

GOLD IN THE SCALES OF JUSTICE

by Mike Feuer and Jon Streeter

Why do we need a Campaign for Justice? The answer is lining the hallways of every courthouse in the state: they are filled to bursting with the victims of our economic downturn. People seek justice to help them avoid foreclosures and illegal evictions, to stop cycles of domestic violence, to protect family members threatened by exploitation, and to bring at-risk kids into loving homes through adoption or guardianship. The courts are drowning in a deluge of people who have nowhere else to turn and no guidance in navigating the civil justice system. These people deserve the law's protection as much as anyone; all too often, access to justice is for them a matter of life or death. We have pledged "justice for all," but too many unfortunate litigants struggle to resolve legal problems on their own, without counsel. For them, access to justice can be a virtual impossibility.

A decade ago, 90 percent of the women and children in California seeking protective orders to prevent domestic violence did not have an attorney. Between 70 percent and 80 percent of divorce proceedings involved at least one party not represented by counsel, up from an estimate of 1 percent in 1971.¹ Though these data have not been formally updated since 2001, all the evidence indicates that things are only getting worse for those who can't afford an attorney. The story is equally true for many other kinds of legal actions: evictions, wage claims, termination of benefits or insurance, consumer suits, credit fraud, and petitions for naturalization. The Judicial Council of California's Task Force on Self-Represented Litigants has recognized that the tide of self-represented litigants is actually diminishing the court system's ability to do its work – to say nothing of the harm suffered by the millions of people forced to find their own way through the legal system. Budget cuts that are decimating local court-run self-help centers only exacerbate a problem that has already risen to crisis proportions.

California's legal service providers exist to help those without resources who must work with the civil justice system – nearly a hundred nonprofit programs are dedicated to resolving the legal problems of millions of people in the throes of personal and family crises. However, these providers have never been funded sufficiently to meet the

public need – and the gap is getting deeper and wider all the time. The most recent data indicate that only about 28 percent of the 6 million Californians who needed civil legal assistance got professional help, while 72 percent fell into a "justice gap" without any assistance at all. New census results show that the situation is deteriorating rapidly, with the poverty rate higher than it's been in more than 20 years and the number of people in need at a 50-year peak. Some legal services providers are reporting a four-fold increase in requests for their services. At the same time, many of these overworked organizations face staffing cutbacks due to funding reductions.

Organizations that serve indigent Californians with legal problems have had a partner in the State Bar since 1984, when the bar's Interest on Lawyers' Trust Accounts (IOLTA) program began distributing funding to them. These funds come from aggregating small amounts of interest earned on small or short-term deposits held by attorneys for their clients. As recently as 2008, \$22 million was generated in this way to support legal assistance organizations. IOLTA grants are distributed according to a statutory formula that ensures that resources reach every California county, based on the relative sizes of their indigent populations. From community education to full representation, and from the briefest advice to litigation affecting thousands of people throughout the state, IOLTA grants help these organizations provide meaningful access to justice for those who cannot afford a lawyer.

Late in 2008, interest rates – including those on attorney trust accounts – nose-dived. In 2010, IOLTA revenue was only \$6.8 million – a 70 percent drop over three years. In 2011, it's questionable whether receipts will top the \$6 million mark – and interest rate increases are not anticipated anytime soon. As a result, legal assistance grants have been dramatically reduced. The state legislature has recognized that IOLTA funding cannot, by itself and in the present economic climate, close the justice gap. This reality led to the enactment of a law – the Justice Gap Statute (Bus. & Prof. Code, § 6033) – to create a statewide mechanism for attorneys to contribute funds to legal aid programs quickly and without any administrative overhead.

Donations to the Justice Gap Fund are an easy and effective way to address our legal services crisis, but they're hardly the only way. Direct gifts to local organizations that provide legal assistance and contributions of time as a

¹ Statewide Action Plan for Serving Self-Represented Litigants (Judicial Council of California, 2001), available at courts.ca.gov/documents/selfreplitsrept.pdf.

volunteer at a legal clinic are also desperately needed and deeply appreciated. The wide variety of the legal needs of poor Californians is nearly matched by the variety of ways we can meet the challenge of serving them. It's more than just a matter of professional ethics – it's plainly and simply the right thing to do.

This is why the State Bar and the service organizations it supports have joined in a Campaign for Justice – an ambitious and multifaceted three-year plan to bring new funding to the cause of legal assistance efforts. Educating policy makers, enhancing revenue through bank interest rate adjustments, and good old-fashioned fund-raising through the Justice Gap Fund are blended into a single coordinated campaign to address one of California's most serious and intractable problems.

California is still the Golden State, but no longer because of the ore that's being hauled out of our mountains. Now, it is because of us – the people of California, who have set the gold standard for achievement, quality of life, and social justice. That's a big reason why so many people continue to seek a new life here, and why so many who start here are so committed to persevering even through difficult times. We are proud of our state, and rightfully so. But that pride is not enough to sustain us. We must support our schools and our communities and protect the resources we all rely on and cherish. And underlying all of

this, we must take affirmative steps to ensure that our laws and rules and courts equally serve us all. Legal assistance programs that help voiceless Californians are a critical part of our overall system of jurisprudence, and a strong jurisprudential system is the foundation for a prosperous California now and in the future.

Contributions to the Justice Gap Fund are easy to make – you can include them with your annual bar dues payment or make a donation through the Campaign for Justice website at CAforJustice.org. Any gift will help, and contributions are all tax-deductible. All of your donation is distributed directly to the organizations that provide the legal services. It couldn't be easier or more important – especially now. Your gift to the Justice Gap Fund will help millions of people who are truly in need and will help keep California golden for us all.

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