily revocable and the mother is no longer in agreement with the child's requested placement, they are not applicable.

In juvenile court, a private CHIPS (Child In Need of Protection and/or Services) petition could be brought on behalf of the child, but only after the county's child services agency has been afforded the opportunity to address the matter and has declined to provide protection or services to the child. Family court and juvenile court actions each have their own advantages and disadvantages. Deciding which venue will best achieve the child's desired outcome requires a thorough examination of the facts and circumstances of the child and the family friend.

### STANDING

In Minnesota's family courts,<sup>2</sup> the child does not have standing. This means the child client in a family court action is significantly restricted in her legal involvement in such proceedings. In order to have standing, the child must become a party to the action. To do so, the child must file a motion to intervene pursuant to Rule 24 of the Minnesota Rules of Civil Procedure.<sup>3</sup>

MINN.R. CIV. P. 24. A child may request to intervene as a matter of right as follows:

Upon timely application anyone shall be permitted to intervene in an action when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

MINN. R. CIV. P. 24.01.

The court utilizes a four-prong analysis of motions to intervene as a matter of right. Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197, 207 (Minn. 1986). First, the applicant must establish that the application is timely. Id. A timely motion has been found when a request to intervene was made prior to the adjudication of the rights between the litigants, and the intervening party did not seek to introduce new issues which would prejudice the existing litigants. See BE&K Const. Co. v. Peterson, 464 N.W.2d 756 (Minn. Ct. App. 1991). Second, the applicant must have an interest relating to the property which is the subject of the action. Schumacher, 392 N.W.2d at 207. Third, the applicant must be so situated that the disposition of the action as a practical matter impairs or impedes her ability to protect the interest. Id. Finally, a showing that the existing parties do not adequately represent the applicant's interests must be made. Id. This last requirement is often the most difficult for minor children to overcome as the proposed custodian or a Guardian ad Litem could be found to adequately represent the child's interest in the action.

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A child client may also request permissive intervention in a family court action by demonstrating that her claim or defense and the main action have a common question of law or fact. The determination by the court is discretionary, and “[i]n exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” MINN. R. CIV. P. 24.02. Even though Minnesota clearly permits intervention of a child client in a family court proceeding, the intervention of the child is generally not granted by the court.

By contrast, Minnesota has a long history of affording standing to a child in juvenile court.<sup>4</sup> Children in juvenile court matters have had the right to counsel since 1959.<sup>5</sup> Specifically, the child “has the right to effective assistance of counsel in connection with a proceeding in juvenile court.” MINN. STAT. § 260C.163, subd. 3(a) (2008). Second, children in juvenile court can intervene to be parties as a matter of right. Pursuant to Rule 23 of the Minnesota Juvenile Protection Rules, a child who is the subject of a juvenile protection matter has the right to intervene in the matter to be a party. MINN. JUV. PRO. R. 23.01, subd.1.

In order to become a party, the child files a notice of intervention as a matter of right with service on all parties and the county attorney. MINN. JUV. PRO. R. 23.03, subd.1. The intervention is deemed accomplished upon service, unless a party or county attorney files and serves a written objection within ten (10) days of service of the intervention. *Id.* In essence, the only objection that a party can raise to the child’s intervention is that the child is not the child.

The main difference between family court and juvenile court is that family court actions involve private parties and juvenile court

actions involve state agencies. Due process concerns are therefore higher with such state action in juvenile court, and children have the right to counsel in juvenile court. Further, children also have the right, in juvenile court, to be parties in matters involving their own lives.<sup>6</sup> Moreover, Minnesota’s Court of Appeals noted that the child is deemed a party to the proceeding when the district court appoints counsel for the child. In the Matter of the Child D.B., No. A05-1941, 2006 WL 539366 (Minn. Ct. App. Mar.7, 2006) (citing In re Welfare of J.R. Jr., 623 N.W.2d 640, 642 (Minn. Ct. App. 2001) overruled on other grounds by In re Welfare of J.R. Jr., 655 N.W.2d 1, 3 n.1 (Minn. 2003)).

While it is easier to achieve party status in juvenile court, the interjection of state involvement through the local child protection service agency adds a pertinent factor that must be weighed prior to filing a CHIPS petition in juvenile court.

### **CHILD PROTECTION SERVICES**

A family court action generally does not involve child protection services and thus, the risk that the child will be removed from her current home and placed in temporary shelter or foster care is substantially decreased in family court. This is of obvious concern for the child since these temporary placements and care providers are usually completely unknown and unfamiliar to the child. Occasionally in a CHIPS matter in juvenile court, the family friend or proposed custodian is a licensed foster care provider or he/she may receive an emergency license to provide foster care for the child and the child is not removed from said home. If a child is placed in foster care through a juvenile court action, there is no guarantee which foster home the child will be placed in or for how long. Although removal of the child and

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subsequent placement in foster care may not occur under juvenile court jurisdiction, it is a significant risk to the child and must be part of any case analysis.

Additionally, the length of court involvement and oversight of the parties is greater in juvenile court. Once child protection is involved, the custodial parent must be given the opportunity to correct the problems that led to the child's removal. If the parent corrects the problems, the child could be returned to his/her care. The local child protection agency is required to demonstrate to the court its reasonable efforts toward the reunification of parent and child in a CHIPS matter unless egregious harm has occurred. MINN. STAT. § 260C.001, subd. 3 (2008). Egregious harm is "the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care." MINN. STAT. § 260C.007, subd.14 (2008). Due to the agency's requirement of reasonable efforts, close supervision and monitoring of parents, custodians and the child occurs in a CHIPS matter.

Additionally, if the parent is making progress in correcting the problems that led to the child's removal, the statutory deadlines for a permanent determination in the matter may be extended by the court<sup>7</sup> thereby continuing court and agency involvement and oversight of the parties and their actions. A careful review of the parental issues and likelihood of success is necessary prior to initiating any private CHIPS action because the duration and degree of monitoring of the action and parties is unknown.

Another significant consideration for the child in weighing which venue is appropriate is if the child has significant special needs warranting services. Special needs include emotional and physical

needs. Children raised in chaotic and neglectful environments often have special needs and require specialized therapy and services to address the trauma they experienced and to develop necessary social and coping skills. For a child with special needs, child protection can provide needed services for the child, such as individual counseling, physical therapy, group therapy, and in-home counseling among other services. Thus, the level of the child's needs and the ability of the proposed custodian to meet the child's needs must be examined.

In the initial scenario, the 15 year old child contacted Children's Law Center of Minnesota (CLC) for help. Based upon her previous foster care experiences, the child was adamant about not returning to foster care. After numerous consultations between the attorneys, parties, and CLC, a decision was made against filing a private CHIPS action in juvenile court. Instead, the family friend filed a petition for third party custody in family court and CLC, on behalf of the child, moved to intervene as a party. The court granted the child's motion to intervene and granted temporary physical custody of the child to the family friend. Finally, the child's permanent physical and legal custody was transferred to the family friend. In the years since her custody was permanently transferred, the child has flourished in the family friend's care and custody. She graduated from high school and started college.

#### **ROLE OF CHILDREN'S LAW CENTER OF MINNESOTA**

When this 15 year old child first contacted CLC in 1996, she was one of CLC's earliest clients. CLC is a 501(c)(3) nonprofit organization whose mission is to promote the rights and interests of Minnesota's children in

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the judicial, child welfare, health care and education systems. CLC carries out its mission in three main ways: (1) by providing direct representation for children; (2) by advocating and participating in state-wide efforts to improve and reform the child protection and juvenile justice systems; and (3) by training volunteer lawyers and other child advocates to represent children.

CLC has a small staff of lawyers and social workers who with the current 270 volunteer lawyers provide pro bono legal representation for youth.<sup>8</sup> CLC provides training programs each year for volunteer lawyers as well as case management and ongoing support for all CLC volunteer lawyers. CLC staff provides a consulting and guiding role to all volunteer lawyers to openly discuss any questions or concerns that may arise during the course of their representation of children in foster care. As one CLC volunteer lawyer put it: "It is like CLC is one big law firm and all the volunteers are partners and we are all covered by the same attorney/client privilege."

CLC utilizes a multidisciplinary social worker/lawyer team approach to provide representation. CLC's policy of having the same lawyer/staff social worker team for the child throughout the duration of the case provides the child with continuity of representation and helps the lawyer build a trusting relationship with the child client. After a case is assigned, the staff or volunteer lawyer and CLC social worker meet the child in a setting familiar to the child. The lawyer explains the lawyer's role, the confidential nature of the relationship and the attorney/client privilege. Before meeting the child or shortly thereafter, the CLC lawyer reviews the court and social services files. The lawyer also attends all court hearings and relevant meetings, and continues to ascertain the child's wishes to counsel the child on the child's options.

CLC is a client-directed practice. CLC's policy and practice adhere to the American Bar Association (ABA) Standards of Practice For Lawyers Who Represent Children in Abuse & Neglect Cases, approved by the ABA House of Delegates February 5, 1996. A lawyer representing a child client has the same duty and responsibility as a lawyer representing an adult client. The child's lawyer advocates for his/her client's wishes. As part of advocating for the child's wishes, a lawyer must counsel each individual client regarding the child's legal position and requests. The lawyer listens to the child, gathers information from all the parties, explains the child's options and possible/likely outcomes to the child, and follows the child's directions. The child's lawyer is a lawyer "who provides legal services for a child and who owes the same duties of undivided loyalty, confidentiality and competent representation to the child as is due an adult client." ABA Standards of Practice For Lawyers Who Represent Children in Abuse & Neglect Cases (Approved by the House of Delegates February 5, 1996) at A-1 (emphasis added).

CLC has extensive experience with children who have been abused physically and/or sexually, and/or neglected, and who have come to the attention of the county and the courts because a report of abuse or neglect was made and there was a subsequent investigation in which maltreatment was determined. Children have rights and legal protections, but they need someone to speak on their behalf to protect and promote these important rights and interests. The services that CLC provides center on the rights of children to have a voice in their own future and to be secure in their person and environment.

## CONCLUSION

As this article describes, there are several ways to represent children. CLC represents children primarily regarding child protection matters in juvenile court where children are generally in out of home care. In juvenile court, the child has standing and can be a party to the proceedings. The risk, however, for foster care placement and possible delay in having the child placed with a specific third party custodian is significant. Child protection services involvement in this venue requires the opportunity for the child to be reunited with the custodial parents and involves significant monitoring and oversight of all the parties. It also requires that services be provided for the child's special needs.

In a family court action, such as a third party custody matter, it is more difficult for the child to be a party and the child may have limited participation in the proceedings. The risk of child protection involvement and subsequent removal and placement in foster care is decreased in the family court setting. Also, necessary agency services for a special needs child, such as individualized counseling, mentors, group counseling, and/or physical therapy are generally not provided. Further, there is the risk that the child will be returned to the original custodial parent against the child's expressed wishes in either family or juvenile court. All these potential outcomes must be fully explained to the client so he/she may make an informed decision regarding how he/she wishes to proceed.

Children's Law Center of Minnesota provides a way for lawyers to advocate for children residing in a variety of out of home placements and to voice their wishes and desires regarding their permanent homes. It also provides a way for family law practitioners to lend their expertise to those children in need of such specialized advocacy.

## Notes

<sup>1</sup> A de facto custody proceeding pursuant to MINN. STAT. § 257C.01, subd. 2. is not applicable because the child has not resided with the family friend for the necessary statutory time period of one year or more.

<sup>2</sup> Several states such as Arizona, Delaware, Idaho, Iowa, Louisiana, Maryland, Nebraska, New York, Oregon Utah and Washington have provided children counsel in family court custody matters.

<sup>3</sup> The Minnesota Rules of Civil Procedure apply to family law practice except where they are in conflict with applicable statutes or the Expedited Child Support Process Rules as set forth in the Minnesota General Rules of Practice 351 through 379. See MINN. R. FAM. P. 301.

<sup>4</sup> See generally Gail Chang Bohr, *Ethics and The Standards of Practice for the Representation of Children in Abuse and Neglect Proceedings*, 32 WM. MITCHELL L. REV. 989, 989-95 (2006).

<sup>5</sup> 1959 Minn. Laws ch. 685, § 22, subd. 2.

<sup>6</sup> See also, Gail Chang Bohr, *Party or Participant? Implications for the Child's Right to Effective Assistance of Counsel*, THE HENNEPIN LAWYER, Vol. 70, No. 9, Sept. 2001 at 22-23.

<sup>7</sup> See MINN. STAT. § 260C.201, subd. 11(a)(2) (2008).

<sup>8</sup> On January 31, 2008, the Minnesota Supreme Court amended the Minnesota Continuing Legal Education (CLE) rules to allow CLE credits for pro bono hours. Children's Law Center of Minnesota is specifically mentioned as a legal service provider for whom pro bono hours qualify for CLE credits. The new rules go into effect on July 1, 2008.

