

**REPORT –
Blue Ribbon Commission on
Unmet Legal Needs**

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I. INTRODUCTION

In February of 2015, Paris Eliades, President of the NJSBA, established the Blue Ribbon Commission to study Unmet Legal Needs in New Jersey. In doing so he stated:

Nearly four in 10 middle-income Americans face a legal problem, but most are unable to hire an attorney, the American Bar Association reports.

At the same time, the legal sector has been bleeding jobs for years and the employment rate for recent law school graduates has fallen six years in a row.

Now, the New Jersey State Bar Association is examining initiatives that will bring those groups together in a way that could benefit both, as well as society. The association's recently appointed Blue Ribbon Commission on Unmet Legal needs is charged with seeking to responsibly match those who need affordable legal help with lawyers who need clients and provide them the support and guidance to ensure it is properly administered.

For more than a year, Commission members and staff conducted extensive research and vigorously debated all relevant issues at meetings of the full commission, in subcommittee discussions, and in individual conversations. While members approached this work from different perspectives, a consensus emerged on each of the central issues and there was a strong majority supporting the findings and recommendations set out below.

We are grateful for the support given to the Commission by President Eliades and his successor, President Miles Winder, who have attended our meetings, cheered us on and provided invaluable insights. Finally, we thank Kate Coscarelli of the NJSBA without whose logistical support none of this would have been possible.

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II. EXECUTIVE SUMMARY

The goal of the Commission was to introduce the growing cadre of lawyers who are underutilized to the large portions of our population with persistent unmet legal needs. Our belief was and is that many of those lawyers could develop sustainable practices serving our fellow citizens of modest means who have legal needs and who can afford to pay something but not market rates for legal representation.

Our mission was to define modest means, to pinpoint classes of potential providers and finally, to evaluate already existing legal modalities that could help bring the users and providers together. That, in turn, presented a structure for the subcommittee work.

Ultimately the Commission concluded that NJSBA can best mobilize the largest number of available attorneys and connect them with the greatest number of people of modest means through a multifaceted approach. Succinctly put, the elements of the program are:

- There must be a process to identify people of Modest Means.
- There must be a mechanism to screen people for eligibility.
- There must be a process to identify attorneys who might be willing to represent people of Modest Means.
- There must be a method to fix criteria for attorney participation and to ensure that the attorneys understand and agree to the terms of their participation in the program.
- There must be a method to join individuals in the two groups, people with modest means and willing attorneys with each other.
- There must be a funding source.

With these elements in place, the Blue Ribbon Commission is confident that the NJSBA will succeed in meeting the unmet needs of our fellow citizens.

III. BACKGROUND

The Great Recession unleashed a tsunami of layoffs and downsizing on the legal profession, plunging many experienced lawyers into a market ill-equipped to absorb them. At the same time, the graduation rate for new attorneys remained unabated, adding to an increasing pool of underutilized attorneys.

Meanwhile a large swath of the public saw an increase in the number of legal issues that required the assistance of an attorney, such as foreclosure, healthcare-related disputes, and employment matters. Yet while many people had more legal problems to sort through, few had the financial resources to pay the market-rate fees attorneys charged.

“It is somewhat ironic that although there are an increasing number of people with unmet legal needs, there are also an increasing number of lawyers looking for work. It is a clear market distortion when there is a large demand and a large supply that cannot meet up because the rates that lawyers charge (frequently to meet their law school debt) are unaffordable to those who need the services,” noted Laurel A. Rigertas, in the Sept. 2011 article, “Stratification of the Legal Profession: A Debate in Need of a Public Forum,” in *The Journal of the Professional Lawyer*.

In response to this sea change in the practice, the legal community has stepped up in many ways. Indeed in recent years legal scholars, organizations like bar associations, and other leaders across the country have looked for ways to ensure that the delivery of legal services matches what is happening in society and the profession.

Seven years after the pinnacle of the recession, 26 incubators, or residency programs, had been established around the country. Law schools, including Rutgers, launched programs meant to nurture recent law school graduates through fellowships focused on modest means clients.

Similarly, Georgetown partnered with large private law firms to create a modest means initiative that would include conferring a post-graduate degree on its participants.

In the private sector, the Skadden Foundation, of Skadden, Arps, Slate, Meagher & Flom, began awarding \$10,000 grants to incubators. And the Gibbons firm, of Newark, has had a long-standing and successful fellowship program for public interest and constitutional law.

Bar Associations

Bar Associations, including the American Bar Association, stepped up as well. The ABA created the Legal Access Job Corps, which serves as a resource center for efforts around the country to help lawyers meet the needs of residents of modest means.

In 2013, the State Bar of Wisconsin, through its Challenges Facing New Lawyers Task Force, recommended offering reduced-rate continuing legal education courses; a mentorship program; changing the dues structure of the bar association for new lawyers; creating legal incubators; offering help with law school debt, and promoting business and practical learning.

The same year, the Colorado Bar Association released the findings of its Modest Means Task Force which made several recommendations to bring together attorneys with people of modest means. They created a tool kit and budgeting software for attorneys who agree to handle modest means cases, a listserv so lawyers for Modest Means clients could exchange ideas, and a lawyer information database to be administered through judicial district pro bono litigant coordinators.

The New York City Bar Association also released the findings of its Task Force on New Lawyers in a Changing Profession in 2013. The task force brought together all elements of the legal profession to help match the perceived oversupply of lawyers with the unmet legal needs of the middle class. Chief among its proposals was the creation of the City Bar New Lawyer

Institute to provide access to training for new lawyers. It also proposed the creation of a law firm for people of moderate means, which was dependent upon accessing funding and would pilot a business model for new lawyers to run a successful practice helping middle-income residents.

The South Dakota Bar Association launched Project Rural Practice in 2014. The effort was meant to boost the opportunities for rural legal practitioners primarily through mentorship, networking and educational opportunities.

In 2014, the Maine Bar Foundation released “Justice For All: A Report of the Justice Action Group” that looked at statewide access to justice. The report focused most closely on helping members of the community and looking for ways to solve problems before a legal crisis could erupt. As these different proposals demonstrate, there are numerous possible ways to approach the problem.

IV. COMPOSITION AND PROCESS OF COMMISSION’S WORK

The membership of the Blue Ribbon Commission was intentionally broad and diverse, a unique blend of the widest possible demographics, interests and experience found in our Bar. The Commission was comprised of attorneys from many practice types, including private firms from very large to quite small, attorneys in the non-profit sector, and in-house attorneys. The Commission also counts among its members numerous individuals not engaged in those traditional areas of practice, including law school associate deans and professors, special interest advocates and retired judges and judiciary personnel. In addition, the members of the Commission represent a broad range of experience, spanning from those who have practiced for decades to those who are recent admittees and even included one law student, along with numerous members with long histories of service to the New Jersey State Bar Association and to the county bar associations. Finally, the Commission reflects the ethnic and gender diversity

found not only among the members of our profession, but in the larger public that the Commission sought to serve through its work.

Creating the Commission in this manner resulted, as anticipated, in a dedicated group of great diversity and varied viewpoints, but it also resulted in a large Commission whose work would have been impeded had we not immediately divided ourselves into working groups, organized along the following functional lines: Subcommittee on Bar Associations; Subcommittee on The Courts; Subcommittee on Law Firms; Subcommittee on Law Schools; Subcommittee on New and Untested Initiatives; and Subcommittee on Not for Profits.

Each of the Subcommittees was chaired by a widely-respected Commission member with deep knowledge of the area on which his or her subcommittee would focus. All of the members of the Commission were asked to join the subcommittees that represented their own areas of interest or expertise. Many Commission members joined multiple subcommittees and the Subcommittee Chairs were in close contact and communication with each other throughout their work. As a result, the Commission was not only able to draw on the considerable expertise of our members, but was also able to create a community of thought and mission through a cross-pollination of information and ideas.

Through the extraordinarily hard work and dedication of the six Subcommittees, numerous programs, initiatives and ideas were researched and evaluated. As part of their work, the Subcommittees engaged in extensive outreach to existing programs and communicated with numerous bar leaders from around the country. Each Subcommittee prepared and submitted several draft reports detailing its work and findings, culminating in the final Subcommittee reports appended to this Blue Ribbon Commission Report.

