

Supreme Court's Legal Needs Study

Changing Georgia's Civil Justice System

by Len Horton

Some problems seem never to be solved but merely talked about over years that can extend into decades. The reality is that talk is typically far easier than bringing about the fundamental change often necessary to solve an important problem. In facing the problem of providing access to civil justice for poor Georgians, the Supreme Court of Georgia, under the leadership of Chief Justice Leah Ward Sears, is focusing on the actions necessary to effect fundamental change.

The Court was aware of the need for poor Georgians to have improved access to justice in civil legal matters. For years this problem had been discussed, but, if anything, the problem had gotten worse. The Court realized that fundamental change was needed if "with liberty and justice for all" is to be more than mere words. Just as the Court had taken on the problems of Georgia's criminal indigent defense system under the leadership of former Chief Justices Robert Benham and Norman Fletcher, the Sears-led Supreme Court of Georgia decided to take on the problem of ensuring civil justice for Georgia's disadvantaged.

In 2005, the Court, by unanimous vote, established the Committee on Civil Justice. The committee was charged with strengthening "Georgia's civil justice system by developing, coordinating and supporting policy initiatives to expand access to the courts for poor and vulnerable Georgians." Its co-chairs are Anne Lewis, a partner at Strickland, Brockington & Lewis, and Teri McClure, senior vice president, general counsel and corporate secretary of United Parcel Service. Jill Radwin, an attorney with the Administrative Office of the Courts, serves as the committee's executive director.

The committee decided that the first issue it would have to tackle would be to understand the nature and extent of the problem. In 1994, a study was conducted to try to answer the question, but those results were clearly out of date. Moreover, several important questions had not been asked by that survey.

The A.L. Burruss Institute of Public Service and Research at Kennesaw State University, headed by Dr. Carol Pierannunzi, was chosen to conduct a study of Georgia's legal needs. She worked very closely with Radwin throughout the process to ensure that the results were comprehensive. By the time it was finished, a mountain of information was collected that will take years to analyze thoroughly. As part of the study, a survey was conducted of difficult to reach people including the homeless, deaf persons, recently incarcerated persons, the elderly, Latino persons and non-English speaking people. In addition, a separate survey and focus groups were conducted of civil legal service providers and court personnel; and a survey of

Georgia attorneys regarding their pro bono practices was conducted by telephone. The largest component of the study was a random digit dial public telephone survey of more than 1,500 low and moderate-income Georgians.

Preliminary results were presented for the first time at a CLE program at the State Bar's Annual Meeting. The personal presence of Chief Justice Sears signaled the importance the Court has placed on making access to justice a reality for all Georgians.

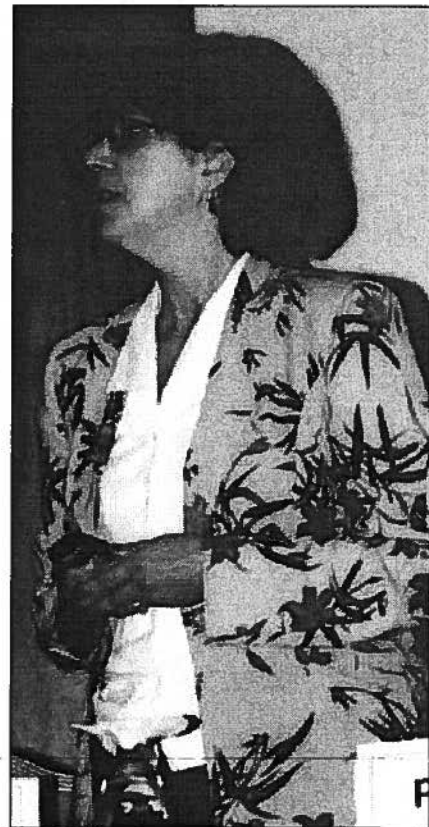
Chief Justice Sears welcomed the program's participants. She decried the fact that every year thousands of Georgians are denied access to civil justice because they cannot afford to hire an attorney to represent them.

In a handout made available at the session, Supreme Court of Georgia Public Information Officer Jane Hansen illustrated the importance of this committee's work by telling the story of Haley