*Anne Tyler Gueinzus is a staff attorney at Children's Law Center of Minnesota (CLC). She received her Juris Doctor from Hamline University School of Law and her Bachelor of Arts from Northwestern University. After graduating from law school, Ms. Gueinzus clerked for the Third Judicial District in Olmsted County. Prior to joining the staff at CLC, she had her own private practice specializing in family and juvenile law matters and was a long standing volunteer for CLC. She has also served as a Guardian ad Litem in both Hennepin and Ramsey counties. In addition to representing children in court and assisting the 270 volunteer attorneys of CLC, Ms. Gueinzus is an active member of the Ramsey County Children's Justice Initiative. She is a member of Minnesota Women Lawyers, the Minnesota State Bar Association and the Hennepin County Bar Association. She is the proud parent of two children.*

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# Parallel Careers Are the Mark of This Man

Martha Lepore

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Some people give big, all at one time. Contestants on Oprah Winfrey's new give-away TV show come to mind. Others are big givers of talent and time over many years. Consider Mark A. Carter.

The 1981 graduate of William Mitchell College of Law stopped by a lobby recruiting booth right after being sworn in at the St. Paul Civic Center. He decided there was merit in what he heard about the Legal Advice Clinics and signed up. "It seemed like a good thing to do," Mark recalls. "Being just out of law school, I figured LAC was a great place to gain experience and learn a lot right away."

Seizing the offer of *pro bono* work that day proved to be a good move both for him and LAC, today's Volunteer Lawyers Network. For nearly 27 years, Mark has pursued parallel careers as a solo practitioner in Hopkins, Minn., and as an attorney with VLN.

Early on, he provided legal advice to LAC clients at the Legal Aid Offices in the Grain Exchange Building in Minneapolis. Later he took cases in family law, serving clients in Minneapolis, which was not much of a commute from his office, except one time when a judge moved the venue over 180 miles west to Willmar, Minn. "Fortunately the court there accommodated me, scheduled the case in the afternoon and the matter was resolved in one day," he reports.

Though Mark did take landlord tenant cases in the mid 1980s and has represented clients in consumer and bankruptcy law, he has focused his career and *pro bono* work on family law.

Why? "I think it's a very important area of law and I like to make a difference by helping people move away from legal trials and toward settling their matters out of court," he says. His cases generally include dissolutions and custody matters and he has had clients so grateful for his help that they still tell him how much his work meant to them.

Though his work is mostly with individuals, for 20 years, Mark and VLN colleague, Jerrold F. Bergfalk of Lindquist & Vennun, have lead seminars in family law for attorneys who are interested in taking *pro bono* family law cases.

Mark is big on sharing a good thing and likes recruiting others to the family law section at VLN, sometimes in unexpected places such as firms specializing in other legal fields. "I remember making a presentation at Best Buy Corporation and having some takers," he says. He points out to potential volunteers that *pro bono* work with individuals usually doesn't take a lot of time, maybe a half hour for a phone consult or for helping a person prepare documentation.

"I tell lawyers in corporations and real estate that they will meet a lot of different people, with a variety of problems and personalities, but the work will make them well-rounded and be a great way to give something back to the profession."

According to Mark, VLN makes things easy for its attorneys by screening clients for financial eligibility and by trying to match a client's need with the expertise of its volunteers. In addition, clients sign retainers agreeing to help with their cases as much as

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they can and if, for some reason, clients have unrealistic expectations, VLN is available to assist with problems.

Working with clients is just part of Mark's work with VLN. He has served on the Board of Directors, was its chair in 1991-1992, and remains active on the board. He was on VLN's Committee for Family Law for 10 years and now is a permanent honorary member. He has participated in the Family Law Phone Advice Service and the Custody Case Screening Project and given annual seminars on family law procedures and process. Little wonder that Mark is the VLN 2008 Volunteer of the Year.

Accolades do not motivate Mark, though. He says, "I can't envision myself not doing *pro bono* work. It's part of my routine, a natural part of my practice. Some might think it's difficult to balance your own work with VLN, but the rewards of helping people, making a difference in individual lives, vastly outweigh the inconveniences."

When Winston Churchill said, "We make a living by what we get, but we make a life by what we give," he ably described Mark. By that standard, the man from William Mitchell has excelled.

*Martha Lepore is the former editor of Village News, a publication of Father Joe's Villages in San Diego. She earned a master's degree in public relations at Boston University where she was the science publicist for the University's public affairs office. Her lifelong career in writing extended to Minneapolis at the request of her daughter, Martha Delaney, of Volunteer Lawyers Network.*



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## **Southern Minnesota Regional Legal Services (SMRLS) Hotline**

*Margaret Erickson*

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In May of 2003, SMRLS opened its Rural Intake and Hotline Project for the first time. About six months later, the Hotline added its Volunteer Attorney Program (VAP) component.

Southern Minnesota Regional Legal Services, Inc. (SMRLS) founded in 1909 as St. Paul's Legal Aid Bureau, now serves thirty-three Minnesota counties, with offices in St. Paul, Shakopee, Albert Lea, Mankato, Rochester, Winona and Worthington. (A SMRLS program serving the migrant community also operates out of Fargo, ND.) SMRLS provides advice and representation in civil legal

matters for low-income clients, as well as clients aged sixty and over.

Until the Hotline opened, prospective clients called the SMRLS office serving their local area and were screened for eligibility by local staff. Those who met the eligibility guidelines might be accepted for representation, offered advice or brief service, or told that SMRLS could not help with their legal issue. By centralizing the intake process and the brief-advice function, the Hotline's goal has been to help more clients, more efficiently, than it was possible to do under the former model.

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People residing in one of the twenty-eight “rural” SMRLS counties (includes: Blue Earth, Brown, Cottonwood, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Jackson, LeSueur, Martin, McLeod, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Redwood, Rice, Rock, Sibley, Steele, Wabasha, Waseca, Watonwan, and Winona) apply for representation, or just ask for legal advice, by calling 1-888-575-2954. (People in Ramsey, Washington, Dakota, Carver and Scott counties call 651-222-4731.)

A caller to the toll-free 888 number will first hear a voicemail greeting, and may choose to continue in English, Spanish, or Somali. There is a brief interview to determine the amount of the caller’s income and assets, and the nature of the legal problem. (Callers over the age of sixty are eligible for advice and potential representation without regard to income and assets.) Family law questions are common, but the Hotline receives many kinds of legal questions, large and small.

After speaking to the initial intake worker, most callers are transferred immediately to a Hotline attorney, who learns the details of the caller’s problem and gives legal advice. The call typically lasts about 15-30 minutes. If the case fits SMRLS’ definition of a “critical legal need,” (for example, cases where the caller has been the primary parent and is a respondent in a contested custody case, or is a petitioner in an Order for Protection where the opposing party is represented by an attorney), the Hotline attorney will then refer the case to the SMRLS office that serves the caller’s home county (or the county where the matter is venued), where the caller may be assigned an attorney for further assistance and/or representation.

Family law clients who have a conflict or potential conflict of interest, and non-custodial parents with child support and

visitation matters are transferred by the intake worker to the Volunteer Hotline database. These clients can expect to receive a return phone call from a volunteer private attorney, who will attempt to answer questions about their legal issue.

Hotline volunteers provide advice only, and are not expected to undertake ongoing representation of the clients referred through this program. These attorneys can provide valuable pro bono service without leaving the office.

Before joining the VAP Hotline panel, the volunteer attorney takes a one-hour on-line training, and is given a username and password for access to the SMRLS case management system. An active volunteer will be given (via email) the names of about 3-5 clients per week, and asked to call them back within 7-10 days. To minimize the likelihood that a conflict will arise, attorneys are generally given the names of clients outside of their own county.

The Hotline panel has room for more volunteer attorneys. Attorneys who would like to participate can learn more by calling Debi Finseth at (507) 377-2831.

Thanks to Debi Finseth for help with this article.

*Margaret K. Erickson is a graduate of Gustavus Adolphus College and the University of Minnesota Law School. She has worked in the Worthington SMRLS office since 1983, and on the SMRLS Hotline since 2003. She is currently a member of the Family Law Section’s Executive Committee, MSBA’s Human Rights and Civic Education Committees, and of the MSBA Council.*

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# **In Forma Pauperis: An Essential Tool for the Pro Bono Practitioner**

*Tom Walsh*

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## **INTRODUCTION**

Pro bono attorneys provide an invaluable service to low-income clients by providing legal services free of charge. However, attorney's fees are not the only expenses involved in a family law case. For many clients, the \$332 filing fee is an insurmountable barrier to accessing the justice system in a timely manner. In some cases there are additional costs for service, witness fees, depositions, or obtaining transcripts. However, there is a process in place to waive fees and expenses for low-income clients. In Forma Pauperis (IFP) is a straight-forward procedure that is an indispensable tool for the pro bono practitioner. This article will give an outline of what costs and expenses the IFP statute covers, how to qualify for IFP status, and procedural tips on how to proceed IFP.

## **WHAT IS IT & HOW TO QUALIFY**

In Forma Pauperis (IFP) is a procedure established in Minn. Stat. § 563.01 allowing a low income person to have certain costs related to a civil action waived or paid by the state. To request an IFP order from the court, a party must submit an affidavit stating their current financial situation.

Pursuant to the IFP statute, any Minnesota court may authorize the commencement of a civil action without prepayment of fees, costs and security for costs by a person stating the 1) the nature of the action, 2) a belief that they are entitled to redress and 3) they are financially unable to pay the fees and costs

associated with the action.<sup>1</sup> Upon a finding that the action is not frivolous, the court shall allow the person to proceed In Forma Pauperis if the person is financially eligible and their affidavit is found to be truthful.<sup>2</sup>

## **FINANCIAL ELIGIBILITY**

The trial court has broad discretion when determining whether to grant an applicant IFP status and what expenses shall be paid.<sup>3</sup> The statute sets out specific guidelines for determining the financial need of the affiant including:

- 1) A person who is receiving means tested public assistance programs.<sup>4</sup> This includes: (a) Supplemental Security Income (SSI) for disabled clients; (b) Minnesota Family Investment Program (MFIP); (c) Food Stamps; (d) General Assistance or Discretionary Work Program; (e) Medical Assistance; and (f) Energy Assistance. When applying for under these programs the applicant must provide proof of receiving assistance such as a letter or statement detailing benefits received by the applicant;<sup>5</sup>
- 2) A person who is represented by an attorney on behalf of a civil legal services program based on indigency.<sup>6</sup> This includes pro bono volunteers taking cases through a legal services office or volunteer attorney program;
- 3) A person whose income is below 125% of the Federal Poverty Guidelines.<sup>7</sup> The Federal Poverty

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Guidelines (FPG) is published annually by the Federal Department of Health and Human Services every year and depends on household size and income.<sup>8</sup> For example, in Minnesota the maximum annual income for a household of a single person below 125% of poverty is \$13,000 and for a family of four it is \$26,500. It should be noted that income from all household and family members is considered.

The court has discretion to grant IFP status to those applicants who do not qualify under one of the above stated categories. The court can also consider extenuating factors such as health issues and related expenses.<sup>9</sup> The court cannot take into account resources available to a party's attorney when determining IFP status.<sup>10</sup>

### **COSTS COVERED BY AN IFP ORDER**

The IFP statute applies to expenses occurring at all stages of the action including:

- 1) **Payment of Filing and Service Fees:** Expenses such as filing fees and the cost for service by the sheriff, service by private process server when the sheriff is unavailable, or service by publication;<sup>11</sup>
- 2) **Witness Fees:** Reasonable expenses incurred in subpoenaing a witness, including expert witnesses and if necessary, the fees and costs of the witness. The court must find that the witness has evidence material and necessary to the case and the witness is located in Minnesota;<sup>12</sup>
- 3) **Deposition Expenses:** When the deposition expenses are found necessary to adequately prepare, present or decide an issue in the matter;<sup>13</sup>

- 4) **Transcript Expenses:** When the court finds part or all of a transcript is necessary to adequately prepare, present or decide an issue;<sup>14</sup>
- 5) **Copy Costs:** The court administrator shall also provide the client a copy of their court file without charge.<sup>15</sup> The court will also waive the fee for a certified copy of the order;
- 6) **Appellate Briefs:** Reasonable expenses incurred in obtaining the record and reproducing the appellate brief.<sup>16</sup>

### **HOW TO GET AN IFP ORDER APPROVED**

The relief available under the IFP statute is not always granted in a single order at the beginning of the case. At the commencement of the action, the applicant completes an Affidavit for Proceeding In Forma Pauperis.<sup>17</sup> This initial affidavit and subsequent order generally applies to filing fees, costs for copies from court records and sheriff service fees. This order is signed at the beginning of the action and the process obtaining a judge's signature on an IFP signed varies by county.<sup>18</sup> For information on the county you are practicing in, contact the local court administrator for guidance. When presenting the Court with an initial Affidavit for Proceeding In Forma Pauperis the attorney should include the motion papers or petition for the underlying action.