In addition, throughout the Commission's process, all members were encouraged to share with the appropriate subcommittee chair any information of which they became aware, leading to a robust flow of added ideas and information and generating a number of additional comments, suggestions and observations that were circulated to the Commission members for their consideration. These, too, are found in the Appendices.

By using this wide-ranging research and evaluation process, the Subcommittees were able to evaluate dozens of programs, initiatives, and ideas that have been proposed, attempted or implemented both here in New Jersey and elsewhere around our nation. Some were considered and rejected by the appropriate Subcommittee, or by the Commission during its regular meetings, others were embraced either in their original form or in an altered version more suitable to New Jersey. In addition, one of our Subcommittees operated as a think tank, tasked with creatively considering whether there might be a new and untested initiative that would be the most suitable choice for the Commission to recommend to the NJSBA.

A final step in the process of information gathering and analysis required that each of the subcommittees focus specifically on two components that would likely be the key for Bar leadership in considering which program or programs to adopt: (1) the role that the NJSBA would play in adopting or implementing each proposal and (2) the cost.

Armed with all of the final Subcommittee reports, the full Commission met to discuss and debate what its recommendations should be. This required two preliminary steps. First, the Subcommittees had uncovered several methods currently being used to define and measure modest means for various purposes and the final Subcommittee reports, as a result, were not uniform in their definitions or their suggestions in this regard. The Commission therefore needed

to discuss the several measurements of modest means and reach an agreement about which of the definitional criteria should be used.

Second, the variety of suggestions contained in the final Subcommittee reports was exceptionally diverse, each one with advantages and disadvantages. Therefore, the Commission needed to reach a consensus about whether to offer a menu of choices from among which Bar leadership could make its choice or to coalesce behind a single proposal or plan to report to the NJSBA as the recommendation of this Commission.

By this process of selecting the Members of the Commission, by creating a well-balanced, functioning subcommittee system, by regular meetings at which the subcommittees reported on their progress and heard input from other Commission members, and by allowing for careful consideration of the on-going subcommittee work by the full membership of the Commission, there was ample opportunity for all voices and viewpoints to be heard and all proposals to be evaluated.

V. SUBCOMMITTEE REPORTS SUMMARIES

The following are summaries prepared by the chairperson of each subcommittee. The full reports are attached as appendices.

Subcommittee on Law Firms

Working through bar associations and law schools, large law firms will contribute resources, both financial and in-kind, to low bono programs, while small firms, in many ways the backbone of the practice of law in New Jersey, will, with appropriate support from large firms, bar associations and our law schools, serve many in need who do not qualify for free legal assistance. In particular, the Subcommittee on Law Firms proposes that the New Jersey State Bar Association (NJSBA) promote and coordinate a state-wide effort to meet unmet legal need. That effort would be supported by an initial fundraising campaign directed at, among others, New Jersey's law firms. Once up and running, with personnel dedicated to this effort in place at the NJSBA, that effort would continue to

involve New Jersey law firms in ways including recruiting big firms to act as co-counsel with or otherwise provide firm resources to law school clinical programs, post-graduate residency programs, incubator programs, Attorney Provider referral panels, and/or Bar Association efforts like the Jersey Legal Assistance Program proposed elsewhere in this report. Those resources would include law firm personnel who would provide training, and act as mentors and (for non-profits) board members; it would also encompass material support ranging from office supplies and in some cases office space.

Meanwhile, small firms and solo practitioners could, with a similarly coordinated effort by the Bar Association, provide services and potentially increase their bottom lines by taking on low bono clients. In doing so, they could defray their costs by availing themselves of the training, mentorship and material resources described above, to be provided by the large firms through the NJSBA. And they will obtain clients, at least in part, through referrals from county bar associations.

In sum, it may be that large law firms in New Jersey cannot play a primary role with regard to the effort to meet the Unmet Legal that is at the heart of this discussion. But they can play a significant supporting role, acting through the Bar Association, to law school programs, non-profits and small firms which will provide actual low bono service, all as part of a statewide campaign in which the larger firms will through the commitment of financial resources, personnel and otherwise, as discussed above.

Subcommittee on Law Schools

The Law School Subcommittee reported significant work currently done at the New Jersey law schools to address the moderate and low income population's need for legal services. Rutgers Law School and Seton Hall Law School combined provide 75,000-95,000 hours of pro bono service through their existing clinics each year, thousands more hours through their pro bono programs, and another 7,000 hours through the Rutgers Law Associates post-graduate program. The Subcommittee noted that no New Jersey law school has followed the lead taken by some law schools around the country to create post-graduate incubators, citing to uncertainty of these programs to assure provision of substantial service to the target population and questions about the quality of incubators' educational component. The Subcommittee reported that Rutgers had chosen instead to expand its residency program, hoping to double its capacity by opening at its Camden location shortly.

The Subcommittee noted that the NJSBA at a minimum could enhance the existing clinical, pro bono and residency programs overall by using its platform to expose the work being conducted at the law schools to the practicing bar, which exposure might lead to new collaborations between the bar and the clinics and pro bono endeavors. The Subcommittee pointed out that using that platform to publicize the marketability of the residency program's alumni in the legal job market would likely drive more graduates to the program, allowing it to expand. But central to the Subcommittee's recommendation was direct financial support for law school efforts to expand the existing post graduate residency program and to replicate it on the other New Jersey law school campuses. Finally, the Subcommittee noted that if an improved referral system (the recommendation of other subcommittees) were to be implemented, that referral system would itself provide indirect support for the existing programs at law schools providing access to justice, as it would serve as an initial screening service, and therefore improve the efficiency of the existing intake system.

Subcommittee on Bar Associations

Low and moderate income ("modest means"), residents of New Jersey have limited to no access to legal services and the justice system, primarily due to costs. In addition, there are many unemployed and underemployed attorneys in the state, with the number growing as law students' graduate. The New Jersey State Bar Association ("NJSBA") formed a Blue Ribbon Commission (the "Commission") to evaluate how the NJSBA could facilitate access to the legal system for modest means residents and provide economic opportunities for unemployed and underemployed attorneys. This is an Executive Summary of the work and the recommendations of the Sub-Committee on Bar Associations ("SCBA") of the Commission. It is important to note that, at the outset, the SCBA discounted the use of para-professionals, concentrating only on solutions that marry unemployed attorneys with modest means residents seeking legal services.

The SCBA researched a number of different areas, including what county bar associations in New Jersey are doing with respect to lawyer referral programs, other state bar associations, legal incubator programs, a review of the American Bar Association's ("ABA") Standing Committee on the Delivery of Legal Services and a review of the preliminary work by the ABA's Commission on the Future of Legal Services. Most notably, the SCBA closely looked at the Colorado State Bar Association, which has a well developed modest means program, utilizing unemployed and underemployed attorneys. The Colorado State Bar Association's

program would serve as a good model for a program in New Jersey.

In defining modest means, the SCBA suggested utilizing the State of New Jersey Department of Community Affairs website, which provides the recent regional income limits for affordable housing. However, the SCBA recognizes that a simpler approach would be to establish a range based on the federal poverty level ("FPL"), such as 251% to 350% of the FPL. Legal services and the State Medicaid system operate within this framework.

The SCBA concluded that the NJSBA, in conjunction with the county bar associations, should develop a statewide program, similar in nature to that of the Colorado State Bar Association's Modest Means Program, marrying elements of the lawyer referral system and legal incubators. Recognizing that more work needs to be done in developing a program, the SCBA's recommendations include the following:

- Establish a task force that would sit under the NJSBA, to administer and monitor a program (or programs) for representing clients of modest means. To effect coordination throughout the State, it is recommended that all modest means programs (county, state or private/public sector) have some type of reporting responsibility to the NJSBA task force.
- Develop educational and training sessions for newly admitted attorneys on setting up law practices, which would include finances, marketing, technology, staffing, professional liability insurance, client screening, representing clients of modest means and marketing. CLEs should be offered for these sessions.
- Develop a tool kit, which would go hand-in-hand with the educational programs discussed above.
- Establish a mentoring program to assist newly admitted attorneys.
- Develop financial models and tools, for qualification of clients into the program and hourly rates in the representation of clients of modest means.
- Develop a statewide information database of attorneys who are willing to represent clients of modest means, which can

be accessed by the bar associations, state offices, the courts, legal services and attorneys.

