

STATEMENT OF THE HON. JON D. LEVY BEFORE THE JOINT STANDING COMMITTEE ON THE JUDICIARY, MARCH 7, 2013

Senator Valentino, Representative Priest, and members of the Judiciary Committee. My name is Jon Levy. I have been an Associate Justice of the Supreme Judicial Court since 2002 and, before that, was a judge of the Maine District Court. My family and I live in Portland, having previously lived for many years in Kittery and York.

This is the fifth consecutive year that I have appeared before you to report on the Justice Action Group's efforts to ensure that the people of Maine have equal access to justice (or "ATJ"). JAG, as many of you know, was founded by Former Chief Justice Dan Wathen and the late Judge Frank Coffin in 1995. It is a coalition of the courts, several of Maine's major legal organizations, and several of Maine's leading legal aid providers. Our goal is to make sure that all Mainers, regardless of income, have the chance to get sound legal assistance when they need it. I am grateful to this Committee, and to the various Senators and Representatives who have chaired it over the past five years, for inviting us to come and have an annual conversation about ATJ in Maine.

There are three points I want to make today.

First: ATJ is fundamental to who we are as a people.

Second: ATJ helps people and saves lives, all across Maine.

Third: ATJ has tangible benefits for every Mainer.

First: Ensuring that Every Person Has Equal Access to Justice is Fundamental to Who We Are as a People

When we talk about legal aid or the pro bono efforts of Maine's private lawyers, it is easy to lose sight of what this is really about. America is not unique in having a constitution that protects the rights of individuals; many countries have constitutions that purport to be no less protective of rights than our own.

For example: Every citizen is guaranteed "freedom of speech, of the press, of assembly, of association, of procession and of demonstration." That is from Article 35 of China's Constitution.

Another example: Every woman is guaranteed “equal opportunities in employment, remuneration, and promotion, and in social and political, and cultural activity.” That is from Chapter 36 of the Constitution of the former Soviet Union.

The greatness of the American Constitution is not only that it embodies the timeless vision of our nation’s Founders, but also that it places its trust in “We the People” to make that vision a reality. The commitment of the American people to guarantee individual liberty has remained unbroken as our nation has transformed itself from an agrarian society, through the Industrial Revolution, to where we are today. This truly unique American commitment binds all generations, both past and future.

So when I speak to you about the need to ensure that every Mainer has a chance to get sound legal assistance when facing a significant legal problem, what I’m really talking about is living up to our responsibility as “We the People.” The greatness of our constitutional system is that it trusts the people to make the guarantees of “equal protection” and “due process of law” a reality. And generation after generation, We the People have come through with what’s been entrusted to us. It is fitting that our Pledge of Allegiance ends with a solemn commitment to ensure “liberty and justice for all.”

This is what ensuring access to justice is all about.

### Second: Ensuring that Every Person Has Equal Access to Justice Helps People and Saves Lives, All Across Maine

This is not hyperbole. There are countless stories that even a modest amount of legal assistance can change a person’s life. Consider the story of Brian, a U.S. Army veteran from Somerset County who lost his job, faced the foreclosure of his home, and became homeless. With the guidance of a Pine Tree lawyer, he was able to work out the foreclosure, get back in his home, and find a job. As a result, Brian is contributing to the Maine economy and is not dependent on the State for assistance.

Or consider the example of Walt, an 82-year-old World War II veteran from Cumberland County, who is confined to a wheelchair. A close family member took advantage of him, obtaining the title to his house and racking up charges on his credit cards. With the assistance of a lawyer from Legal Services for the Elderly, Walt’s home was recovered and his credit history was cleared.

Finally, consider the countless men and women who are victims of domestic violence in Maine, and who, with the assistance of various legal aid providers and volunteer lawyers, are able to obtain protection orders and child support, and break the cycle of abuse.

ATJ is critical because it helps people and saves lives every day in Maine.