Additional relief, such as payment of witness fees or deposition expenses, can be requested by a supplemental affidavit. The attorney should prepare an affidavit explaining the expense, why they are necessary for the case and submit it to the presiding judicial officer. If a supplemental affidavit is granted, the attorney can present the court order to

court administration to obtain a check for the expense.

Generally, an IFP order is valid for one year. In some cases the attorney will need to get multiple IFPs orders approved. The court also has discretion to rescind IFP status if it finds the party's affidavit was false or if their financial situation has changed.<sup>19</sup> Furthermore, a person who fraudulently obtains IFP status can be subject to criminal sanctions under Minn. Stat 609.48.<sup>20</sup>

## CONCLUSION

The In Forma Pauperis procedure is an indispensable tool to ensure that lack of resources does not prejudice your client. Because the budgets of many courts are shrinking, extra scrutiny is being given to IFP applications. It is important for the pro bono attorney to understand the process to give the client's application for IFP status the highest chance of success. If you have questions about proceeding IFP, need family law pleadings, or have other questions on your pro bono case I encourage you to contact your volunteer attorney program, local legal aid office, or go to [www.projusticemn.org](http://www.projusticemn.org).

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### Notes

<sup>1</sup> Minn. Stat. § 563.01, subd. 3 (2006).

<sup>2</sup> *Id.*

<sup>3</sup> See *Thompson v. St. Mary's Hospital of Duluth*, 306 N.W.2d 560, 563 (Minn. 1981)

<sup>4</sup> Minn. Stat. § 563.01, subd. 3 (2006).

<sup>5</sup> These categories are listed as means tested programs on the pro se form made available by the courts and found online at <http://www.mncourts.gov/default.aspx?page=513>.

<sup>6</sup> Minn. Stat. § 563.01, subd. 3 (2006).

<sup>7</sup> Citing United States Code, title 42, sections 9902(2).

<sup>8</sup> For more information about the Federal poverty guidelines go to <http://aspe.hhs.gov/poverty/08poverty.shtml>. The maximum income based on family size is higher for residents of Alaska and Hawaii than the forty-eight contiguous states.

<sup>9</sup> Minn. Stat. § 563.01, subd. 3 (2006).

<sup>10</sup> See *Thompson* at 562. In *Thompson*, the Court rejected appellant St. Louis County's assertion that appellant should not receive IFP status because the county contributes to Legal Aid which was representing appellant in this action. Additionally the court found that a client retaining an attorney on a contingency fee basis may still seek IFP status. *Id.*

<sup>11</sup> Minn. Stat. § 563.01, subd. 4. (2006). It has been the author's experience that the court is strict in paying for service by publication, preferring to serve by mail whenever possible. Sheriff service expenses covered by the IFP statute include expenses for service by out of state sheriff's departments.

<sup>12</sup> Minn. Stat. § 563.01, subd. 5 (2006).

<sup>13</sup> Minn. Stat. § 563.01, subd. 6 (2006).

<sup>14</sup> Minn. Stat. § 563.01, subd. 7 (2006).

<sup>15</sup> Minn. Stat. § 563.01, subd. 7a (2006).

<sup>16</sup> Minn. Stat. § 563.01, subd. 8 (2006).

<sup>17</sup> See pro se form made available by the courts and found online at <http://www.mncourts.gov/default.aspx?page=513>.

<sup>18</sup> In Hennepin County a signing judge is available daily to review IFP applications and sign IFP orders. The signing judge reviews only the application for IFP status and is not assigned to the case. In other counties, the IFP is signed when the papers are filed and assigned to a judicial officer.

<sup>19</sup> Minn. Stat. § 563.01 subd. 9 (2006).

<sup>20</sup> *Id.*

*Tom Walsh is the Family Law Resource Attorney at Volunteer Lawyers Network in Minneapolis where he assists attorneys working on pro bono family law cases and supervises VLN's family law programs. He is a 2004 graduate of the University of Minnesota Law School. Tom encourages all family law attorneys to contact their local legal services, volunteer attorney program, or go to [www.projusticemn.org](http://www.projusticemn.org) to learn more about volunteering.*

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# “So Now What?”

## Pro Bono Collaborative Law

*Mark Haase*

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Collaborative Practice has proven to be a highly successful form of alternative dispute resolution, but at less than two decades old, it is still a relatively young movement with great potential to impact even more people. In a recent article, Ron Ousky,<sup>1</sup> president of the International Academy of Collaborative Professionals, states, “In 18 years, Collaborative Practice has moved from the living room of a white-haired lawyer<sup>2</sup> in Minneapolis to thousands of people all over the world who are determined to change the way that conflict is resolved.” He goes on to ask, “So now what?”<sup>3</sup>

Minnesota may once again be at the forefront of the movement. The Collaborative Law Institute of Minnesota (CLI) is providing at least one answer to Ron’s “Now what?” by developing one of the first pro bono Collaborative Practice programs in the nation.<sup>4</sup>

Recognizing the need for Collaborative Practice to be an option for people of all means, and the lack of an organized program to do so, CLI formed a pro-bono committee of the Board of Directors in early 2007. The committee quickly got to work and decided that the best means of providing pro bono services would be to partner with an organization that already has experience screening, working with, and referring clients in need of pro bono representation.

The obvious choice in Hennepin County was Volunteer Lawyers Network<sup>5</sup> (VLN).

When approached with the idea, the staff at VLN responded enthusiastically and with total support. After some initial training of the VLN staff around Collaborative Practice, the CLI committee and VLN staff developed a combined VLN/Collaborative Representation Agreement and a letter to be sent from VLN to the spouse of prospective clients. Then the VLN staff began searching their waiting list for clients who might be suitable for Collaborative Practice. Once a prospective client was found, their spouse was sent a letter asking them if they would also like to proceed collaboratively and given two weeks to respond. The first case was begun in the fall of 2007 by members of the pro bono committee and has since successfully completed. The clients and their child were supported by two attorneys, three mental health professionals (coaches and a child specialist), and a financial professional.

The CLI committee began to ask for volunteers from the membership of CLI and has received an outstanding positive response. Also, with the support of the International Academy of Collaborative Professionals through a grant program, the CLI pro bono and training committees and VLN organized a basic Collaborative Practice training with VLN that was attended by over 25 volunteer attorneys.

Finding pro bono client couples appropriate and for and willing to try Collaborative Practice has been a bit slower than finding volunteer attorneys. To date, the initial

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case mentioned above has been completed, two other cases are in process, and a fourth case has been referred. The CLI pro bono committee is in the process of reaching out to other referral and legal assistance programs in the area to help increase the number of cases. The committee is also working on ideas to more effectively reach out to prospective spouses.

There are still questions to be answered, procedures to be developed, and much to learn. What exactly to do when the second spouse does not qualify under the referring organization's income guidelines is one open question. Professionals, most of who have primarily worked with people of some means, must learn how to assist pro-bono clients with their particular challenges. And procedures to make sure all clients receive the highest quality service possible need to be developed. The pro bono committee is working to address these issues. Suggesting sliding fee schedules to practitioners for lower-middle income spouses and working with social workers are some ideas being discussed, and volunteers will be trained in and asked to use the Collaborative Team process when clients have children.

Whatever needs to be done, CLI Minnesota is committed to making sure that the benefits of Collaborative Practice are available to as many people as possible, regardless of their means. It is hoped that this program will continue to grow and develop and become a model for Collaborative professionals throughout the country and world, putting Minnesota once again at the forefront of an amazing movement.

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## Notes

<sup>1</sup> Ron Ousky is a Collaborative Family Law Attorney and Mediator in Edina, Minnesota.

<sup>2</sup> The "white-haired lawyer" is Stu Webb, who still practices Collaborative Law in Edina, Minnesota.

<sup>3</sup> *A Message From the President, Keeping the Movement Moving*, Ron Ousky, Collaborative Review, Spring 2008, Volume 10, Issue 1.

<sup>4</sup> According to Gay Cox, an experienced Collaborative law attorney in Dallas, Texas, as of yet there are no significant Collaborative law pro bono projects in the United States. The Dallas Association of Collaborative Professionals has also made significant strides in beginning a pro bono program, and Winnipeg, Manitoba has been running a legal aid Collaborative Law project for several years. See *Growing Our Collaborative World*, Gay Cox, Texas State Bar 2008 Collaborative Law Spring Conference.

<sup>5</sup> Volunteer Lawyers Network is a non-profit organization that provides free legal services by referring eligible clients to volunteer attorneys. It was established in 1966.



*Mark Haase is the Advocacy Coordinator and Staff Attorney for the Council on Crime and Justice, practices Collaborative Law on a very part-time basis, and is a Director of the Collaborative Law Institute of Minnesota. Mark Graduated from the University of St. Thomas School of Law, cum laude, in 2006. He may be reached at [mah@markhaase.com](mailto:mah@markhaase.com).*

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# Volunteering Can Be a Very Rewarding Experience

*Mary Cincotta*

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As family law attorneys, we often take on a case in which there may not be sufficient funds to get paid and, it unintentionally becomes a pro bono matter. We have probably all experienced those “rare” cases in which there are not enough funds left at the end to get paid for all of our services. However, it can be a very rewarding experience to volunteer in family law matters just purely for the joy of it! There are many volunteer opportunities available as there will never be a shortage of ways to help low income family law clients, especially given the high demand, and it is a way to give back to our community.

Volunteer Lawyers Network (“VLN”) is just one organization, in Hennepin County, that provides services to low income individuals. Tom Walsh, Family Law Resource Attorney, at VLN, indicates that they have a fairly large bank of attorney’s to match up in mentoring relationships. This is a wonderful opportunity for new lawyers (either “new” to the practice of law or new to the area of family law) and for more experienced family law attorneys, especially those with limited time available to take on the full representation of cases, who want to share their time and experience through pro bono work.

The mentoring associations available through the VLN, or such organizations, can be beneficial to all involved. It is really great for the newer attorneys to have someone with experience available to review documents, run calculations, or just ask procedural or legal questions. This is an ideal way for new lawyers or those who

practice in other areas of law to gain experience in family law. For the experienced family law attorney, it can be fun to supervise a case, provide your input, and get to know someone new to the field. As an added bonus, you both can feel good about helping someone in need.

How does it work? The VLN staff interviews potential clients and completes an in-take process. They then locate a newer attorney willing to take the case, but who may lack sufficient experience, resources or confidence to handle the matter solely on their own. The VLN staff matches the mentee attorney with an experienced mentoring attorney so that the client has the benefit of two counsel; the time and attention needed from the newer attorney and the experience of the mentoring attorney.

I recently had the opportunity to mentor two attorneys. In one case, attorney Dave Burns did a tremendous job at returning an infant to his father in Minnesota after the mother had removed him to another state. On another matter, attorney Jill Avery, successfully assisted a client in obtaining a divorce, custody and child support. For both attorneys, it took a lot of caring, compassion and time to do the ground work, prepare the necessary pleadings, make the phone calls, and appear in court to fight for their clients’ rights. It was a job well done in both cases and a rewarding experience for all involved!

If mentoring/menteeing is not for you, the VLN also offers a clinic four days a week

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at the Hennepin County Family Justice Center. There are many family law attorneys in our community who do this, but more are needed. I typically volunteer two hours per month, during which I usually see about five clients. Many of these cases include some very complex issues. You have to be alert, think on your feet, and know where to go for resources. The VLN staff and student attorneys are very helpful as well as are the caring staff members at the Self-Help Center.

During my time at the VLN clinic, I meet some very nice people who are grateful for my time and expertise. I may never see most of those people again, but I often feel that I become quite close to them, as they are pouring their hearts out to me and are looking for guidance – whether it be emotional or legal, and usually both. Just to know that someone is there who cares about their problems and is listening to them is very comforting.

Clients through the VLN clinic may require help with the process, such as filling out paperwork and ensuring that it is properly filed with the Court. Often they do not know how to frame their issues or how to present their case. Sometimes clients do not necessarily have a problem that requires litigation. I have also seen a number of cases in which the matter has been settled, but they are unsure as to how to formalize their agreement. On occasion I have drafted stipulations for such individuals, hoping to keep them out of the litigation loop. At the recent Family Law Institute, Judge Bruce Peterson commented during the “Judicial and Attorney Perspectives on Pro-Se Litigants” session that he could tell, in a positive way, when some of the pro se litigants had received assistance at either the clinic or at the self help center. The more help we can give to pro se litigants,

the more effectively we streamline the process and reduce the Court’s caseload.

If you are looking for a way to touch someone’s life, with a relatively small time commitment, I encourage volunteering with VLN – through the mentoring program or providing services at the clinic at the Family Justice Center. Although the VLN is located in Hennepin County, there are pro bono opportunities in other counties as well. I look forward to working at the clinic – it’s the little “thank yous” and positive comments people say that make you realize you are making a difference and, that can be very rewarding. For more information about the VLN programs, please contact Tom Walsh at (612) 752-6675.