The SCBA believes that a modest means program should be developed and administered by the NJSBA, in collaboration with the county bar associations, to afford consistency in the administration. Ongoing oversight would be by the NJSBA task force on representing clients of modest means.

There is not one solution to the problems of unmet legal needs and the rising numbers of unemployed lawyers, primarily new graduates from law school. Rather a number of programs may need to be put in place, including law school and law firm incubators, with oversight and coordination by a NJSBA task force to afford consistency and avoid duplication.

Subcommittee on Not for Profits

The New Jersey State Bar Association (NJSBA) will recruit unemployed/underemployed lawyers and then assess these lawyers for selection to a newly-created "Attorney Provider" referral panel. The NJSBA will also screen potential clients for financial eligibility, determine the general subject matter of the clients' concerns and refer the clients to the appropriate not-for-profit law offices which specialize in the relevant subject matter areas. The not-for-profit law offices will then screen the cases for merit, refer meritorious cases to the Attorney Provider referral panel and act as "Sponsors" which supervise the Attorney Providers' work on behalf of the clients.

Necessary Steps to Establish Program

1. Establish client income eligibility.
2. Determine types of cases to be handled.
3. Develop parameters for both the attorneys who will provide services ("attorney providers") and the not-for-profit law offices, individual attorneys, firms, and law schools which will train and supervise the attorney providers ("sponsors").
4. Create the precepts for the reduced-fee arrangements (cost to clients and payment to attorney providers).
5. Recruit and screen Attorney Providers to become members of a reduced-fee panel.
6. Determine availability of malpractice insurance for Attorney Providers.
7. Recruit Sponsors.

8. Determine methods for case screening and referral by New Jersey's not-for-profit law offices.
9. Raise funds for program (individual contributions and foundation grants).
10. Market program.

Subcommittee on New and Untested Initiatives

Many lower-middle income New Jerseyans have pressing legal needs but no access to an attorney. It is a strange Catch-22: people caught in the "justice gap" make too much income to qualify for free legal assistance, but not enough to afford to hire a lawyer. These folks represent a huge untapped client base - if a model can be developed to serve their needs.

The New Jersey State Bar Association (NJSBA) could do an immense service to the public and profession by bringing together people in the justice gap, and lawyers who are unemployed or underemployed, particularly young lawyers. To do so, the NJSBA (or New Jersey Bar Foundation) should create a legal clinic ("Clinic"), a law practice serving lower-middle-income clients.

- A. Lawyers - To start, Clinic should be staffed by 5 - 10 attorneys - new graduates, clerkship alumni and lawyers in transition. Clinic can recruit lawyers by working with regional law schools, the judiciary (for clerks), and appropriate NJSBA sections (for lawyers in transition).

Lawyers' work for Clinic would be somewhat project-based. Lawyers would be assigned to cases as they come in. At least at first, the work would probably be part-time.

- B. Mentors - Clinic would require mentors of two sorts. First, practicing attorneys would volunteer perhaps a few hours a month to conduct trainings on specific topics, e.g., how to obtain a temporary restraining order, or how to defend against an eviction. It would also be very helpful to have practicing attorneys on call, to occasionally answer questions or talk through issues.

Second, Clinic needs mentors who can devote more time to supervising attorneys, being in the office when Clinic is in session and guiding lawyers as they

practice. The ideal mentors for this would be retired attorneys and judges, or a combination thereof.

New lawyers need to learn the formal demands of practicing law - proper legal writing, court procedure, etc., and retired judges would be perfect for that. New lawyers also need to learn the pragmatic realities of practice - client management, billing, etc., and retired attorneys would be perfect for that. Ideally, these more hands-on mentors should be willing to volunteer perhaps two days a week.

- C. Clients - Clients should have limited income. An appropriate range would be 251 - 400% of the federal poverty level (FPL). In 2015, 400% FPL is \$63,720 for a two-person household. (This is the cutoff to receive Affordable Care Act health insurance subsidies.)

Clinic should serve clients on matters that are simple enough for new attorneys to handle, and that are likely to be resolved quickly. Appropriate matters may include landlord-tenant (eviction, housing law violations); domestic violence (temporary restraining orders); municipal court, small claims court and special civil part matters; and possibly simple wills and simple business matters (incorporation).

- D. Fees - Clients would pay \$50 - \$75 per hour, with a sliding scale based on income. Perhaps \$40 of this would be paid to the lawyer, with the rest covering Clinic's costs.
- E. Referrals In - Legal Services and other non-profit organizations may be willing to refer clients with incomes too high to qualify for free service. The court system may also be a source of referrals, and NJSBA could advertise Clinic. Opening a storefront in a mall may also be a way to reach under-served clients, although there may be issues with that.
- F. Referrals Out - Clinic may encounter people who make too much money to qualify for Clinic's services, or whose cases are too complex for new lawyers to handle. For these folks, Clinic can make referrals to the appropriate county bar association, which could help foster a closer working relationship between the state and county bars.

- G. Office Mgmt. - Clinic should have a long-term staff office manager, to do things like accounting, taxes and managing money as it gets paid in and out. Clinic could hire a staff member part-time, or perhaps a current NJSBA staff member would be willing to serve in this role, with pay from Clinic.
- H. Malpractice - Clinic could likely get insurance through NASPPG, which insures many legal pro bono organizations. Insurance for lawyers and supervisors might be around \$10,000.
- I. Conclusion - The goal of Clinic is to create a sustainable model for professional associations and other private organizations to serve people of moderate income who fall into the "justice gap."

If the program outlined above is too ambitious or hands-on, Clinic could also work as an incubator. Lawyers starting their own firms would get referrals, supervision and other support, in exchange for serving Clinic clients at a reduced rate.

Mentorship and supervision are key elements of this project. New lawyers need someone to teach them how to practice law. In addition to helping the public, this project is an opportunity to help the profession by putting underutilized legal talent to work and training the next generation of lawyers. As a bar association, we must not squander that opportunity; whatever solution this commission recommends should include supervision and mentorship.

If Clinic succeeds and becomes profitable, we will have created a scalable model that can be replicated across the country. NJSBA will have an answer to the question of how the legal sector can better serve the public within the existing system. It will also be a boon to our state, our profession and the public, reducing unemployment, improving quality and creating access to justice for people who currently fall through the cracks.

Subcommittee on The Courts

The Subcommittee on the Courts recommends a referral program developed through a partnership of the Courts and the New Jersey State Bar Association that will complement other innovative programs the Commission is considering. The goal is to provide a website to facilitate the initial contact between the income-eligible client and a qualified and insured attorney who has agreed to bill at

a rate fixed and significantly below market level. Attorney-participation would be on a voluntary basis.

Incubators and fellowship models will not likely have the ability to meet the needs of all moderate-income clients in the immediate future. A referral program can help: by permitting experienced and insured attorneys to serve one or more qualified clients at a reduced hourly rate; by giving retired attorneys and judges an opportunity to supervise or mentor participants; and by pre-screening for income eligibility, which will free participating attorneys (including those serving in incubators and fellowship programs) for legal work.

The subcommittee recommends the following:

- A. Client eligibility should be based on a moderate-income range that accounts for the number of dependents and is capped at a percentage above the Federal poverty guideline as defined by the United States Department of Health and Human Services each year.
- B. Consideration should be given to providing modest CLE credit for new attorneys who participate and for senior lawyers who supervise them, as well as some reduced form of pro bono credit.
- C. The program should begin with a limited group of case types based on need – for example, specific types of Family Part, Small Claims and Landlord Tenant cases.

Finally, while the cost of the referral program should be minimal, the subcommittee recommends the hiring of a full-time staff member to review applications for completeness and eligibility, respond to questions from members of the public, collect and maintain data and be responsible for the day-to-day operation of the program.