### Third: Ensuring that Every Person Has Equal Access to Justice Has Tangible Benefits for Every Mainer

Let's focus on a single domestic violence victim who breaks the cycle of abuse with legal aid assistance. It is estimated that the average cost of providing a legal aid lawyer to assist such a person is \$268.<sup>1</sup>

This compares with the estimated cost of an emergency room visit being \$816;<sup>2</sup> the cost of emergency shelter for a week being \$350;<sup>3</sup> and the cost of police responders and court proceedings measuring in the thousands. Any way you cut it, the benefits to society far outweigh the relatively modest investment required to ensure that a victim of domestic violence has the assistance of a lawyer.

Moreover, a national study that analyzed the economic impact of providing legal aid to victims of partner abuse found that "the provision of legal services significantly lowers the incidence of domestic violence" and was the single most effective public intervention assessed.<sup>4</sup>

There is a growing body of research that demonstrates that public investments in legal aid return far more to the public than they cost, through avoided costs for law enforcement protection, emergency shelters, and health care; increased federal benefit dollars coming into the State; and a better workforce with less absenteeism, to name a few examples.

The most recent research was published last month and happens to deal with our neighbor to the south, New Hampshire. There, it was found that legal assistance to

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<sup>1</sup> Pine Tree Legal Assistance Statistics (2013).

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

<sup>3</sup> Pine Tree Legal Assistance Statistics (2012).

<sup>4</sup> Amy Farmer & Jill Tienthaler, *Explaining the Recent Decline in Domestic Violence*, 21 Contemp. Econ. Pol'y 158-72 (April 2003).

help prevent domestic violence saved the State \$2.4 million per year.<sup>5</sup> Moreover, the study reported that in 2011, legal aid assistance generated or saved a total of \$41.7 million dollars.<sup>6</sup>

## Conclusion

Returning to Maine, I would be remiss if I did not mention the serious funding crisis that has faced our legal aid providers these past several years and that has resulted in significant cutbacks in the number of staff providing legal aid. The crisis is real and has grown worse this past year. However, as with my past appearances before this Committee, I am not here today to ask you to provide additional public support for legal aid, because we are mindful of the budget crisis Maine is facing.

I do want to briefly mention three of JAG's current initiatives.

First, JAG developed the idea of the Katahdin Counsel program, a program adopted by the Supreme Judicial Court to honor and encourage Maine's private lawyers who generously donate their professional services every year to pro bono efforts. In 2012, our very first year, the program honored 127 lawyers, who donated a total of 13,600 hours of free legal services, representing an average of 127 hours per attorney. At an assumed billing rate of \$150 per hour, that equates to well over \$2 million in billable time donated by lawyers to the people of Maine. And there are, of course, hundreds of lawyers who are not participating in the Katahdin Counsel program who donated thousands of hours of time, as well.

Second, JAG has received a grant from the Public Welfare Foundation to launch a new program, which we're calling "Lawyers in Libraries," headed up by my colleague, Justice Andrew Mead. This Law Day, May 1<sup>st</sup>, we will have volunteer lawyers present in libraries across Maine to provide information, consultations, and referrals. This will be the launch of what we see as a long-term collaboration between Maine's lawyers, legal aid providers, public libraries, and courts.

Finally, JAG's Private Sector Outreach Taskforce has recently completed an important study regarding what ATJ means for Maine's employers and business community. We are particularly excited about this project, which has been led by

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<sup>5</sup> N.H. Supreme Court Access to Justice Commission, "The Economic Impact of Civil Legal Aid in New Hampshire: Achieving Justice and Boosting the Economy," Feb. 21, 2013.

<sup>6</sup> *Id.*

JAG's Vice Chair, Federal Magistrate Judge John Rich, and Kevin Gildart, a former vice president at Bath Iron Works.

Again, thank you for this opportunity. And now, I am pleased to ask Judge Rich to address you.