*Special thanks to Richard D. Goff, Esq. for allowing me to take on these volunteering opportunities, to Bridget C. Conway, paralegal, who helped contribute to this article, and to Eunice A. Black, paralegal, and Ms. Conway for being sounding boards when I return from a clinic.*

***Mary E. Cincotta** has practiced in the area of family law for 7 years and has been employed with Richard D. Goff & Associates for the last 6 years. She is a member of the Minnesota State and Hennepin County Bar Associations. She also has been an active volunteer Guardian ad Litem for Ramsey County for many years. She has four children and resides in Maplewood.*

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# Do. Pro Bono. Family Law.

*Timothy Mulrooney*

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Do.

We've all seen the public campaign for physical fitness. Just as exercise can keep us physically healthy, pro bono work can keep us professionally healthy – feeling fulfilled for contributing a valuable service to people in need of help, without the motivation of financial reward. Unfortunately, family law attorneys often loathe the family law pro bono case. The time has come to rethink that sentiment, and reconsider your desire, your unique ability, maybe even your duty, to “do” pro bono family law work.

I am the first to admit that, as a family law attorney, I shied away from pro bono family law cases.<sup>1</sup> The thought, shared I know by many of you, was (and is) that paying clients have “skin in the game” which might bring an element of reasonableness to their positions, decisions and expectations. Pro bono clients, in contrast, are not constrained by the threat of mounting legal bills and might, therefore, have a tendency to litigate more strenuously and perhaps with less regard for the merit of their positions or the relative value of the prize to be won or lost at the end of the war. Because of this risk of never-ending cases, family law attorneys understandably avoid family law pro bono work.

This view no longer needs to be true. Opportunities exist to do “unbundled” or “limited scope” family law pro bono work. In her book *Unbundling Your Divorce*, California family law attorney M. Sue Talia<sup>2</sup> characterized “full service representation” as we all know it:

Under the old paradigm, each party to a divorce hired a lawyer (if they

could afford one) to handle all aspects of the case, giving the lawyer full responsibility for and power over strategy and tactics.

Under the newer notion of limited scope representation, which Ms. Talia notes is a “growing phenomenon [that] is changing the face of family law and altering forever the way people approach their divorces,” the lawyer is retained only for part of a case or for specific tasks.

In the pro bono context, unbundled or limited scope representation offers a means by which lawyers can give parties much needed and helpful representation while allowing the lawyers to manage the level of their pro bono contribution. A lawyer might, for example, limit her representation of a client to drafting pleadings or settlement documents or representing a client through mediation, early neutral evaluation (financial or social), a motion proceeding or even, in the right circumstances, a short trial.

Unbundled pro bono family law opportunities are becoming more easily found. Chrysalis already offers a program for pro bono attorneys to do this kind of work.<sup>3</sup> More recently, a Hennepin County Bar Association task force consisting of attorneys from the HCBA family law section and members of the Hennepin County Family Court bench having been working to develop a program through which attorneys will provide unbundled services to parties in early, settlement-oriented proceedings (such as early neutral evaluations, settlement conferences, and other structures), with the hope of expanding to other contexts down the road.

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This is not to say that lawyers should stop taking full representation family law cases on a pro bono basis. It is, however, suggesting that those who don't feel they can manage full representation cases can and should explore the possibility of limited scope representations.

I was asked to write this article from the Court's view regarding the need for more attorney representation in family court cases. No doubt, the Court would prefer more parties had lawyers. While not true in every case, lawyers generally add to the efficiency of the proceedings. Pleadings are done correctly, evidence is properly presented, legal standards are properly cited. So, yes, if you do family law pro bono work, you are doing a service to the Court, and such service is and will be appreciated.

But it is much more than that. People involved in family court need help. While specific statistics are not readily available, the Court's experience, at least in Hennepin County, is that large numbers (possibly as many as half or more) of cases have one if not both parties pro se. Often, pro se parties are unable to overcome the emotion, fear and complexity of the proceeding to reach what might otherwise be readily achievable solutions. The presence of an attorney, even if of limited scope representation, can add volumes to the parties' outcomes and to their level of satisfaction in the proceedings. People will feel more fairly treated, they are more likely to feel heard, and they may likely experience more appropriate and less painfully obtained outcomes.

No one is better suited to provide pro bono family law representation than family law attorneys. You know the law. You know the court. You know the process. You know what is and is not relevant. You know which arguments have a chance and which ones don't. You are experienced and skilled at handling the fragile emotions that are involved. You are well read and informed on child custody, parenting plans,

developmentally appropriate parenting schedules and the latest conventional and professional wisdom on custody arrangements. This is the irony of the family law attorney's fear of the family law pro bono case: you have the most to bring to the table.

So if the full representation case is not for you, consider the unbundled case. Call Chrysalis. Or call Volunteer Lawyer's Network. Or contact the HCBA family law section officers to learn about the coming-soon unbundled pilot project. Or call your local bar association to see if a similar program exists or, if not, how you might start one. Or come up with your own ideas of how you might provide some of your unique family law talent on a pro bono basis without losing control of your cases or your life. It can be done.

Do.

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### Notes

<sup>1</sup> As an alternative, I did pro bono criminal defense appeals for the State Public Defenders' Office. If you can't bring yourself to do pro bono family work, consider this worthy and rewarding alternative. If interested, call the volunteer lawyer coordinator at the Minnesota Public Defender's Office, 651-201-6700.

<sup>2</sup> Ms. Talia is a frequent speaker on unbundled legal services and presented on the topic at the 2007 Minnesota State Bar Association convention. More information about Ms. Talia can be found at [www.privatefamilylawjudge.com](http://www.privatefamilylawjudge.com).

<sup>3</sup> See [www.chrysaliswomen.org/volunteer.htm](http://www.chrysaliswomen.org/volunteer.htm) for information on Chrysalis' Limited Legal Services volunteer lawyer program.

*Timothy Mulrooney is a referee in the Family Court Division of the Hennepin County District Court. Prior to joining the Court in January, 2008, Mr. Mulrooney was a shareholder with the firm of Henson & Efron, P.A. He is a graduate of the University of Notre Dame and the University of Minnesota Law School.*



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## ADDENDUM

### **Should I or Shouldn't I?**

#### **An ADR Provider's View of Referring Victims of Domestic Abuse to Mediation, Collaborative Law and Early Neutral Evaluation\***

*Ellen Abbott*

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*This article, by Ellen Abbott, was initially published in the Fall 2007 Family Law Forum, Domestic Violence Edition (Volume 16, No.2). However, a publishing error resulted in a part of her article being omitted. In an effort to rectify the situation, and to provide our readers with the complete article, we have re-printed it here in its entirety. We apologize to Ms. Abbott and to any of you for any inconvenience that may have resulted.*

Much has been written concerning domestic abuse and alternative dispute resolution. The intent of this article is to remind attorneys and alternative dispute resolution providers that the dynamics involved in domestic abuse situations require a special consideration and careful evaluation before suggesting alternative dispute resolution ("ADR") to a victim of domestic abuse for resolution of her divorce, custody, parenting time issues or child support issues.

#### **Distinguishing Violence**

Learning to distinguish between types of abuse is critical in determining whether a victim of domestic abuse should participate in an ADR process. Not all incidences of domestic abuse are the same and they should not all be treated in the same fashion. There are isolated, situational circumstances of violence against one partner or between couples. In other cases there is an extensive history of control or domination by one partner of the other partner, with or without physical violence. In some cases there is a history of repeated physical abuse. The very worst being a battering relationship. But how

does one know which type of victim and/or perpetrator may present in any particular case? The answer is, one may know immediately or one may never know. What could be the problem with sending the victim and her perpetrator into mediation or some other form of facilitative alternative dispute resolution? After all, the mediation process gives the parties control over their destiny and is designed to be empowering, even for victims of domestic abuse. The answer is that, among other things, if the person is a perpetrator of domestic abuse, one may be unwittingly providing him with another venue to engage in power and control over his victim. If the person is a victim of domestic abuse, one could be sending her into a situation which at "best" minimizes the domestic violence and at worst, puts the victim's life in further danger.

The context in which violence occurs is important. The violence may be truly isolated, absent intimidation and control, highly uncharacteristic and come during a period of extreme stress. The violence may be self-defensive or in response to battery. There are also individuals who are just

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“fighters” – those who problem solve with physicality with many people in addition to their intimate partner, but may not be batterers. In any of these circumstances, referral to mediation may be appropriate. The question for the lawyer and the ADR provider to ask is, “Can I answer the question about the context of the violence?” Screening for domestic abuse in every case is necessary. One may not get an answer, or get the answer one is looking for, but it is necessary to screen in every case before proceeding with alternative dispute resolution.

The truly isolated violent act, without an attendant power and control dynamic, is of less concern in utilizing ADR processes. It is the existence of a battering relationship, complete with the power and control dynamic, that is of greatest concern when considering a referral to an ADR process. Although domestic abuse falls along a continuum, this article focuses on battering relationships and those relationships that exist closer to the battering end of the spectrum. References to “domestic abuse” and “batterer” are used interchangeably going forward to refer to those latter relationships.

### **Mediation and the Culture of Domestic Abuse**

Domestic abuse or battering has specific characteristics. It involves a pattern of behavior used to establish power and control over another person through fear, intimidation and often threats or use of violence. Fear and intimidation are central aspects of the relationship. The batterer uses any combination of coercion and threats, emotional abuse, economic abuse, male privilege, isolation or the children in order to effect and maintain control.

A victim of battering is likely to exhibit one or more of the following characteristics: fear; lack of trust; passivity; subordination; learned helplessness; inability to believe that she has any control over outcomes; anger; shame; embarrassment; denial; depression or minimizing the abuse. The victim may have lived under the control of the batterer for so long that she is unable to recognize the now standard accommodation she engages in to the wishes of the batterer. The victim’s socialization within the battering relationship requires her to pay careful attention to the abuser’s needs. She is used to consistently being silenced and may deeply fear the consequences of speaking out. As a result, she may simply not be able to express her own desires. The batterer, on the other hand, believes he has the right to control the victim through fear, intimidation and violence. In addition to overt violence, obvious threats of violence and verbal abuse, he may use subtle phrases and modes of interaction to communicate his message.

Because of the dynamics of battering, there are several problems with placing a victim of battering in mediation or other facilitative ADR processes. Most attorneys and ADR providers grossly underestimate the effect of battering, particularly intimidation by the batterer. Not only is a victim afraid of being re-assaulted, she also fearful that the batterer will follow through with the repeated promises that he has made to make her life miserable. Often these promises include threats to financially ruin her, to call child protection and have her children taken away, and to ensure that her religious community and friends reject her. As a result of this underestimation or because of a failure to even screen for such battering, there is good reason to believe that a number of battering victims and their perpetrators are unwittingly diverted into the mediation process. There are a number of reasons why

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mediation may be both an inappropriate and harmful process for such victims.

The mediation model presumes that there is a conflict that needs to be resolved. It also presumes that the participants have the ability to negotiate for their own interests. The following phrases are often used when describing mediation: self-determination; mutually agreeable outcomes; negotiate positive solutions; telling your story; conciliation; and durable agreements. Many victims of battering cannot come to the table with the basic pre-requisites for mediation -- telling their story, stating their own interests, negotiating on their own behalf. It would be highly unusual for a victim to suddenly become a different person at separation, a person able to articulate what she wants and needs in mediation when she has been socialized by the battering relationship to the contrary. Likewise, it would be extraordinary for a batterer to simply stop being abusive because he is involved in a mediation process. The culture of abuse continues regardless of the mediation process until the batterer takes steps to stop being abusive. Battering is not a dispute and it does not stem from conflict. Abuse is the responsibility of the abuser. Mediation is about not judging or taking sides. Rather, a mediation process avoids attaching or assessing blame to either party. Thus, a mediator being neutral in the face of domestic violence allows the batterer to avoid taking responsibility for his behavior and sends the message to the victim that the mediator is not to be trusted.

Mediation may also be an attractive choice for batterers. In fact, batterers may be highly supportive of mediation as it offers them an opportunity to exercise further intimidation and control, which might otherwise be mitigated in settings where the batterer and his victim are not required to be

in close physical proximity found in most mediation settings. Likewise, victims may “choose” to participate in mediation to keep from further angering the batterer. In mediation sessions a batterer may use subtle signals, seemingly innocent to the mediator, to communicate the message to his victim that she is at risk unless she agrees to his wishes. Victims of battering have described actions as subtle as nose scratching, a finger movement, a look, a smile. Anyone who has been involved in a relationship knows that many couples develop unspoken communication known only to them. It is not difficult to imagine that a batterer can effectively use those signals during the relatively intimate setting of a mediation session to control and intimidate his victim.