VI. SUBMISSIONS AND PROPOSALS

In addition to the formal reports of the six Subcommittees, the Commission received and considered several other submissions and proposals which are summarized as follows:

Legal Services of New Jersey

Legal Services of New Jersey proposed a 4-page overview and recommendations of key elements and program details for a reduced fee plan. To summarize, the new reduced fee program should contain the following key elements: (1) be realistic in scope and carefully tailored to avoid duplication of existing services and resources and any unnecessary expense; (2) not disrupt the existing Legal Services delivery systems and cause unnecessary confusion to the public; and (3) accept that no public funding is available, or should be used for, a reduced fee plan.

The reduced fee assistance program details must include:

- client financial eligibility criteria (set at parameters that do not overlap with the provision of free civil legal assistance to low-income people at 250% of the federal poverty level or lower);
- parameters for membership in the attorney provider panels;
- parameters for the reduced fee arrangements (sliding scales at rates based on the client's income which increase the likelihood that applicants can secure an attorney); and
- a process for referral and screening of clients by not-for-profit legal assistance organizations such as the LSNJ Hotline (which is the optimal role for non-profit legal assistance organizations).

The new reduced fee program should not include, at least at the outset, a requirement of outside supervision, oversight or evaluation of participating attorneys. Doing so will likely increase costs, duplicate the current judiciary disciplinary system, potentially impede attorney interest in enrollment, and likely inhibit implementation.

ABA Proposal

Although not separately submitted, the Commission became aware of a proposal being studied by the ABA, which would create Legal Service Providers (LSPs), a new category of licensed non-attorneys who might assist with meeting currently unmet legal needs. The full Commission debated this proposal and concluded that it would be a wholly inappropriate

approach for New Jersey where there are so many fully qualified members of the bar who can and would meet the needs of the modest means population were their expertise and availability made known.

Student Loan Forgiveness

Our law student commission member pointed out that attracting newly admitted attorneys to freestanding modest means practices will be hampered by the heavy weight of their student loans. She identified student loan reduction or forgiveness programs targeted at teachers and physicians and suggested that NJSBA champion legislation to extend similar benefits to lawyers.

Unifying Graphic

No presentation of the scope of the Commission's work would be complete without reference to the graphic prepared by Commission member Eric Thies that sought to unify as many of the proposals as possible and is also attached.

VII. RECOMMENDATIONS OF THE COMMISSION

The recommendations of the Commission are designed to mobilize an army of underutilized attorneys, to equip them with substantive and procedural education, to provide guidance which draws upon the great wealth of experience found in volunteer bar members and retired judges and to cast a wide net to draw in and match them with our fellow citizens of modest means whose need for qualified legal representation now goes unmet.

A. The first task of the Commission was to define "modest means" in order to identify the clients who are the focus of its work. Various subcommittees proposed income limits and drew the Commission's attention to models utilized in other jurisdictions or for other purposes in New Jersey. Many of the proposals relied on differing formulae based upon federal poverty line (FPL) criteria. The differences among them essentially focused on the range and cap to be applied. The subcommittees drew upon a variety of resources for their FPL proposals

including programs operated by Bar Associations around the country, law schools and other non-profit organizations.

Other proposals relied on COAH and HUD guidelines, as well as indigency standards utilized by the Courts. The LSNJ proposal, which the Committee ultimately adopted, was designed to ensure that “modest means” representation picks up where LSNJ and similar providers cut off. This translates into utilizing a lower limit of 251% and an upper limit of 350% of the FPL. The 350% FPL cap is evidentially based on the Fifth Report of the LSNJ Poverty Research Institute Real Cost of Living Series. The most recent Real Cost of Living study revealed that above 350% of FLP, taking into account different family compositions and places of residence, very few families were deprived of the basic essentials of life. For example, that report found that the real cost of living for a family of four in New Jersey is between \$64,000 and \$74,000 (depending on county and family composition) or 322% of the FPL.

Having established the range, the Commission then debated how to arrive at a net income figure. Both LSNJ and the Not-for-Profit Subcommittee suggested deductions which were basically similar: taxes, child support, extraordinary health costs, disability related expenses, seasonal income variations and extraordinary expenses necessary merely to sustain the essentials of life. Those were adopted by the Commission along with a limit on available liquid assets of \$10,000. The Commission also recommended a fail-safe provision allowing any determination of “modest means” to take into account “any other circumstances relevant to the issue of qualifications for service.”

B. On the merits, the Commission’s analysis of the many proposals revealed a number of themes common to different subsets of the Subcommittee reports and an intriguing idea emerged. The Commission therefore turned its attention to whether it could devise a

proposal that utilized as many of the common themes as possible, weaving them into an integrated whole. Moreover, the question arose whether the Commission could do so in a fashion that directly addressed both of the core constituencies identified by the NJSBA leadership in its Charge. However, the entities engaged in screening potential clients for financial eligibility will need to confer and take steps to ensure accurate and uniform screening procedures and a common understanding of how the screening criteria are to be applied.

As a result, a proposal emerged that would work to directly marry underutilized attorneys with persons of modest means. The proposal, which has several facets, draws on existing strengths and, to a certain extent, existing resources. Although one might describe the proposal as a referral service or a clearinghouse, it is far more than that implies.

First, we know that many providers of legal services to the poor find themselves either turning away individuals whose income exceeds their guidelines or whose needs exceed their resources. As an example, LSNJ and other non-profit providers routinely turn away many individuals whose income or resources, while modest, disqualify them from assistance. Similarly, the Rutgers program, which is largely designed to focus on people of modest means, lacks sufficient resources to serve all of the people who seek its help.

All of these programs, however, could be part of a gateway to the NJSBA program, pre-screening and referring individuals who they cannot serve. Partnering with these existing programs would ensure NJSBA that its program supplements and does not supplant the core mission of LSNJ or any existing provider in any fashion.

Relying on referrals from these existing programs would make the screening of clients more cost-effective, and would be a first step in creating a program that would more completely meet the goals of the NJSBA. But that is not enough because, in some sense, it would amount to

focusing only on people who turn to those organizations or on their overflow, thereby overlooking and excluding the large number of individuals who do not do so. Some of these individuals may recognize that they would not qualify for any of these programs, while others might simply hope that they can rely on self-representation tools as a substitute for legal advice and counsel. Reaching these individuals will require efforts beyond the known existing pool of persons not currently served. There are several possible outreach initiatives that might be effective. They include outreach through the NJSBA website and the Judiciary website, where many people now turn for assistance in representing themselves, targeted publicity campaigns aimed at interest groups, notice in public places on which people rely for information such as libraries or courthouses and providers of services to people of modest means other than legal services.

The proposal envisions that the NJSBA would create a multifaceted operation to match individuals who meet the eligibility criteria with qualified but underutilized attorneys. This requires identifying and attracting to the program a pool of attorneys who will be serving the people of modest means. In order to create a successful program, the attorneys will also need assistance and support.

As with the element of the program that relates to identifying and screening persons of modest means, there are a variety of steps entailed in finding the attorneys to participate in the program. Indeed, there are many lawyer referral services in New Jersey, most of which rely on attorneys who have chosen to participate and who are permitted to limit the practice area in which they are interested in receiving referrals. This self-selection model is relatively simple to administer, with the referral entity, typically a local bar association, making no inquiry into the qualifications or experience of the attorney participants. That is not the approach we envision.

Instead, the NJSBA program will provide training and support to the attorney participants, some of whom we anticipate will be relatively recent graduates of law schools, some of whom may be embarking on solo careers for the first time, and some of whom may be seeking to expand existing practices by moving into new substantive practice areas. Most, if not all, of these attorneys will face challenges and will need assistance as they seek to meet the needs of the target population.

For example, the pool of persons of modest means may have legal problems that are heavily concentrated in a particular subject area, such as landlord-tenant disputes, family issues or Special Civil Part issues. However, not every attorney who might elect to participate in providing representation at reduced rates will automatically be skilled in these practice areas.

In order for the program to be effective, attorneys must be able to perform the services efficiently, because there is no benefit to requiring attorneys to charge a modest hourly rate if the number of hours they need to perform the work is excessive due to the attorney's lack of experience. Merely relying on self-selection, therefore, will fall short, making training and assistance critical to the program's success.

