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Modest Means Committee Addressing Struggles of “Working Poor”

By Mark C. Surprenant and Amy E. Duncan

There are many economically struggling Louisiana citizens who are unfortunately denied access to the legal justice system because their income slightly exceeds the eligibility requirement for free legal services. However, their income is so low that it prevents them from paying a lawyer’s regularly charged fee rate.

In establishing this first-ever Louisiana Modest Means Committee¹ (Committee), the Louisiana State Bar Association (LSBA) and the Louisiana Access to Justice Commission want to reach out and assist the “working poor” in obtaining much needed legal assistance at an affordable fee rate. Thus, the primary goals of the Committee are to 1) identify those Louisiana lawyers who are willing to assist these prospective clients at a significantly reduced fee rate; and 2) communicate that list of lawyers with their potential sliding scale or flat fee rates — determined by the legal task at issue and the client’s income level — to the interested public.

To accomplish its goals, the Committee has completed an initial survey of lawyers across Louisiana who have a desire to be involved in this program. The survey results indicate that a significant interest exists.² Moreover, the Committee has analyzed those actions taken by other states to address this justice gap. More specifically, states like Arkansas,³ Wisconsin⁴ and Washington⁵ already have statewide modest means referral programs in place. The attorneys participating in these modest means programs agree to provide unbundled services, flat fees or reduced per-hour rates to individuals who do not qualify for free legal services, but cannot afford the services of attorneys at the standard rate.⁶ The legal issues covered range from criminal misdemeanors to family law and immigration. The majority of the programs reviewed allow participating attorneys to charge a maximum hourly rate of \$75.⁷ Other programs actually set a sliding-scale fee schedule based on income eligibility.⁸

While some states have set up referral

programs, others have created legal directories used by courts and made available online. The First Judicial District Access to Justice Committee in Colorado, for instance, administers a “Discounted Fee/Unbundled Attorney List,” a directory of attorneys who offer legal services at “discounted fees” or “unbundled.”

The Committee members have been carefully researching and reviewing this information to develop a program in Louisiana that addresses the unmet legal needs of modest means clients. The United Way ALICE Project recently released a report finding that, in addition to the 19 percent poverty rate in Louisiana, 21 percent (or 368,682) of Louisiana households earn above the Federal Poverty Level, but not enough to afford a basic household budget for transportation, child care, health care and food.⁹ Although access to legal representation was not a focus of the report, it is safe to assume that access to legal services is out of reach for these individuals.

The LSBA has already begun working to increase access to affordable legal services through its incubator program, Legal Innovators for Tomorrow (LIFT).¹⁰ The program supports new attorneys in building solo practices focused on providing cost-effective legal services to modest means clients. As more and more attorneys begin to meet the demand for these services, the need to develop a system that can match modest means clients with attorneys offering reduced-rate legal representation is more important than ever. The Committee is launching a statewide program in the 2016-17 Bar year to accomplish these goals.

Attorneys interested in participating in the program should email Amy E. Duncan at amy.duncan@lsba.org.

FOOTNOTES

1. The Modest Means Committee members are Chair Mark C. Surprenant, Adams and Reese, L.L.P.; Judge Sheral C. Kellar, Louisiana Workforce Commission; Marjorie L. (Meg) Frazier, Weiner, Weiss & Madison, A.P.C.; and Stacy Seichshaydre, Tulane University Law School.

2. The survey was distributed to solo and small

firm attorneys throughout the state. The purpose of the survey was to determine how attorneys define modest means clients; whether they were offering affordable legal rates to those clients; what those rates were and the areas of law covered; and if the attorneys would be interested in participating in a program that matched modest means clients with attorneys offering reduced cost legal services.

3. See, Arkansas legal Services Partnership; Center for Arkansas Legal Services & Legal Aid of Arkansas, *Modest Means Panel*, www.arlegalservices.org/modestmeanspanel (last visited Aug. 20, 2016) [hereinafter Arkansas Program].

4. See, State Bar of Wisconsin, For Public, I Need A Lawyer, *Modest Means*, www.wisbar.org/forPublic/INeedALawyer/Pages/Modest-Means.aspx (last visited Aug. 20, 2016).

5. See, Washington State Bar Association, *How the WSBA Moderate Means Program Works*, www.wsba.org/Legal-Community/Volunteer-Opportunities/Public-Service-Opportunities/Moderate-Means-Program/Moderate-Means-Legal-Help (last visited Aug. 20, 2016).

6. The pricing of these Modest Means Programs vary. For instance, the Modest Means Program operated by the Atlanta Bar Association defines what legal issues are offered on an hourly basis with a maximum hourly rate of \$75 or an initial retainer fee of no more than \$600, and which services are offered for flat fees. www.atlantabar.org/LRISModestMeans [hereinafter, Atlanta Program].

7. See e.g., Atlanta Program, *supra* n. 6; and Arizona Foundation for Legal Services and Education Modest Means Project, <https://www.azflse.org/modestmeans/>.

8. See, Arkansas Program, *supra* n. 3 (stating that the hourly rate depends on income with price per hour ranging from \$35 to \$75).

9. United Way ALICE Louisiana Report Executive Summary, www.launitedway.org/united-way-alice-report-louisiana.

10. www.lsba.org/LIFT.

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