The mediation process often pushes both participants to accept partial responsibility for the “problems.” Because of a batterer’s belief that his behavior is caused by influences outside himself, this focus has the undesired effect of allowing the batterer to compile a laundry list of the victim’s “faults” as a way of excusing his behavior. A batterer willingly shifts the focus to the victim, the children, the relationship – anything but himself. Moreover, mediation focuses on “going forward” and otherwise effective mediators strongly suggest that the participants commit to agree to “change” their behavior. This approach, which may be quite beneficial in mediation settings involving non-abusive relationships, might also be good if the batterer really gave up his belief system of controlling the victim through fear, intimidation and violence. However, it is quite unlikely that the mere fact of participating in mediation will lead to a change in the batterer’s long-standing pattern of control. More likely, the focus on “going forward” only denies the victim’s past experience of violence and otherwise invalidates her often unstated concerns

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about the batterer's behavior. Using separate caucusing is also not a panacea to mediating disputes involving batterers and their victims. While having parties in separate rooms removes the immediate, "in-your-face" intimidation, it does virtually nothing to mitigate the years of fear experienced by the victim, including the fear of what may occur outside the mediation process. It would be wishful thinking to suggest that a lengthy history of battering could be surmounted in the context of a mediation caucus. Additionally, what basis would the victim have to trust the mediator? This is the same mediator who has said in the introduction to the mediation process that she must be neutral. Such inherent "rules" of the mediation process make it unlikely that the victim would disclose abuse to the mediator.

One of the primary goals of mediation, seeking a durable agreement between the parties, may also be misguided in violence-filled relationships. Although central to success in mediations without violence, in those involving batterers, successful settlements are more elusive. An important underlying assumption of a durable settlement is that each party is operating in good faith, a premise a victim may rightfully regard as untrue for her batterer. At the conclusion of a successful mediation process, the mediator assembles in the guise of a durable agreement, a new set of "rules" by which the parties have agreed to operate. However, the victim's past history tells her at best, she has no ability to enforce them, and at worst, creates a new set of circumstances, the violation of which provides to her batterer new reasons to justify his abuse.

Both Minnesota statutes and court rules exempt victims of domestic violence from required participation in mediation for good

reason. Wise practitioners will carefully consider the importance of these exemptions before knowingly placing a victim or perpetrator into a mediation process. Likewise, mediators should proceed with caution to discern whether they are attempting to use their mediation skills to the detriment of victims of abuse.

### **Screening for Domestic Abuse**

Attorneys and mediators may correctly identify and screen out of mediation cases where there is a documented history of domestic abuse. However, it is almost a certainty that given the prevalence of domestic abuse, a mediator will encounter a couple in which there is a culture of battering. It goes without saying that family law attorneys should be screening their clients to ascertain whether domestic abuse is present. In fact, the ABA Commission on Domestic Violence cautions that in order to ensure that a lawyer is ethically representing her client and to avoid malpractice, one should determine whether the client is a victim of domestic abuse and consider how that information affects representation. This screening should be done of both men and women. Generally, with heterosexual couples, one should screen their female clients for signs that they are victims of abuse and their male clients for signs that they are perpetrators of domestic violence. If an attorney is not knowledgeable in the subject, she should obtain some training to effectively screen clients in this regard or enlist the help of trained professionals.

There are also a number of pressures on the victim, not the least of which is financial. A victim may feel that she must at least try mediation because it may be less expensive than other alternatives to resolving disputes. Assuming that the victim has the benefit of counsel trained in domestic abuse issues,

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she should not at this juncture be prohibited by her counsel from participating in mediation.

There are some practical measures that a mediator can offer to assist with the power imbalance inherent when domestic abuse is present. A prudent mediation approach would be to allow a separate domestic abuse advocate to provide on-going assistance to a victim during a mediation process. Also, offering the victim separate arrival and departure times as well as a separate waiting area is advisable. Finally, mediators should develop a safety protocol for use in all cases.

Similar to attorneys representing their clients, mediators should be well-versed in detecting the presence of domestic abuse in their prospective and existing mediation caseload. The few hours of training dedicated to this topic in the standard family mediation training is insufficient. Mediators should have additional training in recognizing and addressing manipulation, intimidation, coercion, power imbalances and safety issues. Mediators should also carefully screen every case for domestic abuse, even when there is already evidence of domestic abuse being present. This important screening should optimally be done *before* any mediation sessions are scheduled. It may be done preliminarily over the telephone or with a written pre-mediation screening tool, with telephone follow-up if needed. When the mediation process extends over a period of time, periodic re-screening is recommended. There is no perfect screening tool. Simply asking whether there has been domestic abuse is insufficient. Rather, a series of questions that inquires about various dynamics present in relationships involving domestic violence is more appropriate. The screening tool should include questions focused upon power and control dynamics,

including economic abuse and children, as well as safety issues. The scope of this article is not intended to provide in-depth domestic abuse training, but to encourage mediators to obtain the vital training in domestic abuse to avoid inadvertent harm to victims.

### **Dealing With Realities – There Will Be Cases Of Domestic Abuse In Mediation**

The inquiry regarding abuse does not end with initial screening for its presence. Regardless of best efforts at screening by attorneys and mediators, there will be cases of battering that end up in mediation. Many women do not disclose abuse to anyone, and certainly not to a stranger. Recognizing it is often years before a victim will reach out to someone, it is incumbent upon the mediator to be watchful throughout a mediation process for signs of a possible battering relationship. Among such indicia, the mediator should be mindful of changes in the demeanor of one or both of the parties. A mediator should insist on a separate caucus if things just do not “feel right.” Also, if mediation topics or discussions inexplicably do not seem to be going well, or if a party expresses fear, then stopping, or at least recessing the mediation at that point is appropriate. Importantly, what a victim of battering needs is to be safe and for a mediator to send the message that the abuser’s conduct is not okay. Such recessing or stopping of a mediation session may affirm to a victim that the batterer should be held accountable for his conduct. Continued mediation that ignores these indicators described above would not be appropriate. Nonetheless, mediation can be a valuable and appropriate mechanism to resolve matters for a victim when she has reached the point where she believes that she will not be physically harmed or

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otherwise punished by her batterer for asserting herself against his position.

In addition to the need for ongoing alertness to the presence of domestic violence in a mediation process, Rule III of the ADR Rule 114 Code of Ethics requires that “a neutral shall serve as a neutral only when she/he has the necessary qualifications to satisfy the reasonable expectations of the parties.” It is, therefore, incumbent upon the mediator to have sufficient training in domestic abuse in order to effectively address the array of expectations of battering victims. A mediator should decline to mediate when she lacks the requisite domestic abuse training or is otherwise not competent to meet this standard.

### **Collaborative Law and Domestic Abuse**

Central to a collaborative law process is the principle that parties to divorce and their attorneys agree to make a good faith attempt to reach a mutually acceptable settlement without going to court. The parties and their attorneys collaborate in four-way sessions. The Minnesota Collaborative Law organization describes the process on its website -- “Every issue – including property division, custody, and support – is put “on the table” in these sessions. Signing the agreement indicates their commitment to resolve all differences and issues related to the separation or divorce outside of court.”

As with mediation, the underlying assumptions and structure of the collaborative law process are fraught with danger for a victim of domestic abuse. This process is premised on the assumption, false in domestic abuse circumstances, that the needs of all the parties can be met. The requirement that collaborative law meetings be four-way conferences also fails to recognize the reality of the extreme power imbalance in the victim-abuser relationship

and creates another possible venue for an abuser to further victimize the victim in a face-to-face setting. Requiring a victim to participate in any process which requires such meetings is not conducive to meaningful settlement and may otherwise be a dangerous environment for the victim. Although presumably the victim would have an attorney present in such conferences, the mere presence of the attorney does virtually nothing to impede a batterer’s ability to control and intimidate his victim.

Moreover, the collaborative law process envisions a system that advocates for, or supports, the entire family system, thereby assuming that parents will be able to engage in effective co-parenting and develop a parenting plan. Assuming that a victim and her abuser must develop a co-parenting plan may also be yet another well-intentioned, but highly counterproductive, effort that further threatens the victim participant. Additionally, treating the victim and abuser similarly in this process further allows the batterer to not be accountable for his actions.

Like mediation, the collaborative law process assumes that the parties will freely and fully exchange financial information. However, financial abuse and intimidation is a frequent tactic of the batterer. It is illogical to assume that the batterer will simply cease financial abuse and freely deliver the financial information that the abuser may have been withholding for years. Collaborative law requires both parties to fully disclose a broader array of information as well. Such disclosure may have the unintended result of placing a victim at even greater risk.

Moreover, the involvement of a domestic abuse advocate in the collaborative law process also does not meaningfully address the needs of the victim. Advocates are

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trained to support the victim and may be able to help her articulate some issues and concerns during any process. However, as with the use of separate caucuses in mediation, the presence of the advocate does very little to mitigate a lengthy history of fear endured by many victims, including the fear of what will occur outside the collaborative process.

Finally, of greatest consequence to a victim of battering is the underlying assumption key to the collaborative law process that participants are *prohibited* from going to court. One should be exceedingly wary of participating in a process which restricts a victim's right to seek court-ordered protection from her abuser. In this regard, collaborative law directly collides with policy initiatives of the past several decades in the realm of the justice system response to domestic violence.

As with mediation, there are very few circumstances where collaborative law would be an appropriate mechanism for victims of battering. If the victim's attorney and *all* of the professionals involved in the process are aware of the abuse, are trained in the dynamics of battering and abuse and feel competent to address issues arising from them, a victim who wishes to participate should not be prohibited from doing so. However, it is critical for the attorney representing the victim to ensure that the victim understands that she will not be able to have judicial redress and still continue in the collaborative process. She should also understand fully the ramifications of choosing the collaborative process, including the necessity of hiring new counsel if she seeks court-ordered protection related to domestic violence.

### **Early Neutral Evaluation and Domestic Abuse**

Early Neutral Evaluation, a program first used in Hennepin Court Family Court and now being duplicated in other counties around the state, also creates special areas of concern for victims of battering. In the ENE program the judge refers parents and their attorneys to a male/female team of experienced evaluators. Each side presents its view, the evaluators caucus and give their opinion on the merits of each side's position. The evaluators also predict what a full custody evaluation might otherwise conclude.

As with mediation and collaborative law, in an ENE process, the victim and abuser are placed together to share their positions. For all the reasons stated above, the victim may not be able to present her position for fear of retribution from the abuser. In addition to the concerns expressed above regarding the differential power and control dynamics, the ENE process has the added difficulty that it is, as its name implies, early. As designed in Hennepin County, the ENE occurs shortly after a case is filed in court. The timing of the ENE may closely coincide with a victim's dramatic step to separate from her abuser. Studies repeatedly show that the time period near the battered women's separation from her abuser is also the most likely to lead to increased violence, even death. Putting her in the same room with her abuser during this time is not conducive to the victim begin able to candidly express her views.

As described in the program's information, the decision to participate in ENE is voluntary. Attorneys should discuss with their victim clients whether ENE is an appropriate process in which to participate. Judges referring cases to ENE should be

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extremely clear in stating that ENE may not be appropriate for victims of battering. Such an affirmative statement may help alleviate, to the extent possible, the system pressure a victim may feel to embrace a process that could be detrimental to her well-being and that of her children.

While practitioners should use substantial caution in allowing their victim clients to participate in an ENE, it is the one process discussed that may also have a positive component if the battering relationship is known and presented to the evaluator team. If the ENE is performed by professionals who are trained in the dynamics of battering and its effects on children, it can be one place in the alternative dispute resolution system where a victim hears disapproval of the batterer's behavior, thereby validating her experience of abuse. However, the evaluators must take into account the effect of the battering on the children and the victim as well as considering the implications of the batterer's actions on his ability to parent.

### **Conclusion**

As an attorney who made a choice to become a full-time provider of alternative dispute resolution services in family law, I am a firm believer in the power of alternative dispute resolution processes. Thus, I would prefer that all persons who are going through a divorce, other relationship break-up, or custody contest, have the benefits of alternative dispute resolution, and mediation in particular. However, as a professional who has been working in the area of domestic violence for more than 20 years, I know that it is likely that as many as one-half of the women I encounter will have been the victim of some form of domestic abuse and its insidious effects. For this and other reasons, I believe it is extremely important that ADR processes do not tolerate, excuse or minimize

an abuser's actions. These important ideas, however, collide with the equally important principle that victims of domestic violence still need their voices to be heard and be free to make choices for themselves. As professionals assisting others in resolving their disputes, attorneys and ADR providers should remain mindful of the pervasiveness of domestic violence and are encouraged to thoughtfully consider the ramifications of their advice to clients and their provision of ADR services to those who have been abused at the hands of their significant others.

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\*Author's note. I wish to thank and acknowledge all of the individuals who have educated me regarding domestic abuse over the past two decades. The education has come from academics, attorneys, advocates, my own work in representing and working with batterers and the victims too countless to name and too countless to forget. I use the pronoun "she" to refer to victims of domestic abuse and "he" to refer to perpetrators of domestic abuse because 95% of the reported domestic abuse is abuse perpetrated by men against women.

*Ellen A. Abbott is an attorney who provides all forms of Alternative Dispute Resolution in family law. She is a past chair of MSBA Family Law Section and the ADR Section. She is an adjunct faculty member at Hamline University and a frequent speaker and author in addition to having served as a family law referee and Friend of the Court in Michigan.*

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# Why Bother With a Quit Claim Deed?