There are non-profit agencies that have solved the experience gap by offering free training in a given subject matter, in exchange for an attorney's agreement to take on a fixed number of matters on a pro bono basis. This model ensures that the attorney has been trained in the specific area of the law and provides a significant level of certainty that the matter will be handled appropriately. Certainly, the NJSBA could offer CLE classes, in the substantive law areas identified as those with the greatest need, at no cost to the attorneys who participate in the modest means program and require completion as a prerequisite to their participation.

But subject matter expertise is not the only assistance that attorneys undertaking representation of persons of modest means are likely to need. As Dean Rothman's experience in establishing the program at Rutgers has demonstrated, lawyers starting out often need training and support in a wide variety of other topics, including all of the nuts and bolts associated with law firm economics. If the NJSBA program is to succeed, this too will need to be provided to the attorneys who participate.

During the Commission's deliberations, the Subcommittee on the Courts reported that there are many retired judges who are eager to offer mentoring and guidance to the participants, providing a readily available pool of experienced mentors to the participating attorneys at no cost. In addition, as demonstrated through the work of the Subcommittee on Law Firms, the NJSBA membership is rich with experience on which it could draw for assistance to the program. As a further possibility, the Subcommittee on Bar Associations reported on a handbook created by the Wisconsin Bar which serves as a step by step how-to manual for attorneys participating in its referral program.

As the Commission envisions this initiative, it will have all of the following elements:

There must be a process to identify people of Modest Means. Initially, they can be identified through existing programs that turn them away because they exceed income guidelines or because the program lacks sufficient capacity to serve them. It is likely that people will soon seek assistance directly from the NJSBA. Once the program is established, there should be sufficient capacity to assist more individuals, at which time outreach efforts should be initiated. These efforts should include use of the NJSBA website, arranging for assistance of the court system and its resources, outreach to community groups and locations where people turn for assistance including senior centers, libraries and nonprofit providers of services to populations

that, ordinarily, include people of modest means, all of which can assist in publicizing the program.

There must be a mechanism to screen people for initial and continuing eligibility. Initially, the NJSBA can rely on referring agencies for this purpose, but as it can be expected that others will soon learn of the program, a simple screening tool like the ones used by LSNJ or the Rutgers program must be developed and a staff member at NJSBA must be tasked with performing the screening function.

There must be a process to identify attorneys who might be willing to represent people of modest means. This can be accomplished by raising awareness of the success of the program at Rutgers in demonstrating that modest means representation can be a self-sustaining practice niche, offering assistance and encouragement, including relevant CLE programs at no cost, and providing mentoring from other members of NJSBA or retired judges.

The NJSBA currently has a large and active section devoted to solo practitioners and small firms which should be the first group approached. In addition, NJLAP offers a variety of programs for lawyers in transition, many of whom might have the interest and the ability to participate in the program. Further, the NJSBA can interface with career service offices at our New Jersey law schools and can spread the word about the program at swearing in programs for new admittees.

If, as we anticipate, a large pool of qualified attorneys can be identified, NJSBA may be able to turn feasibility into reality by bringing them together to engage in office or staff sharing or to participate in group malpractice or health insurance coverage.

There must be a method to ensure that the attorneys understand and agree to the terms of their participation in the program. This will require that NJSBA fix criteria for hourly rates,

sliding scales or flat fees that can be charged, either generally for modest means clients or which will vary based on the case type involved. The attorneys will be required to certify to their compliance. In addition, it will require the NJSBA to identify the prior experience level or the basic training needed for participation in cases in the selected subject areas, with referral contingent on successful completion of any training that is needed. In addition, the NJSBA will need to arrange for cost-effective legal malpractice insurance through NASPPG or similar providers for those attorneys who are not already insured, thereby providing an essential safety net for the protection of the public.

There must be a method to join individuals in the two groups, people with modest means and willing attorneys with each other. This will require the creation of a database of individuals and attorneys, each identified and sorted by relevant criteria including case type and home county, as well as the creation of telephone or website access to the personnel at the NJSBA who will make the matches and alert individuals and attorneys of the match. Initially, this can be centralized in the NJSBA, but as the program grows, it is likely that County Bar Associations will take on some or all of the work in partnership with or independent of the NJSBA.

Finally, there must be a funding source. Until the NJSBA decides how it will proceed on this proposal, identifying particular funding needs or possible sources is not practicable. Potential resources include finding support from the bar in the same way that attorneys have responded to other appeals for assistance; from one or more of New Jersey's large law firms that might embrace the proposal and lend support; from partial self-funding through a small assessment on participating attorneys; or through accessing grants or similar funding streams available from private or governmental sources, with the caveat that any government aid not be taken from funds designated or available for legal assistance to low-income individuals and families.

VIII. CONCLUSION

These are bold concepts. It will fall to the NJSBA to determine how to bring them to fruition. It may be that the NJSBA will create the program in full in one fell swoop. Or it may choose to put its proverbial toe in the water by way of a pilot program carefully designed to assess its viability in a variety of geographic locations reflective of the great diversity of the needs of persons of Modest Means and the availability of participating attorneys. Either way, the work for the NJSBA will be daunting, including creating a client screening methodology; a lawyer data base; mandatory substantive education programs, nuts and bolts training; assuring malpractice coverage; liaising with local county bar associations; establishing a mentoring program and an oversight scheme and addressing what, if any, potential liability the NJSBA might incur from a dissatisfied Modest Means client. There are models in other states that can be referenced, but in the end it will be uniquely the program of the NJSBA constructed from the ground up with the particularized needs of our citizens and the great talents of our attorneys as its polestar.

IX. APPENDIX

A. Final Subcommittee Reports

1. Bar Associations
2. Courts
3. Law Firms
4. Law Schools
5. New and Untested Initiative
6. Not for Profits

B. Submissions and Proposals

1. Legal Services of New Jersey
2. American Bar Association
3. Student Loan Forgiveness
4. Unifying Graphic

APPENDIX A
FINAL SUBCOMMITTEE REPORTS

APPENDIX A.1
BAR ASSOCIATIONS

NEW JERSEY STATE BAR ASSOCIATION
BLUE RIBBON COMMISSION ON UNMET LEGAL NEEDS
REPORT OF THE SUBCOMMITTEE OF THE BAR ASSOCIATION

INTRODUCTION

In December of 2014, then President, Paris Eliades of the New Jersey State Bar Association ("NJSBA"), formed a Blue Ribbon Commission (the "Commission") to evaluate unmet legal needs. Low and moderate income (also referred to as modest means) residents of New Jersey have limited to no access to legal services and the justice system, primarily due to costs. In addition, there are many unemployed and underemployed attorneys in the state, with the number growing as law students' graduate. The Commission was tasked with how the NJSBA could facilitate access to the legal system for low and moderate income residents and provide economic opportunities for unemployed and underemployed attorneys. The subcommittees were tasked at looking into programs or initiatives being done; how do you identify and reach people with unmet needs and any recommendations for a program or programs marrying people with unmet legal needs and unemployed (or underemployed) attorneys. This report represents a summary of the work and the recommendations of the Sub-Committee on Bar Associations ("SCBA") of the Commission.

RESEARCH

The SCBA, after reviewing the materials provided by the NJSBA, researched a number of different areas, including what county bar associations in New Jersey are doing, other state bar associations, legal incubator programs, a review of the American Bar Association's ("ABA") Standing Committee on the Delivery of Legal Services and a review of the preliminary work by the ABA's Commission on the Future of Legal Services. The website for the ABA's Standing Committee on the Delivery of Legal Services

(http://www.americanbar.org/groups/delivery_legal_services.html) contains a wealth of information from law schools and bar associations around the country on unmet legal needs, unemployment in the legal profession and legal incubator models, which may prove invaluable as this Commission formulates its final recommendations. It is important to note that, at the outset, the SCBA discounted the use of para-professionals, concentrating only on solutions that marry unemployed attorneys with low and moderate income residents seeking legal services.