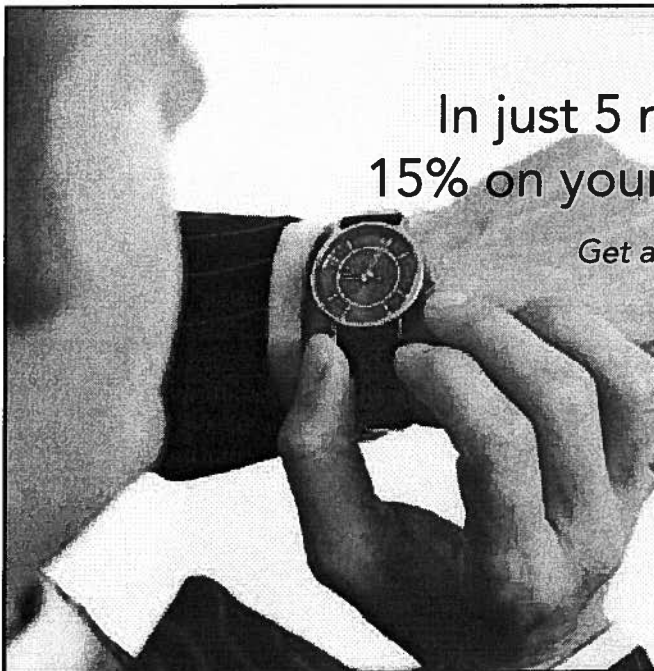
Schwartz's efforts to help a woman, named Janis, in hospice care. Schwartz, who runs Atlanta Legal Aid's Breast Cancer Legal Project, was able to provide a will and guardianship papers so Janis could be assured that her sister would become guardian of Janis's 11-year-old daughter. The example dramatized the importance of civil legal assistance to the poor. Perhaps the most moving point was that finally Janis could be at peace with herself near the end of her life because her legal concerns were resolved.

Chief Justice Sears brought home the importance of access to justice when she said, "These are fundamental human rights issues."

With access to justice clearly defined as a fundamental human right, the CLE program turned to the study, which I am proud to say was funded in part by a Georgia Bar Foundation grant. The rest of the money was secured through the fundraising efforts of "retired" Sutherland lawyer Charlie Lester



Panelist Dr. Carol Pierannunzi addresses the program participants.



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(Left to right) Judge Wayne Purdom, Judge Brenda Weaver and State Bar Pro Bono Director Mike Monahan participate on a panel at the State Bar's 2008 Annual Meeting.

and the generosity of numerous Georgia law firms, State Bar sections and local bars.

A few specifics of the study will explain its scope. More than 1,500 people were surveyed about several hundred variables including gender, home ownership, income, age and areas of legal need. The study was so exhaustive that the data collected is too large to attach to an e-mail. Scores of Ph.D. dissertations and master's theses will be generated as fresh eyes see new hypotheses to test. The study is a veritable gold mine of information about Georgia's current civil justice system and the Georgians who need to use it.

The survey of lawyers revealed that about 40 percent of attorneys reported that they provide pro bono legal services. While age, gender, income and years in the practice of law were not good predictors of whether an attorney would volunteer for pro bono work, it was found that attorneys in firms with more than 25 lawyers were less likely to do pro bono work. About 25 percent of those large firm attorneys did pro bono versus 48.5 percent who did pro bono in firms with five or fewer attorneys.

Another interesting fact was that only 21 percent of lawyers who work in-house did pro bono work versus about 50 percent of the lawyers in private practice.


A sense of professional responsibility was given as the number one reason attorneys do pro bono work. Furthermore, lawyers working in law firms that are deeply committed to pro bono work are more likely to do pro bono work themselves. Lack of familiarity with a specific area of the law was listed as the greatest hindrance to taking pro bono work.

According to information from legal service providers, housing and utility problems were the biggest concerns of clients (11.6 percent) followed closely by family law and domestic relations issues (11 percent). Consumer issues including credit concerns were a close third at 9.8 percent. Additional facts will be forthcoming as study data and findings are scrutinized over the coming months.

The program then added a panel discussion of the current civil legal delivery system. Committee members Rita Sheffey, Hunton & Williams; Mike Monahan, director, Pro Bono Project; and Phyllis

Holmen, executive director, Georgia Legal Services Program, discussed the implications of the survey for the future delivery of services. In another program segment, committee Co-Chair Anne Lewis led a brainstorming session on possible ways to improve the system in Georgia. This session included lively presentations from Judge Brenda Weaver, who discussed the new self-help center for the Appalachian Circuit, and Judge Wayne Purdom, who explained limited scope representation.

Steve Gottlieb, executive director of Atlanta Legal Aid, made a presentation of how Georgia compared with the national average in funding civil legal assistance for poor people. He reported that, in virtually every category, Georgia funding per poor person lagged the national average. The one exception was direct contributions from lawyers, which was about 10 percent greater than the national average. This serves as an advantage by illustrating the commitment that Georgia's lawyers have to solving this problem. Even the Legal Services Corporation (LSC) reports funding per poor person in Georgia was slightly below the national LSC average.

While it is too early to tell with certainty, this new effort to expand access to justice to disadvantaged Georgians had an excellent new beginning with the reports of the legal needs study. Fundamental change is clearly on the minds of our Court as suggested in the strong words of Chief Justice Sears. If she can convince enough people that access to justice is a fundamental human right, then the fundamental change required to implement access to justice for all will surely follow. 



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