*Bruce Kennedy*

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Family law attorneys seem to have difficulties with real estate title issues. Possibly real estate attorneys use a different part of the brain. Even though I used to do title work, and I have extensively researched real estate concerns in family law, I am frequently confused by these issues. So caveat number one: I may not know as much as I think.

I rarely see a divorce decree that does not contain language something like this:

“Petitioner is awarded the real estate. Respondent shall execute a quitclaim deed to the property, but if respondent fails to do so, a copy of the judgment and decree shall operate to transfer title.”

For many years this language puzzled me. Why even bother with a quitclaim deed if you don't need it to transfer title?

It turns out there is a reason, but thanks to legislation that was passed in 2006, the reason is less compelling than before. In most instances you can skip the quit claim deed and just use a summary real estate disposition judgment pursuant to section 518.191 instead. We'll get to the exceptions after a little bit of history.

It may chagrin you to find out that prior to the 2006 legislative changes there were many easy ways to commit malpractice around real estate title issues and divorce. For example, if you drafted a petition with the wrong legal description to real estate or used the phrase “legal to govern,” and if the respondent failed to respond, leaving you to proceed by default,

you failed to give the court proper jurisdiction to award your client that real estate. When it came time for your client to sell that property, the options were to (1) get the long-gone respondent to sign a deed, (2) hope the title examiner didn't notice the problem, or (3) start a new proceeding, such as a quiet title proceeding. This could result in a not too happy client when a real estate closing is postponed or canceled.

A similar lack of jurisdiction could arise in a stipulated case if the legal was wrong or left out. Here it would be more likely that the ex-spouse would cooperate to sign a deed with the correct legal and get you off the hook.

Do you see where the problem arises? Your client will eventually sell or refinance that piece of property. The buyer or lender will request a title examination to make sure your client has clean ownership. The examiner will look for (1) a divorce decree to show there's been a change of marital status and (2) either a deed from the ex-spouse or proper language in the decree which awards title to your client from a court with sufficient jurisdiction.

The title examiner uses “Title Standards” to determine whether the documents that have been recorded relating to that property meet minimal standards. The Title Standards are not themselves the law; they are not statutes or rules. They are created by the Real Estate section of the Bar Association and represent the considered opinion of those experts as to what the statutes, rules, and case law say on issues of title.

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Title Standard 84 is the reference point for transfers of real estate pursuant to a divorce. It has not been changed since the 2006 legislation, but it should be. It requires an accurate legal description (1) in the petition if the dissolution is granted by default, (2) in the stipulation if it a written agreement is reached, and (3) in the decree if the case is tried. Failing these, the easiest way to convey the property is by deed.

That's why under the old law real estate title examiners preferred that you record a deed as well as the divorce decree. Then they would not need to check the divorce file to make sure that the legal description was accurate in the appropriate stage of the proceeding.

The new law alleviates that concern. §518.191 subdivision 2a sets out a procedure to amend a judgment and decree with a faulty legal description. It basically gives the court the jurisdiction to convey any property with an incorrect legal if the property was sufficiently identified. In other words, if the street address was correct in the petition, the respondent would not be prejudiced by a missing or incorrect legal description. Therefore, the court could award the property.

The new law also requires in Subdivision 2 that the Summary Real Estate document state whether the requirements of Title Standard 84 have been met, and in Subdivision 4 that the Summary Real Estate document is "prima facie" true and can be relied upon.

With this new law, title examiners should not have any qualms about accepting a judgment and decree or summary real estate disposition judgment as proof of title transfer, as well as change of marital status.

The summary real estate disposition judgment is preferred, because of its brevity. It spares your client the embarrassment of having the entire decree in yet another public forum, and it spares the title examiner the time of wading through pages and pages of irrelevant material in order to find the real estate provisions. I hope everybody is now using the summary real estate disposition judgment. It is an easy form to use, almost as easy as a quitclaim deed once you set up your computer to allow quick entry of the required information. And you don't need the other party to sign it— I'm sure you have all experienced the frustration of getting that deed signed, all the more frustrating if you're not sure that you really need it.

Even with a deed, your client must pay to record the decree or the summary real estate to establish the change of marital status. So why pay an additional fee to record a deed? I choose not to, but if you're still nervous about it, go ahead and get the deed. And even with the new statute, it is easier to cure a faulty legal with a deed than with an amended summary real estate disposition judgment.

Also, if the property is Torrens, call to see if they charge an extra fee if you DON'T file a deed. Some registrars don't believe they should trust the district court. Look for more legislation to clarify this issue next session.

Here is the language that I now use in my stipulations and decrees:

***REAL PROPERTY.*** *Petitioner is awarded free and clear of any claim of Respondent, full right, title, and interest to the real property of the parties, located at 12 Happy Lane, Happyville, Happier County, Minnesota, legally described as:*

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*Lot 1, Block 1, Happiest Addition, subject to all encumbrances presently against the property, including mortgages, contracts for deed, real estate taxes, if any. Petitioner shall indemnify and hold Respondent harmless from any encumbrances herein assumed.*

**TITLE.** *Title passes upon entry of the judgment and decree. To prove the transfer, a Summary Real Estate Disposition Judgment shall be prepared by the attorney for Petitioner and submitted to the court for approval. Petitioner shall obtain a certified copy of the Summary Real Estate Disposition Judgment and shall promptly record it with the County Recorder (or Registrar of Titles if Torrens property). At Petitioner's request, Respondent shall promptly execute and deliver to Petitioner a quitclaim deed which shall be prepared at Petitioner's expense.*

According to Title Standard 84A, the decree need only say that Petitioner is awarded the property in order for title to transfer. Requiring a deed is a mistake, because then only a deed will operate to transfer the property. And suggesting that the decree can only transfer the property if a quitclaim deed is not signed is misleading. In my opinion, trash that language.

Another problem with quit claim deeds is the confusion resulting when a lien is retained. Some attorneys forget to reserve the lien on the quit claim deed, thus creating ambiguity over whether the lien has been paid. Just another reason to use the Summary Real Estate which conveys the property and identifies the lien. Then you include language as follows to make the process clear:

*Upon payment in full of the lien, Respondent shall execute and deliver to Petitioner a release of lien (Form 80.1.1).*

Down the road, the release is better than a deed, because a deed would require the signature of a new spouse. If you're not familiar with the Release of Lien form, hey, get with it! It's vital for family law practitioners.

I submit the proposed Summary Real Estate at the same time as the proposed Findings. That saves multiple mailings. Keep in mind that the Summary Real Estate requires the file number, the name of the judge and referee, and the date of entry, information you may not have at the time you send it in. I attach a post-it requesting the clerk to add that information after the judge signs, so it isn't overlooked.

Have your client record the Summary Real Estate promptly. You don't want the client to have to deal with the hassle of judgments against the ex-spouse attaching to the real estate.



**Bruce Kennedy** is a Roseville family law attorney and early neutral evaluator. He is a former Chair and Legislative Chair of the Family Law Section, and as a Legislative Committee member logged many hours trying to improve the Summary Real Estate statute.

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## RESOURCES SECTION

### Pro Bono Resources

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<http://www.lawhelpmn.org>

This site helps low-income persons solve civil legal problems with information in the areas of disabilities, family law, immigration, farm, housing, etc. This site additionally offers this information in several languages.

<http://www.lawmoose.com/index.cfm?&CKS=MNLaw>

This site is the home of the Minnesota Legal Web and provides substantial coverage of Minnesota and federal law and government.

<http://www.abanet.org/public.html>

This site offers public legal resources on a variety of topics such as a consumer's guide to obtaining legal help, lawyer referral services, and general legal topics that may be helpful to pro bono attorneys and clients.

<http://www.abanet.org/legalservices/findlegalhelp/home.cfm>

This site allows one to find legal help in all fifty states.

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January 2008

## Civil Legal Services Directory

### OFFICE ADDRESSES AND PHONE NUMBERS

Published by

**MINNESOTA LEGAL SERVICES COALITION**  
(State Support Office for all Minnesota Legal Services Programs)

2324 University Avenue West  
Suite 101B, Midtown Commons  
St. Paul, MN 55114  
(651) 228-9105  
FAX (651) 222-0745

e-mail:

[statesupport@mnlegalservices.org](mailto:statesupport@mnlegalservices.org)

websites:

[www.mnlegalservices.org](http://www.mnlegalservices.org) (Program site)

[www.ProJusticeMN.org](http://www.ProJusticeMN.org) (for Advocates)

[www.LawHelpMN.org](http://www.LawHelpMN.org) (for the Public)

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**ABBREVIATIONS:**

<b>ECLS</b>	East Central Legal Services (part of MMLA)
<b>CMLS</b>	Central Minnesota Legal Services
<b>LAS</b>	Legal Aid Society of Minneapolis (part of MMLA)
<b>LASNEM</b>	Legal Aid Service of Northeastern Minnesota
<b>LSNM</b>	Legal Services of Northwest Minnesota, Inc.
<b>MMLA</b>	Mid-Minnesota Legal Assistance
<b>WMLS</b>	Western Minnesota Legal Services (part of MMLA)
<b>SCALS</b>	St. Cloud Area Legal Services (part of MMLA)
<b>SMRLS</b>	Southern Minnesota Regional Legal Services

**Anishinabe Legal Services**

Serves residents of Leech Lake, White Earth and Red Lake Reservations.

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*This directory is provided as a convenience for those interested in civil legal services providers in Minnesota. Inclusion of any organization does not imply a recommendation or endorsement of its services.*

**MINNESOTA LEGAL SERVICES COALITION (MLSC) PROGRAMS**

**ANISHINABE LEGAL SERVICES**

Executive Director: *Michael Klinkhammer*  
411 1<sup>st</sup> St. N.W., P. O. Box 157  
Cass Lake, MN 56633  
(218) 335-2223  
Clients only: 1-800-422-1335  
FAX (218) 335-7988  
(Offices in Naytahwaush and Red Lake)

**JUDICARE OF ANOKA COUNTY**

Executive Director: *Floyd Pnewski*  
1201 89<sup>th</sup> Avenue N.E., Suite 310  
Blaine, MN 55434  
(763) 783-4970  
FAX (763) 783-4959

**CENTRAL MINNESOTA LEGAL SERVICES (CMLS)**

Executive Director: *Jean Lastine*  
430 First Avenue North, Suite 359  
Minneapolis, MN 55401  
(612) 332-8151  
New clients call: (612) 334-5970  
FAX (612) 334-3402  
(Offices in St. Cloud and Willmar)

**LEGAL AID SERVICE OF NORTHEASTERN MINNESOTA (LASNEM)**

Executive Director: *David Lund*  
424 W. Superior St., 302 Ordean Bldg.  
Duluth, MN 55802  
(218) 726-4800  
Clients only: 1-800-622-7266  
FAX (218) 726-4804  
(Offices in Brainerd, Grand Rapids, Pine City and Virginia)

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**LEGAL SERVICES OF NORTHWEST MINNESOTA, INC. (LSNM)**

Executive Director: *Mary Deutsch Schneider*  
P. O. Box 838, 1015 7<sup>th</sup> Avenue N.  
Moorhead, MN 56560  
(218) 233-8585  
Clients only: 1-800-450-8585  
FAX (218) 233-8586  
e-mail: [legalaid@lsnmlaw.org](mailto:legalaid@lsnmlaw.org)  
website: [www.lsnmlaw.org](http://www.lsnmlaw.org)  
(Offices in Alexandria, Bemidji and Thief River Falls)

**SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES (SMRLS)**

Chief Executive Officer: *Jessie Nicholson*  
200 Community Services Building  
166 East 4<sup>th</sup> Street  
St. Paul, MN 55101  
(651) 222-5863  
Clients only: (651) 222-4731  
FAX (651) 297-6457  
(Offices in Albert Lea, Fargo, Mankato, Rochester, St. Paul, Shakopee, Winona and Worthington)

**MID-MINNESOTA LEGAL ASSISTANCE (MMLA)**

**Legal Aid Society of Minneapolis, Inc.**

Executive Director: *Jeremy Lane*  
430 1<sup>st</sup> Ave. N., Suite 300  
Minneapolis, MN 55401-1780  
(612) 332-1441  
Clients only: 612-334-5970  
TDD (612) 332-4668  
FAX (612) 334-5755  
(Offices in Cambridge, North Minneapolis, South Minneapolis, St. Cloud and Willmar)