DEFINITION OF MODEST MEANS

Throughout our review and research, the term modest means is frequently used but rarely defined. Of course what categorizes a person's level of income is dependent on where they live. In reviewing what may be applicable for New Jersey, categories of income limits can be found on the State of New Jersey Department of Community Affairs website, which provides the recent regional income limits, which has been attached to this report. This should serve as a useful tool in defining low and moderate income residents who are unable to afford legal services or are ineligible for legal services.

(see: <http://www.nj.gov/dca/services/lps/hss/adminresources.html>)

LAWYER REFERRAL PROGRAMS

A staple among a majority of county bar associations, and some state bar associations, is the lawyer referral program. Indeed, all twenty-one county bar associations in New Jersey have lawyer referral programs. The NJSBA will direct people seeking a referral to the county bar association's referral program in which they reside. The NJSBA does not have its own lawyer referral service. Many of the New Jersey county bar programs offer a reduced fee for an initial consultation with a licensed attorney, leaving the fees for representation up to the attorney and client. Other bar associations charge the person seeking assistance, a nominal fee to be given

several names of attorneys. Still other associations require the attorneys in the program to offer reduced fees throughout the representation. While a lawyer referral program is a service to both the residents in a county and the lawyers practicing in that county, it may also serve as an income stream to that county bar association; by charging attorneys to join the lawyer referral program, or pass back a portion of the fee or award, and/or charging the resident seeking the referral a fee.

However, some lawyer referral programs, both county and state bar programs, do have services for modest means clients. An example of one such program is the Oregon State Bar Modest Means Program. This program is a reduced-fee referral panel designed to make certain legal services (Landlord-Tenant, Foreclosure, Family Law, and Criminal Defense) accessible to lower-income people who are otherwise ineligible to receive help through legal aid. Attorneys in the program agree to charge no more than \$35 for an initial half-hour consultation, and no more than \$60, \$80 or \$100 per hour (depending upon the applicant's income and assets) for any additional services. Potential clients are required to submit an application to the State Bar who will screen for eligibility, determine which tier the client falls in and then send to an attorney on the panel. (see: <http://www.osbar.org/ris> for additional information on the program).

Several county bar associations in Colorado have similar programs as components to their pro bono programs. For example, the El Paso County Bar has a modest means referral program. Attorneys who are willing to accept modest means clients agree to charge no more than \$125 per hour for any services and may assess a fee of \$40 for an initial consultation. The client may be asked to pay a retainer of no more than \$750. (see: <http://www.elpasocountybar.org/legal-resources-for-the-public/modest-means-program/>).

BAR ASSOCIATION LEGAL INCUBATOR MODELS

There are a number of innovative programs around the country, most notably, legal incubator programs. The first incubator was established at the City University of New York over a decade ago. Essentially, legal incubator programs train newly-admitted attorneys who are interested in starting their own firms, ensuring they have the necessary skills to launch successful practices. The attorneys get guidance on the basics, including business and marketing, allowing them to provide affordable legal services to underserved communities as well as pro bono hours.

Changes in the economy, together with an increase in the number of law school graduates who are unable to find jobs, has led to the expansion of legal incubators and the creation of similar models by both law schools and bar associations. At least twenty-three states, including New Jersey, have legal incubator type programs, with other states, law schools and bar associations researching the issues and models. New Jersey's legal incubator program was established and is run by Rutgers University School of Law.

One of the programs that this Committee reviewed and found very useful, came from the Colorado Bar Association ("CBA"). In 2012, the CBA established a Modest Means Task Force (see: *CBA Modest Means Task Force 2013 Report*, by Daniel M. Taubman and John S. Zakhem, *The Colorado Lawyer*, November 2013, Vol. 42, No. 11, page 103). However, the CBA has been studying access to justice issues since at least 2004. The goal of the CBA Task Force was to develop tools which would assist attorneys in establishing a successful, financially viable practice which incorporates assisting clients of modest means access the legal system.

The CBA Task Force formulated a comprehensive set of recommendations designed to assist attorneys who incorporate into their practice the representation of modest means clients. The result includes:

- a comprehensive tool kit, available in hard copy and online, to help attorneys establish a practice to include the representation of modest means clients, which will be distributed to bar associations across the country;

(see: <http://www.cobar.org/index.cfm/ID/22688/CLPE/Representing-the-Moderate-Income-Client/> to obtain a copy of the handbook).

- business planning software to enable attorneys to determine what hourly rates they need for modest means clients;
- developing a component of the Colorado Attorney Mentoring Program (CAMP) for attorneys representing modest means clients;
- an annual training program, in conjunction with the CLE program in Colorado, on modest means representation;
- developing an attorney information database through the statewide offices of self-represented litigant coordinators, to provide lists of attorneys willing to represent modest means clients;
- establishing a listserv for modest means attorneys in Colorado; and
- presenting the tool kit and other ways to provide modest means representation to bar associations and other groups. (*CBA Modest Means Task Force 2013 Report*, by Daniel M. Taubman and John S. Zakhem, *The Colorado Lawyer*, November 2013, Vol. 42, No. 11, page 103-104).

Following the publication of their recommendations, the CBA Task Force continued its work with the thought of adding representation from the law schools to address the additional issues of law school incubators and loan repayment options for attorneys representing modest means clients.

RECOMMENDATIONS OF THE SCBA

After reviewing the research, the SCBA felt one potential solution is that the NJSBA, in conjunction with the county bar associations, should develop a statewide program, similar in nature to that of the CBA Modest Means Program. This program would marry some of the elements of the lawyer referral system and aspects of the legal incubators. Recognizing that more work needs to be done in developing a program, our recommendations are as follows:

- Establish a task force that would sit under the NJSBA, to administer and monitor a program (or programs) for representing clients of modest means. To effect coordination throughout the State, it is recommended that all programs (county,

state or private/public sector) have some type of reporting responsibility to the NJSBA task force.

- Develop educational and training sessions for newly admitted attorneys on setting up law practices, which would include finances, marketing, technology, staffing, professional liability insurance, client screening, representing clients of modest means and marketing. CLEs should be offered for these sessions.
- Develop a tool kit, which should go hand-in-hand with the educational programs discussed above.
- Develop financial models, dependent on income level and county of residence, for hourly rates (tiered) in the representation of clients of modest means.
- Establish a mentoring program to assist newly admitted attorneys. As an added incentive to encourage seasoned attorneys to volunteer for mentoring, the New Jersey Commission on Professionalism unanimously approved the granting of CLE credit for mentor-attorneys who will do mentoring, which was then unanimously approved by the MCLE board. The Commission on Professionalism and the MCLE board have asked the Morris County Bar Association to develop such a program, which is now in process. In turn, this should be a program that is offered statewide.
- Develop a statewide information database of attorneys who are willing to represent clients of modest means, which can be accessed by the bar associations, state offices, the courts, legal services and attorneys. Not only will this provide a statewide list of attorneys who are willing to represent modest means clients, but it will also serve as a resource to individuals likely to come in contact with people of modest means (legal services, state offices such as welfare and Human Services, court offices).
- Work with the county bar associations to expand their lawyer referral services to include the program for clients of modest means, in coordination with the NJSBA.
- Potential costs: Based on the Committee's recommendations, this proposal does not come without costs to the NJSBA. It is envisioned that at least one full time employee, with additional staff support, would be needed to oversee the program. In addition, there are costs associated with developing and doing training, developing a tool kit and the database. Initial costs, for the first year, including staff, could approximate \$250,000 (this is a guesstimate). However, some of the costs could be recouped through the sale of the toolkit and training programs.

Our Committee believes that the program should be uniform throughout the state, to afford consistency in the administration. Therefore, this program should be developed and administered by the NJSBA, in collaboration with the county bar associations. Ongoing oversight would be by the NJSBA task force on representing clients of modest means.

It is the opinion of the SCBA that there is not one solution to the problems of unmet legal needs and the rising numbers of unemployed lawyers, primarily new graduates from law school. Rather a number of programs may need to be put in place, including law school and law firm incubators, with oversight and coordination by a NJSBA task force.

