

Liberty, justice for all

A new program in Memphis connects immigrants with the pro bono legal help they need
By Becky Rhodes and Suzanne Craig Robertson

For years, many immigrants coming before Tennessee's single immigration court in Memphis had no representation. Not only did this make it hard for the immigrants, it also slowed the workings of the court.

"We've got a duty to conduct an efficient judicial proceeding," the legal access coordinator for the U.S. Department of Justice's Executive Office for Immigration Review, Steve Lang, says. "And a better informed respondent is better for all – that helps everything work much smoother."

But providing that representation wasn't an easy problem to solve. Memphis Area Legal Services (MALS) is limited in who it can serve – because it receives Legal Services Corporation money it is prohibited from serving undocumented immigrants – and pro bono attorneys were frustrated by the system as it existed.

"Lawyers were having difficulty being placed on the pro bono list being maintained by the immigration judge because they had no way of screening clients to determine eligibility for free legal services," Memphis lawyer Jack Richbourg says.

The answer came about through cooperation. Private attorneys, the Community Legal Center (CLC), MALS and the University of Memphis Cecil C. Humphreys School of Law have all come together to support the Immigrant Justice Program. Since the program's beginnings last spring, it has received 83 calls for service, 30 people have attended clinics for screening and 28 people have been assigned immigration attorneys.

"We thought we might be able to enlist the aid of Legal Services to screen clients for participating lawyers, and it was that way we made a connection with Community Legal Center (CLC), which has agreed to screen clients," Richbourg, a lawyer with Siskind Susser PC, says. "Later, as the concept grew we included law students in the formula and brought them into the process to represent poor clients while being supervised by an experienced lawyer." Immigration court procedural rules allow for representation by law students as long as they are supervised by a lawyer.

Meg Jones, executive director of the CLC, says the project was a natural for her organization. "When the cry went out for help with a pro bono immigrant justice program, the staff knew that CLC was the logical agency to respond to this plea," she says.

"The board and staff of Community Legal Center see this project as another way to fulfill our mission because it addresses an unmet need in the community. CLC has always been about meeting unmet needs, whether it was serving people who were above MALS [Memphis Area Legal Services] guidelines, working with a social service agency to provide a more holistic approach to legal services, setting up a pro se divorce clinic when the courts were jammed with pro se filers, or now serving clients whom MALS can't serve because they are undocumented." The CLC does not receive funding from the Legal Services Corporation and therefore has no restrictions against serving undocumented people.

Jones credits Richbourg and Lynn Susser as being instrumental in getting the project off the ground. She also credits David Jones, an immigration attorney with Siskind Susser, and his wife, Allie Jones, who had tried starting a similar project in conjunction with a church years earlier.

"They were very generous in sharing information about their experience as well as some of the forms, which were precursors of the forms now in use."

During the six-month start-up phase of the project, Richbourg also loaned Hadley Baromivic, who at that time was a law student and an intern with Siskind Susser. She coordinated the project, keeping track of the mailing list, soliciting students for the program and scheduling meetings.

The project is now coordinated by Tatine Darker, a second-year law student at the University of Memphis, which provides a number of students who contribute toward the program's success. Students participating in the Immigrant Justice Program report to Professor Francis Gabor and Dean James R. Smoot. Among the

students, when a case is available, it's first-come, first-served, and amazingly, there is often a waiting list.

"There is a tremendous amount of interest among students. It's really gratifying," says Darker, who is also a trained interpreter, speaking Spanish and French. In fact, working with the immigrant community is what got her interested in going to law school. Then when the IJP job came open, "it was a perfect fit. It fell right into what I wanted to do.

"Most who contact us are already in removal proceedings ... they are already in trouble," Darker says. "They call us; I do an initial screening to find out what's going on with their immigration situation and financially."

Once screeners determine if the person fits the financial criteria - 125 percent of federal poverty guidelines - he or she is asked to come to a clinic that has volunteer attorneys who verify if they have a claim for relief or a defense against removal proceedings. Then an attorney is assigned to the case. The EOIR lists attorneys who have volunteered in each location for immigration pro bono. For Tennessee, only nine names are listed, mostly in the Memphis area. Although that seems a small number, Steve Lang of the EOIR confirms that Tennessee is not doing so badly.

"The number of private attorneys is greater than what you'll see in equivalent-sized courts in other parts of the country," Lang says. "And the attorneys on that list are very dedicated to providing pro bono services. They have a life-long commitment to this kind of work."

Lang is quick to credit the CLC, too. "We're very thankful to have a local nonprofit organization handling these kinds of cases. Although private attorneys are great, it's hard to substitute the kind of work that can be provided by a nonprofit because it has a greater capacity to screen and identify cases in need of assistance. They can be the eyes and ears on the ground.

"And we couldn't do anything without the support of the local immigration court. You have a very good one there in Memphis," Lang says. The two judges in that court are Judge Charles E. Pazar and Judge Lawrence O. Burman.

"The immigration judges operate at a very high level of sensitivity," Lang says. "They understand the high stakes involved in asylum cases."

The 54 immigration courts nationwide are in areas where there is the most immigrant activity. For instance, there are many in California but none in Wyoming. Memphis's Immigration Court has been going for about 10 years and has handled about 3,000 cases, roughly 1 percent of the nation's total, Lang says. Of those cases, "representation hovered around 40 percent. If you look at folks not in ICE [Immigration and Customs Enforcement] custody, the representation rate is over 50 percent. It's 16 percent for those who are detained. Those representation rates are very close to the national average.

"The EOIR believes in the importance of representation and encourages it. The judges are encouraged to work with local nonprofits and other efforts," Lang says, "and are given great latitude to be as flexible and lenient as possible in accommodating the needs of pro bono attorneys."

In fiscal year 2006, the Memphis Immigration Court saw 709 "asylum completions," 572 of which had representation, according to Lang's office. That's an 81-percent representation rate. There were eight detained asylum seekers, half with representation.

"I think every judge out there would much prefer to have an individual represented than not represented because it helps the court identify issues earlier on," Lang says. "It helps them make the best decision early in the process to see that the laws are carried out."

Back in Memphis, Jack Richbourg sees not only the benefit to the clients but to the legal system, too. "The judges really like [the CLC's Immigrant Justice Program] because the more people who are represented the easier their job becomes. They don't have to laboriously cross-examine a litigant to see if

he or she has a remedy in the law, but can rely on counsel to inform them of the remedies he or she might have available. It helps them move their docket along in a timely manner.”

The CLE Immigrant Justice Program was primarily funded by a United Way Venture Fund for its first year, Jones says. “The Community Legal Center has received a few donations designated for the Immigrant Justice Program, and the CLC has also provided some resources.” Clients who call are mostly Hispanic, with some French-speaking West-Africans, and a couple of Arabic women.

Since the program is so new there have not been a great many successes yet, but there are two clients who will probably be able to “adjust their status under the Cuban Adjustment Act,” Richbourg says. They did not know that was available to them and were going to be deported, but now, thanks to the IJP, they will probably end up permanent residents of the United States.

“The people who call are in dire straits, very difficult situations, sad stories,” says the program’s coordinator, Tatine Darker. “These are people who have been productive members of society for years, then are summarily expelled from the country. We try to find ways to help some of these people out,” she says. “There are few avenues to help.”

A resource to check out: <http://www.usdoj.gov.eoir/probon>

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