**LIST OF COUNTIES AND THE MLSC LEGAL SERVICES OFFICES SERVING THEM:**

<b>County</b>	<b>Office</b>	<b>Client Referral Number</b>
Aitkin	LASNEM – Baxter	(800) 933-1112
Aitkin (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Anoka	ANOKA – Blaine	(763) 783-4970
Anoka (LSC)	CMLS – Minneapolis	(612) 334-5970
Anoka (seniors only)	MMLA – Cambridge	(800) 622-7772
Becker	LSNM – Moorhead	(800) 450-8585
Beltrami	LSNM – Bemidji	(800) 450-9201
Benton	CMLS – St. Cloud	(800) 622-7773
Benton	MMLA – St. Cloud	(888) 360-2889
Big Stone	CMLS – Willmar	(800) 622-4011
Big Stone	MMLA – Willmar	(888) 360-3666
Blue Earth	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Brown	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Carlton	LASNEM – Duluth	(800) 622-7266
Carver	SMRLS – Shakopee	(651) 222-4731
Cass	LASNEM – Baxter	(800) 933-1112
Chippewa	CMLS – Willmar	(800) 622-4011
Chippewa	MMLA – Willmar	(888) 360-3666
Chisago	CMLS – St. Cloud	(800) 622-7773
Chisago	MMLA – Cambridge	(800) 622-7772
Clay	LSNM – Moorhead	(800) 450-8585
Clearwater	LSNM – Bemidji	(800) 450-9201
Cook	LASNEM – Duluth	(800) 622-7266
Cottonwood	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Crow Wing	LASNEM – Baxter	(800) 933-1112

<b>County</b>	<b>Office</b>	<b>Client Referral Number</b>
Crow Wing (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Dakota (LSC clients)	SMRLS – Shakopee	(651) 222-4731
Dakota (seniors only)	SMRLS – St. Paul	(651) 222-4731
Dodge	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Douglas	LSNM – Alexandria	(800) 450-2552
Faribault	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Fillmore	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Freeborn	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Goodhue	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Grant	LSNM – Alexandria	(800) 450-2552
Hennepin	CMLS – Minneapolis	(612) 334-5970
Hennepin	MMLA – Minneapolis	(612) 334-5970
Hennepin (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Houston	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Hubbard	LSNM – Bemidji	(800) 450-9201
Isanti	CMLS – St. Cloud	(800) 622-7773
Isanti	MMLA – Cambridge	(800) 622-7772
Itasca	LASNEM – Grand Rapids	(800) 708-6695
Jackson	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Kanabec	LASNEM – Pine City	(800) 382-7166
Kanabec (60 and over)	MMLA – Cambridge	(800) 622-7772
Kandiyohi	CMLS – Willmar	(800) 622-4011
Kandiyohi	MMLA – Willmar	(888) 360-3666
Kittson	LSNM – Moorhead	(800) 450-8585
Koochiching	LASNEM – Grand Rapids	(800) 708-6695
Lac qui Parle	CMLS – Willmar	(800) 622-4011
Lac qui Parle	MMLA – Willmar	(888) 360-3666
Lake	LASNEM – Duluth	(800) 622-7266
Lake of the Woods	LSNM – Bemidji	(800) 450-9201
Leech Lake Reservation	ANISHINABE – Cass Lake	(800) 422-1335
LeSueur	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Lincoln	CMLS – Willmar	(800) 622-4011
Lincoln	MMLA – Willmar	(888) 360-3666
Lyon	CMLS – Willmar	(800) 622-4011
Lyon	MMLA – Willmar	(888) 360-3666
Mahnomen	LSNM – Bemidji	(800) 450-9201
Marshall	LSNM – Moorhead	(800) 450-8585
Martin	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
McLeod	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Meeker	CMLS – Willmar	(800) 622-4011
Meeker	MMLA – Willmar	(888) 360-3666
Mille Lacs	CMLS – St. Cloud	(800) 622-7773
Mille Lacs	MMLA – St. Cloud	(888) 360-2889
Mille Lacs (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Mille Lacs (seniors only)	MMLA – Cambridge	(800) 622-7772
Morrison	CMLS – St. Cloud	(800) 622-7773
Morrison	MMLA – St. Cloud	(888) 360-2889
Morrison (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Mower	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Murray	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Nicollet	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Nobles	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Norman	LSNM – Moorhead	(800) 450-8585
Olmsted	SMRLS – Rural Intake & Hotline Project	(888) 575-2954

<b>County</b>	<b>Office</b>	<b>Client Referral Number</b>
Ottertail	LSNM – Alexandria	(800) 450-2552
Pennington	LSNM – Moorhead	(800) 450-8585
Pine	LASNEM – Pine City	(800) 382-7166
Pine (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Pine (60 and over)	MMLA – Cambridge	(800) 622-7772
Pipestone	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Polk	LSNM – Moorhead	(800) 450-8585
Pope	LSNM – Alexandria	(800) 450-2552
Ramsey	SMRLS – St. Paul	(651) 222-4731
Ramsey (Mille Lacs Band of Ojibwe)	MMLA – Cambridge	(800) 622-7772
Red Lake	LSNM – Moorhead	(800) 450-8585
Red Lake Reservation	ANISHINABE – Cass Lake	(800) 422-1335
Redwood	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Renville	CMLS – Willmar	(800) 622-4011
Renville	MMLA – Willmar	(888) 360-3666
Rice	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Rock	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Roseau	LSNM – Moorhead	(800) 450-8585
Scott	SMRLS – Shakopee	(651) 222-4731
Sherburne	CMLS – St. Cloud	(800) 622-7773
Sherburne	MMLA – St. Cloud	(888) 360-2889
Sibley	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
St. Louis (north)	LASNEM – Virginia	(800) 886-3270
St. Louis (south)	LASNEM – Duluth	(800) 622-7266
Stearns	CMLS – St. Cloud	(800) 622-7773
Stearns	MMLA – St. Cloud	(888) 360-2889
Steele	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Stevens	LSNM – Alexandria	(800) 450-2552
Swift	CMLS – Willmar	(800) 622-4011
Swift	MMLA – Willmar	(888) 360-3666
Todd	MMLA – St. Cloud	(888) 360-2889
Todd	CMLS – St. Cloud	(800) 622-7773
Traverse	LSNM – Alexandria	(800) 450-2552
Wabasha	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Wadena (no seniors)	LSNM – Alexandria	(800) 450-2552
Wadena (seniors only)	MMLA – St. Cloud	(888) 360-2889
Waseca	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Washington	SMRLS – St. Paul	(651) 222-4731
Watsonwan	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
White Earth Reservation	ANISHINABE – Cass Lake	(800) 422-1333
Wilkin	LSNM – Moorhead	(800) 450-8585
Winona	SMRLS – Rural Intake & Hotline Project	(888) 575-2954
Wright	CMLS – St. Cloud	(800) 622-7773
Wright	MMLA – St. Cloud	(888) 360-2889
Yellow Medicine	CMLS – Willmar	(800) 622-4011
Yellow Medicine	MMLA – Willmar	(888) 360-3666

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## MINNESOTA LEGAL SERVICES COALITION (MLSC) OFFICES

Listing is in alphabetical order by office name:  
*Offices that are capitalized indicate an Administrative/Central Office.*

### **Albert Lea Office – Southern Minnesota Regional Legal Services (Southeast Region)**

132 N. Broadway  
Albert Lea, MN 56007  
(507) 377-2831  
Clients only: 1-800-223-0280  
FAX (507) 377-2832  
(Serving Freeborn, Mower, Rice and Steele Counties)

### **Alexandria Office – Legal Services of Northwest Minnesota, Inc.**

1114 N. Broadway  
Alexandria, MN 56308  
(320) 762-0663  
Clients only: 1-800-450-2552  
FAX (320) 762-0740  
e-mail: [legalaid@lsnmlaw.org](mailto:legalaid@lsnmlaw.org)  
website: [www.lsnmlaw.org](http://www.lsnmlaw.org)  
(Serving Douglas, Grant, Otter Tail, Pope, Stevens, Traverse, and Wadena (no seniors) Counties)

### **ANISHINABE LEGAL SERVICES – Cass Lake Office**

411 1<sup>st</sup> St. N.W., P. O. Box 157  
Cass Lake, MN 56633  
(218) 335-2223  
Clients only: 1-800-422-1335  
FAX (218) 335-7988  
(Serving residents of Leech Lake, White Earth, and Red Lake Reservations)

### **Bemidji Office – Legal Services of Northwest Minnesota, Inc.**

215 4<sup>th</sup> St. N.W.  
P. O. Box 1883  
Bemidji, MN 56619-1883  
(218) 751-9201  
Clients only: 1-800-450-9201  
FAX (218) 751-9217  
e-mail: [legalaid@lsnmlaw.org](mailto:legalaid@lsnmlaw.org)  
(Serving Beltrami, Clearwater, Hubbard, Lake of the Woods, and Mahnomen Counties)

### **Brainerd Office – Legal Aid Service of Northeastern Minnesota**

14091 Baxter Drive, Suite 116  
Baxter, MN 56425-7997  
(218) 829-1701  
Clients only: 1-800-933-1112  
FAX (218) 829-4792  
website: [www.lasnem.org](http://www.lasnem.org)  
(Serving Aitkin, Cass, and Crow Wing Counties)

### **Cambridge Office – East Central Minnesota Legal Services (A Division of MMLA)**

1700 East Rum River Drive South, Suite B  
Cambridge, MN 55008  
(763) 689-2849 (local)  
Clients only: 1-800-622-7772  
FAX (763) 552-2849  
(Serving LSC clients in Chisago & Isanti Counties; seniors in Anoka, Chisago, Isanti, Kanabec, Mille Lacs and Pine Counties. Also serving members of the Mille Lacs Band of Ojibwe in Aitkin, Crow Wing, Mille Lacs, Morrison, Pine and Ramsey Counties)

### **CENTRAL MINNESOTA LEGAL SERVICES (CMLS) – Downtown Minneapolis**

430 First Avenue North, Suite 359  
Minneapolis, MN 55401  
(612) 332-8151  
New Clients Call: (612) 334-5970  
FAX (612) 334-3402  
(Serving LSC-eligible clients in Hennepin and Anoka Counties)

### **LEGAL AID SERVICE OF NORTHEASTERN MINNESOTA (LASNEM) – Duluth Office**

424 W. Superior St.  
302 Ordean Building  
Duluth, MN 55802  
(218) 726-4800  
Clients only: 1-800-622-7266  
FAX (218) 726-4804  
(Serving Carlton, Cook, Lake, and Southern St. Louis Counties)

**Eastside and American Indian Branch Office – Southern Minnesota Regional Legal Services**

579 Wells St., #100  
St. Paul, MN 55101  
(651) 771-4455  
Clients only: (651) 495-0473  
FAX (651) 771-4929

**Grand Rapids Office – Legal Aid Service of Northeastern Minnesota**

Central Square Mall  
201 NW 4<sup>th</sup> Street  
Grand Rapids, MN 55744  
(218) 327-8857  
Clients only: 1-800-708-6695  
FAX (218) 327-8856  
website: [www.lasnem.org](http://www.lasnem.org)  
(Serving Itasca and Koochiching Counties)

**JUDICARE OF ANOKA COUNTY**

1201 89<sup>th</sup> Ave. N.E., Suite 310  
Blaine, MN 55434  
(763) 783-4970  
FAX (763) 783-4959  
(Serving Anoka County)

**MID-MINNESOTA LEGAL ASSISTANCE (MMLA) – Downtown Minneapolis Legal Aid Society of Minneapolis, Inc.**

430 1<sup>st</sup> Ave. N., Suite 300  
Minneapolis, MN 55401-1780  
(612) 332-1441  
Clients only: (612) 334-5970  
TDD (612) 332-4668  
FAX (612) 334-5755  
Intake hours: 9:30 a.m. to 11:30 a.m. and 1:30 p.m. to 3:30 p.m. (Serving Hennepin County).