Respectfully submitted,

Linda W. Eynon, Esquire
Chair, Sub-Committee on Bar Associations

Committee members: Tim Anderson
David Wolfe
Thomas Quinn
Eric Thies
Mark Wechsler

APPENDIX A.2
COURTS

**NEW JERSEY STATE BAR ASSOCIATION BLUE RIBBON
COMMISSION ON UNMET LEGAL NEEDS**

SUBCOMMITTEE ON THE COURTS

The Commission on Unmet Legal Needs is addressing two problems: 1) a lack of legal services affordable to individuals with moderate income (too much to be indigent and too little to pay market-rate fees); and 2) the underemployment of newly admitted attorneys and experienced attorneys in transition.

The Subcommittee on the Courts recommends a referral program developed through a partnership of the courts and the bar. The goal is to provide a website facilitating the initial contact between an income-eligible client and a qualified and insured attorney who has agreed to bill at a rate fixed significantly below market level.¹

The referral program will complement other innovative programs the Commission is considering. There are two models, and both provide resources for underutilized lawyers — from office space and legal materials to mentors and supervisors. The first, incubators (hosted by law schools or bar associations in other states) are for newly admitted and transitioning attorneys; the attorneys each start a practice serving moderate-income clients. The second, is a fellowship program for select graduates established at Rutgers Law School in Newark; the fellows practice as members of the program's firm, serve only moderate income clients, bill at a fixed, reduced, hourly rate, \$50, and receive a stipend.

Incubators and fellowship models will not likely have the ability to meet the needs of all moderate-income clients in the immediate future. A referral program can help: by permitting experienced and insured attorneys who are interested in improving access to justice to serve one or more qualified clients at a reduced hourly rate; by giving retired attorneys and judges an opportunity to supervise or mentor participants²; and, by pre-screening for income eligibility, which will free participating attorneys (including those serving in incubators and fellowship programs) for legal work.

OUTLINE OF THE FRAMEWORK FOR A REFERRAL PROGRAM.

A. Client Eligibility Based on Income.

¹ Both have experience maintaining lists — several county bar associations maintain referral lists and the courts keep pro bono and mediation rosters.

² The Board of the Retired Judges' Association has expressed interest and enthusiasm for participating in such endeavors and intends to disseminate information to its members for review and approval when the Commission approves a Final Report.

The Subcommittee recommends a moderate-income range that accounts for the number of dependents and is capped at a percentage above the Federal poverty guideline as defined by the U.S. Department of Health and Human Services each year.

The New Jersey Courts' Guideline for Indigent Defense Services caps income eligibility at 125% of Federal Poverty Guidelines, which vary with number of dependents. The Guideline for 2014 is available on the Courts' Info net and is reproduced here.



2014
Income Eligibility Guidelines for Indigent Defense Services

This table should be used to determine indigence for appointing a Public Defender.

Data reflect 125% of the Federal poverty guidelines as defined by the U.S. Department of Health and Human Services

Household Size	One	Two	Three	Four	Five	Six	Seven	Eight
Annual Gross Income	\$14,587.50	\$19,662.50	\$24,737.50	\$29,812.50	\$34,887.50	\$39,962.50	\$45,037.50	\$50,112.50
Monthly Gross Income	\$1,215.63	\$1,638.54	\$2,061.46	\$2,484.38	\$2,907.29	\$3,330.21	\$3,753.13	\$4,176.04
Weekly Gross Income	\$280.53	\$378.13	\$475.72	\$573.32	\$670.91	\$768.51	\$866.11	\$963.70

* If the household size exceeds eight, add \$5,075.00 gross income per year, \$422.92 per month, or \$97.60 per week for each additional member of the household.

Source data: Annual Update of the U.S. Department of Health and Human Services Poverty Guidelines
Federal Register, Vol. 79, No. 14, January 22, 2014, pp. 3593

Moderate-income legal referral programs established in other states also cap eligibility at a percentage above the Federal Poverty Guideline.

Washington State Bar Association's Moderate Means Program — 200 to 400% of the Federal Poverty Guideline, 200% is \$23,340 for an individual and \$46,680 for a family of 6 and 400% is \$63,940 for an individual and \$127,880 for a family of 6.

The New Haven County Bar Association's "Modest Means Reduced Fee Referral Program" — 250% of the Federal Poverty Guideline, which is \$29,175 for an individual and \$100,225 for an 8-person family.

Both the Washington and New Haven Bar Associations clearly state the eligibility requirements on their respective websites.

The Rutgers Fellowship Program uses Council on Affordable Housing Guidelines for moderate-income housing. COAH's regulation, in conformity with its purpose, accounts for the cost of housing in the area as well as family size. N.J.A.C. 5:97-1.4 defines "Moderate income" as "more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the household is located, based upon the U.S. Department of Housing and Urban Development's (HUD's) Section 8 Income Limits (uncapped) averaged across counties for the housing region." A copy of the COAH guidelines, which vary among five regions of the State, is provided as a separate document. The Subcommittee is not inclined to recommend use of the COAH guidelines.

B. Fixed reduced-rate for hourly services. The subcommittee is inclined to recommend a reduced, hourly rate fixed at \$50 - the Rutgers rate. Rutgers also requires a retainer, generally between \$1000 and \$2000, based on an assessment of the work involved and the client's ability to pay.

The New Haven County Bar Association's program fixed its hourly rate at \$60 with a \$500 retainer payable "up front."

In contrast, The Washington State Bar Association's websites advises that attorneys participating in the moderate means program will work with clients who do not qualify for free legal representation in fixing a fee lower than the attorney's normal rate. The WSBA website includes the following recommended, but not mandated, rate reduction:

Client income 200–250% Federal Poverty Level (FPL): reduce fee by 75%

Client income 250–350% FPL: reduce fee by 50%

Client income 350–400% FPL: reduce fee by 25%

Members of the Commission have expressed interest in considering a fixed rate that slides with the client's income. That could be accomplished by altering the fixed fee with the percentage in excess of the FPL.

C. The Attorney Participants.

1) Attorney-participation would be by voluntary registration. Attorneys who are eligible to practice in this state and carry malpractice insurance could participate. A registration fee could be used to support the website.

2) Attorneys would be permitted to limit their participation: by agreeing to provide representation in a limited number of practice areas; by committing to provide service for a specified number of hours, absent assumption of responsibility for a trial; by committing to handle a specified number of cases; or by a combination of the foregoing.

D. Client Application and Screening for income eligibility.

- 1) The referral program's website should clearly announce the eligibility requirements and fee schedule and indicate that proof of income is required.³
- 2) The referral program's website should include a link to the application.
- 3) To the extent the referral program is limited to particular types of litigation or court cases, the website should make that clear and the application should elicit pertinent information.
- 4) To streamline the screening process and relieve participating attorneys of the burden, screening of applications should be done prior to referral.⁴

E. Encouragement of attorney participation.

Appeals to professionalism by the bar associations and the courts, some modest CLE credit for new attorneys who participate and for senior lawyers who supervise them, and some reduced form of pro bono credit could be considered.

The Washington Bar Association's website lists the following incentives for participation:

Benefits to Participants

- Obtain free referrals to help build your client base.
- Learn new skills and expand your practice areas.
- Provide public service and help close the access to justice gap.
- Attend free CLEs or low-cost online trainings/CLEs.
- Gain increased access to mentoring and peer support opportunities.

F. Starting this program on a small scale.

The subcommittee is inclined to recommend that the program begin with a limited group of case types based on need — for example, specific types of Family Part, Small Claims and landlord tenant cases. In selecting case types, consideration should be given to needs already filled through existing organizations, including Volunteer Lawyers for Justice and Partners for Women and Justice.

³ COAH applicants must provide proofs to establish eligibility.

⁴ Student volunteers from the law schools in Washington State do the screening for the Washington State Bar Association's moderate means program.

APPENDIX A.3

LAW FIRMS

**NEW JERSEY STATE BAR ASSOCIATION
BLUE RIBBON COMMISSION ON UNMET LEGAL NEEDS**

REPORT OF THE SUBCOMMITTEE ON LAW FIRMS

INTRODUCTION

Clients of modest means are often too financially well-off to qualify for free legal services, but unable to pay market rates. While solo practitioners and lawyers at small law firms sometimes represent these clients, many individuals remain unable to meet their legal needs. In response to both the growing concern about the accessibility of legal services to low- and middle-income individuals, and the recent glut of unemployed new lawyers, the legal industry increasingly has begun to explore new “low bono” or moderate means practice models that allow for discounted rate arrangements between new attorneys and underrepresented clients. Most of these endeavors have involved incubator projects, referral programs, and prepaid legal service plans facilitated by local bar associations and law schools.