## **JHR REMARKS TO JOINT STANDING COMMITTEE ON THE JUDICIARY, 3/7/13**

The Private Sector Outreach Task Force, launched by the JAG at the start of 2012, began with a four-part charge: to (1) identify *pro bono* programs and initiatives that benefit Maine's private sector; (2) identify the positive effects that equal access to civil justice has for Maine's private sector and the Maine economy; (3) develop effective communications strategies about these topics; and (4) promote an effective relationship between the equal access to justice community and the private sector.

Over the course of one year's deliberation, we came to realize that the last two charges must come before the first two. The early intent to solicit support for Access To Justice causes from Maine's private sector evolved into a recognition on the part of the Task Force that we must start with an educational campaign. Our early focus broadened from engaging the private sector to engaging the Maine community as a whole.

As a result of our work, we recommended a three-pronged effort.

**1. Undertake a broad-based campaign to raise awareness of the ATJ community among private sector leaders.**

The primary recommendation of the Task Force is engagement first. Solicitation of support from the private sector can only come thereafter.

The Task Force recommended that a professional communications firm be engaged (optimally, on a *pro bono* basis) to develop a multi-part, comprehensive awareness-building strategy and campaign on the subject of ATJ in Maine. The campaign would be rolled out over a period of 6-8 months with the intent of influencing business and civic opinion leaders throughout the state including the private sector, the media, legislators, and members of the executive branch, as well as audiences within the Bar and the court system. Key components of the campaign would include a speakers' outreach program that would include a short film and PowerPoint presentation, as well as a handout with detailed information on how to help and who to contact.

## **2. Engage the business community in a dialogue.**

The business community must be engaged in an educational effort that mirrors the general educational campaign just described. One individual, or champion, should be solicited within each industry group, such as health care, banking, construction, and the creative economy, to become an advocate for how our issue impacts that industry. More generally, private sector volunteers should

be enlisted to champion the ATJ need at speaking events, using the speakers' outreach program referenced in our recommendation.

**3. Leverage in-house counsel as potential resources for ATJ providers and as bridges to business leaders.**

Leverage relationships with in-house counsel as a possible entry point for further outreach to the private sector. In-house attorneys could also help inform our outreach efforts by providing information on a company's social responsibility program that would aid in developing tailored messaging and outreach approaches.

In her September 2012 paper, *Economic Benefits of Civil Legal Aid*, Laura Abel identified five crucial ways in which civil legal aid not only prevents harm to individuals, but also saves significant expense to society. First, civil legal aid saves public money by reducing domestic violence. Second, it saves public money by helping children leave foster care more quickly. Third, civil legal aid saves public money by reducing evictions, saving public dollars in shelter costs. Fourth, it saves public money by protecting patients' health, for example by removing contaminants from housing and promoting access to health insurance, thereby reducing public spending on healthcare. And, lastly, civil legal aid helps low-income people participate in federal safety-net programs, to which they are entitled

but which they may miss without legal aid, making them more productive members of society.

In addition, unmet civil legal needs have a corrosive effect on the general workforce and present a significant drag on the private sector. Employees distracted by housing, childcare, or domestic legal problems will obviously not be as productive and focused as their coworkers who are afforded civil legal aid when needed.

Yet, despite the benefits to the private sector of legal aid for workers unable to afford a lawyer, and despite the fact that civil legal aid saves public money, there is a general lack of awareness within the private sector of the costs to employers and to society as a whole of unmet individual legal needs and the benefits that could be achieved, if civil legal aid were provided to those who needed it in an efficient and more adequate manner.

We hope that the public educational campaign that we are recommending will start a dialogue with the business community and with employers. We also hope that the campaign will enlist champions for access to justice within industry and the public sector at large. In that way, we hope that, in Maine, the unmet need for civil legal aid for the many Mainers who go without will be a concern not only of civil aid providers, lawyers, and judges, but also of the entire Maine community.