**Minnesota Disability Law Center**

Clients only: 1-800-292-4150  
(Serving entire state)

**Legal Aid Society of Minneapolis, Inc. – Mid-Minnesota Legal Assistance (Northside Office)**

125 West Broadway, Suite 105  
Minneapolis, MN 55411  
(612) 332-1441  
Clients only: (612) 334-5970  
FAX (612) 521-8325  
(Serving Hennepin County)

**Special Project:**

**Housing Discrimination Law Project**

**Legal Aid Society of Minneapolis, Inc. – Mid-Minnesota Legal Assistance (Southside Office)**

2929 4<sup>th</sup> Ave. S., Suite 201  
Minneapolis, MN 55408  
(612) 332-1441  
Clients only: (612) 334-5970  
TDD (612) 827-1491  
FAX (612) 827-7890  
(Serving Hennepin County)

**Special Projects:**

**Senior Law Project and Youth Law Project**

**LEGAL SERVICES ADVOCACY PROJECT (LSAP)**

Midtown Commons  
2324 University Avenue West, Suite 101  
St. Paul, MN 55114  
(651) 222-3749  
FAX (651) 603-2750  
(Providing legislative and administrative advocacy for all Minnesota Legal Services programs)

**Mankato Office – Southern Minnesota Regional Legal Services (Southwest Region)**

12 Civic Center Plaza, Suite 3000  
P. O. Box 3304  
Mankato, MN 56002-3304  
(507) 387-5588  
Clients only: 1-800-247-2299  
FAX (507) 387-2321  
(Serving Blue Earth, Brown, Faribault, LeSueur, Martin, McLeod, Nicollet, Sibley, Waseca, and Watonwan Counties)

**Special Project:**

**Minnesota Family Farm Law Project**

(Serving the entire 33-county SMRLS service area)

**LEGAL SERVICES OF NORTHWEST MINNESOTA, INC. (LSNM) –**

**Moorhead Office**

P. O. Box 838  
1015 7<sup>th</sup> Avenue North  
Moorhead, MN 56561-0838  
(218) 233-8585  
Clients only: 1-800-450-8585  
FAX (218) 233-8586  
e-mail: [legalaids@lsnmlaw.org](mailto:legalaids@lsnmlaw.org)  
website: [www.lsnmlaw.org](http://www.lsnmlaw.org)  
(Serving Becker, Clay, Kittson, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, and Wilkin Counties)

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**Naytahwaush Office –  
Anishinabe Legal Services**

P. O. Box 57  
Naytahwaush, MN 56566  
(218) 935-5345  
Clients only: 1-877-800-7295  
FAX (218) 935-5186

**Pine City Office – Legal Aid Service of  
Northeastern Minnesota**

235 Main Street South  
Pine City, MN 55063  
(320) 629-7166  
Clients only: 1-800-382-7166  
FAX (320) 629-0185  
(Serving LSC clients in Kanabec and Pine  
Counties)

**Red Lake Office –  
Anishinabe Legal Services**

P. O. Box 291  
Red Lake, MN 56671  
(218) 679-2281  
Clients only: 1-866-679-2281  
FAX (218) 679-2392

**Refugee, Immigrant and Migrant Services –  
Southern Minnesota Regional Legal  
Services – Fargo Office**

118 Broadway North, Suite 616  
Fargo, ND 58102-4947  
(701) 232-8872  
Clients only: 1-800-832-5575  
FAX (701) 232-8366  
(Serving migrant farm workers in the Red  
River Valley along the Minnesota and North  
Dakota borders, as well as the entire State of  
North Dakota)

**Refugee, Immigrant and Migrant Services –  
Southern Minnesota Regional Legal  
Services – St. Paul Office**

450 North Syndicate Street, Suite 325  
St. Paul, MN 55104  
(651) 255-0797 or (651) 291-2837  
Out-state clients only: 1-800-652-9733  
FAX (651) 645-0757  
e-mail: [rims@smrls.org](mailto:rims@smrls.org)

**Rochester Office – Southern Minnesota  
Regional Legal Services  
(Southeast Region)**

903 West Center Street  
Suite 130  
Rochester, MN 55902  
(507) 292-0080  
Clients only: 1-866-292-0080  
FAX (507) 292-0060  
(Serving Dodge, Fillmore, Goodhue, and  
Olmsted, Rice, Steele and Wabasha Counties)

**St. Cloud Office – Central Minnesota Legal  
Services**

830 W. St. Germain, Suite 309  
P. O. Box 1598  
St. Cloud, MN 56302  
(320) 253-0138  
Clients only: 1-800-622-7773  
FAX (320) 253-9208  
(Serving LSC-eligible clients in Benton, Chisago,  
Isanti, Mille Lacs, Morrison, Sherburne, Stearns,  
Todd, and Wright Counties)

**ST. CLOUD AREA LEGAL SERVICES –  
A Division of MMLA**

830 W. St. Germain, Suite 300  
P. O. Box 886  
St. Cloud, MN 56302  
(320) 253-0121  
Clients only: 1-888-360-2889 (voice/TDD)  
FAX (320) 253-5794  
(Serving Benton, Mille Lacs, Morrison,  
Sherburne, Stearns, Todd, and Wright  
Counties and senior clients in Benton,  
Morrison, Sherburne, Stearns, Todd, Wadena,  
and Wright Counties)

**Special Project:**

**Minnesota Family Farm Law Project**  
(Serving Benton, Hennepin, Kanabec, Mille  
Lacs, Morrison, Pine, Sherburne, Stearns,  
Todd, Wright Counties and Northeastern  
Minnesota)

**Shakopee – Southern Minnesota Regional  
Legal Services**

712 Canterbury Road South  
Shakopee, MN 55379  
(952) 402-9890  
Intake number for clients: (651) 222-4731  
FAX (952) 402-9864  
(Serving LSC clients in Carver, Dakota and  
Scott Counties and seniors in Carver and Scott  
Counties)

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**SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES (SMRLS) – St. Paul Central Office**

166 E. 4<sup>th</sup> Street, Suite 200  
St. Paul, MN 55101  
(651) 222-5863  
Intake number for new clients: (651) 222-4731  
FAX (651) 297-6457  
Hours: 9:00 a.m. – 12:00 noon and 1:00 – 3:00 p.m.  
(Serving Dakota (seniors only), Ramsey and Washington Counties)

**Special Projects:**

**Homeless Outreach Prevention and Education Project (H.O.P.E.)**

(Serving Ramsey County.) Intake number for new clients: (651) 842-1501; Hours: 9:00 a.m. – 12:00 noon – M-F; 1:00 p.m. – 4:30 p.m. – M-W-F

**Housing Equality Law Project Education Law Advocacy Project – Intake 800-652-9733**

**Senior Law Project -** Intake number for new senior clients: (651) 224-7301;  
Hours: 9:00 a.m. – 12:00 noon

**Thief River Falls Office – Legal Services of Northwest Minnesota, Inc.**

302 3<sup>rd</sup> Street E., Suite B  
P. O. Box 392  
Thief River Falls, MN 56701  
(218) 681-7710 or 1-800-450-8585  
FAX (218) 681-7710

**Virginia Office – Legal Aid Service of Northeastern Minnesota**

Olcott Plaza, Suite 150  
820 N. 9<sup>th</sup> St.  
Virginia, MN 55792  
(218) 749-3270 (voice/TDD)  
Clients only: 1-800-886-3270  
FAX (218) 749-0706  
(Serving North St. Louis County)

**Willmar Office – Central Minnesota Legal Services**

302 S.W. 5<sup>th</sup> Street, Suite 202  
Willmar, MN 56201  
(320) 235-7662  
Clients only: 1-800-622-4011  
TDD: (320) 235-2820  
FAX (320) 235-9496  
(Serving LSC-eligible clients in Big Stone, Chippewa, Kandiyohi, Lac qui Parle, Lincoln, Lyon, Meeker, Renville, Swift and Yellow Medicine Counties)

**Willmar Office – Western Minnesota Legal Services (A Division of MMLA)**

302 S.W. 5<sup>th</sup> Street, Suite 202  
Willmar, MN 56201  
(320) 235-9600  
Clients only: 1-888-360-3666  
TDD (320) 235-2820  
FAX (320) 235-1030  
(Serving Big Stone, Chippewa, Kandiyohi, Lac qui Parle, Lincoln, Lyon, Meeker, Renville, Swift and Yellow Medicine Counties)

**Winona Office – Southern Minnesota Regional Legal Services (Southeast Region)**

66 E. 3<sup>rd</sup> St.  
Suite 204  
Winona, MN 55987-3478  
(507) 454-6660  
Clients only: 1-800-372-8168  
FAX (507) 454-6667  
(Serving Dodge, Fillmore, Goodhue, Houston, Olmsted, Wabasha and Winona Counties)

**Worthington Office – Southern Minnesota Regional Legal Services (Southwest Region)**

421 Tenth Street  
Worthington, MN 56187  
(507) 372-7368  
Clients only: 1-800-233-0023  
FAX (507) 372-2574  
(Serving Cottonwood, Jackson, Murray, Nobles, Pipestone, Redwood and Rock Counties)

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## NON-MLSC OFFICES

### **BATTERED WOMEN LEGAL ADVOCACY PROJECT**

1611 Park Avenue – 2<sup>nd</sup> Floor  
Minneapolis, MN 55404  
(612) 343-9842 or 1-800-313-2666  
FAX (612) 343-0786  
website: [www.bwlap.org](http://www.bwlap.org)

### **CENTRO LEGAL, INC.**

2610 University Avenue West  
Suite 450  
St. Paul, MN 55114-1024  
(651) 642-1890  
FAX (651) 642-1875

### **CHILDREN'S LAW CENTER OF MN**

450 N. Syndicate Street, Suite 315  
St. Paul, MN 55104-1913  
(651) 644-4438  
FAX (651) 646-4404  
website: [www.clcmn.org](http://www.clcmn.org)

### **CHRYSALIS**

4432 Chicago Avenue South  
Minneapolis, MN 55407  
(612) 871-0118  
FAX (612) 870-2403

### **DISPUTE RESOLUTION CENTER**

91 East Arch Street  
St. Paul, MN 55130-4301  
(651) 292-7791  
FAX (651) 292-6065  
website: [www.disputeresolutioncenter.org](http://www.disputeresolutioncenter.org)

### **HAMLIN UNIVERSITY SCHOOL OF LAW**

1536 Hewitt Avenue  
St. Paul, MN 55104  
(651) 523-2898  
FAX (651) 523-2400

### **HOME Line**

3455 Bloomington Avenue  
Minneapolis, MN 55407  
(612) 728-5767 or (866) 866-3546  
FAX (612) 728-5761

### **IMMIGRANT LAW CENTER OF MINNESOTA**

450 North Syndicate Street, Suite 175  
St. Paul, MN 55104  
(651) 641-1011 or 1-800-223-1368  
FAX (651) 641-1131  
website: [www.ilcm.org](http://www.ilcm.org)

### **INDIAN CHILD WELFARE LAW CENTER**

1113 E. Franklin Ave., Suite 600  
Minneapolis, MN 55404  
(612) 879-9165 or 1-866-879-0123  
FAX (612) 879-0323

### **INDIAN LEGAL ASSISTANCE PROGRAM (Duluth)**

107 W. First Street  
Duluth, MN 55802  
(218) 727-2881 or 1-888-249-3205  
FAX (218) 720-6438

### **INDIAN LEGAL ASSISTANCE PROGRAM (ONAMIA)**

43500 Oodena Drive  
Onamia, MN 56359  
(320) 532-7520 or (800) 709-6445, ext. 7520  
FAX (320) 532-7526

### **LEGAL ASSISTANCE OF DAKOTA COUNTY, LTD.**

14800 Galaxie Avenue, Suite 103  
Apple Valley, MN 55124  
(952) 431-3200  
FAX (952) 431-3202

### **LEGAL ASSISTANCE OF OLMSTED COUNTY**

1136 7<sup>th</sup> Street N.W.  
Rochester, MN 55901  
(507) 287-2036  
FAX (507) 287-2035

### **LEGAL ASSISTANCE OF WASHINGTON COUNTY**

275 South Third Street, Suite 103  
Stillwater, MN 55082  
(651) 351-7172  
FAX (651) 351-9342

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**LEGAL ASSISTANCE TO MINNESOTA PRISONERS (LAMP)**

875 Summit Avenue  
Room 254  
St. Paul, MN 55105  
(651) 290-6413  
FAX (651) 290-6407

**LEGAL RIGHTS CENTER, INC.**

1611 Park Avenue South  
Minneapolis, MN 55404-1683  
(612) 337-0030  
FAX (612) 337-0797  
e-mail: [office@legalrightscenter.org](mailto:office@legalrightscenter.org)

**LEGAL SERVICES OF NORTH DAKOTA**

Fargo Office  
P. O. Box 1327  
118 Broadway, Suite 704  
Fargo, ND 58107-1327  
(701) 232-4495 (800) 634-5263  
FAX (701) 232-0892  
Senior Legal Hotline: (866) 621-9886  
website: [www.legalassist.org](http://www.legalassist.org)

**LegalCORPS**

600 Nicollet Mall, Suite 390A  
Minneapolis, MN 55402-1039  
(612) 752-6678  
FAX (612) 333-4927  
website: [www.legalcorps.org](http://www.legalcorps.org)

**LOAN REPAYMENT ASSISTANCE PROGRAM OF MINNESOTA, INC.**

600 Nicollet Mall  
Suite 380  
Minneapolis, MN 55402-1605  
(612) 278-6315  
website: [www.lrapmn.org](http://www.lrapmn.org)

**MAO LEGAL SERVICES**

Volunteers of America of MN  
2021 East Hennepin  
Suite 200  
Minneapolis, MN 55413-2726  
(612) 676-6300  
FAX (612) 379-0746  
website: [www.voamn.org](http://www.voamn.org)

**ADVOCATES FOR HUMAN RIGHTS**

650 3<sup>rd</sup> Avenue South  
Suite 550  
Minneapolis, MN 55402  
(612) 341-3302  
Clients only: (612) 341-9845  
FAX (612) 341-2971

**MINNESOTA AIDS PROJECT**

1400 Park Avenue  
Minneapolis, MN 55404  
(612) 341-2060  
FAX (612) 341-4057  
AIDSLine: 612-373-2437  
website: [www.mnaidsproject.org](http://www.mnaidsproject.org)

**MINNESOTA ASSISTANCE COUNCIL FOR VETERANS (MACV)**

360 North Robert, Suite 306  
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