Some recent projects, however, have involved law firms, both large and small. For example, BigLaw firms and more local practices have supported recent law school graduates who provide legal services to moderate means clients. Large firms have provided financial support, office space, supervision or mentoring, management assistance and Board supervision, while smaller firms have dedicated some portion of their practices to such low bono efforts. This Report describes these types of law firm projects or practices, with specific reference to the resources that some law firms are providing to assist in closing the gap in legal coverage for low- and moderate-means clients. Some representative projects, and the resources provided to them by law firms, are described below, both in the chart on the next page and in more detailed descriptions thereafter. A discussion of their potential application in New Jersey follows.

Project Name	Free/ Subsidized Office Space	Stipend/ Salary or Other Financial Contrib..	Mentoring on Substantive Legal Issues	Assistance/ Training w/ Practice Mgmt. Issues	Legal Research Resources or Free/ Subsidized CLE	Referrals	Networking Opps.	Board Meml Execu Comm
RoyseLaw Community Legal Services	X	X	X	X	X	X	X	
Resident Associate Mentoring Program (RAMP) Benjamin N. Cardozo School of Law		X		X			X	
D.C. Affordable Law Firm	X	X	X	X	X		X	
Court Square Law Project	X	X		X				
Levitt & Quinn Family Law Center		X						
Richmond Legal Dvpmt. Center	X	X	X	X			X	

A. Royse Law Community Legal Services

The Royse Law Firm PC, a small-size business and tax law firm, provides legal assistance to low-income individuals and families in East Palo Alto, California and the surrounding communities under a program established by Community Legal Services in East Palo Alto. This program, which has only recently become operational, is restricted to estate planning and elder law, assists with estates and trusts matters for low income individuals, and does transactional corporate work for startups; it hires recent law graduates for one-year stints, with two full-time equivalent staff employees. Attorneys are required to take both fee-generating and *pro bono* clients; Royse Law Firm provides funds to supplement discounted fees paid by clients. In all, participants receive office space, a stipend or other financial contribution, mentoring on both substantive legal and practice management issues, opportunities to shadow experienced lawyers

and in-person networking opportunities, free or subsidized CLE programming, case referrals, programming on client development, and legal research resources.

B. Resident Associate Mentoring Program (RAMP) at Benjamin N. Cardozo School of Law

In operation since October 2013, the RAMP program places recent graduates of Benjamin N. Cardozo School of Law in full-time associate or legal counsel positions in small or medium-sized law firms or in-house legal departments for one year at a salary similar to a fellowship. The law school provides ongoing training, free CLE opportunities for the employer and these “Resident Associates,” including practical skills programs, networking events, and monthly meetings for the Resident Associates to discuss their experiences. The participating law firms provide the Resident Associates’ salaries, which are set by the law school. The program provides opportunities, but no obligation, for participants to take cases serving moderate-income clients. In fact, there are no income or subject matter restrictions on the types of cases that are accepted. After the one-year term is completed, the employer and associate can negotiate for the associate to stay on as an employee.

C. D.C. Affordable Law Firm

The law firms Arent Fox LLP and DLA Piper LLP have joined with Georgetown University Law Center to open the D.C. Affordable Law Firm, a new nonprofit law firm which opened this past fall, serving lower-income individuals in the Washington, D.C. area who earn two to four times the poverty level. To start, the firm consists of six recent graduates of the law school, who are paid approximately \$20,000 to \$40,000 over a 15-month period, depending on donations and revenue generated by the project. The firm focuses on providing legal services for lower-income clients at a rate of approximately \$50 per hour. A Georgetown University Law Center professor (and retired

DLA Piper partner) will serve as executive director for the project. DLA Piper and Arent Fox will provide advice and training for the new lawyers. Arent Fox works closely with the new lawyers, providing the nonprofit firm 10 lawyers, partners and associates, as well as a few staff members, for training and mentorship, offices for each attorney, and a conference room. The three-member board for the firm includes representatives from the law school, DLA Piper and Arent Fox.

D. Court Square Law Project

Nineteen BigLaw firms have partnered with the City University of New York (CUNY) School of Law and the New York City Bar Association to form the Court Square Law Project, a start-up designed to train new lawyers licensed in New York to provide legal services to people of modest means. It plans to accept clients beginning next year. The project will be located at CUNY School of Law in Long Island City, but will not be limited to CUNY alumni. The law firms are each donating \$100,000 in funding to the project, which aims to provide legal services in areas of chronic under-representation to those with incomes that disqualify them for legal aid. The project will select up to 10 recent law graduates for the pilot program in each of the next four years; those attorneys will be enrolled in a CUNY graduate law program and hired for a two-year fellowship residency for an annual stipend of \$44,000. The project will charge modest rates to clients and is expected to be self-supporting after the first year. A Davis Polk & Wardwell partner sits on the project's executive committee. The sponsoring law firms are: Cravath, Swaine & Moore; Davis Polk & Wardwell; Debevoise & Plimpton; Fried, Frank, Harris, Shriver & Jacobson; Gibson, Dunn & Crutcher; Kirkland & Ellis; Kramer Levin Naftalis & Frankel; Latham & Watkins; Morgan, Lewis & Bockius; O'Melveny & Myers; Paul, Weiss, Rifkind, Wharton & Garrison; Proskauer Rose; Schulte Roth & Zabel; Shearman & Sterling; Simpson Thacher & Bartlett; Skadden, Arps, Slate, Meagher & Flom ;Wachtell, Lipton, Rosen & Katz; Weil, Gotshal & Manges; and Winston &

Strawn.

E. Levitt & Quinn Family Law Center

Levitt & Quinn Family Law Center provides affordable family law legal services for poor and low-income families in Los Angeles County, California who are unable to obtain representation from other legal services providers or to afford private attorney representation. Each year the firm receives more than 6,000 inquires, provides legal information and services to more than 1,500 families, accepts more than 800 clients for representation and make hundreds of court appearances on behalf of its clients. Priority is given to cases involving the safety and well-being of children. Fees, if any, are based on income and assets. The firm's major donors include corporate sponsors, as well as large law firms like O'Melveny & Myers LLP and smaller legal practices, such as local family law firms like Judith R. Forman, CFLS, Harris Ginsberg LLP, Jaffe and Clemens, Kolodny Law Group, Meyer, Olson, Lowy & Meyers, LLP, Pines Laurent, LLP, Trope and Trope LLP, and White, Zuckerman, Warsawsky, Luna & Hunt LLP. Attorneys from these firms also sit on Levitt & Quinn's Board of Directors and Advisory Counsel.

F. The Richmond Legal Development Center

The Richmond Legal Development Center in Richmond, Virginia is a legal incubator for recent law school graduates launched by private attorneys; the Center houses and helps to launch new solo practitioners who provide reduced fee services. Several mentors from local law firms are available to assist participants with cases. Mentors volunteer to answer both substantive legal questions related to client representation and practice management questions.

* * *

Unsystematic surveys of large New Jersey firms, while not complete, have revealed little enthusiasm for extensive or regular involvement in these low bono practices. That said, financial

support — albeit not at the level of large New York or Washington, DC firms — is possible and the provision of supervisors, mentors or Board members seems to engender the most likely form of contributions. Indeed, there is some enthusiasm for this kind of participation in such an endeavor, particularly in connection with projects related in some manner to the New Jersey law schools.

Meanwhile, New Jersey is, as we know, a place where many attorneys practice in small or solo practice settings. In some circumstances, these types of firms also provide services to clients of modest means, and anecdotal evidence reveals that some small New Jersey firms may be willing to provide programs like those described below, if educated as to the possibilities and provided the requisite support from, for example, bar associations.

Examples of small firm low bono practices include:

- Darren Pruslow in Bridgeport Connecticut and Brian Young in Trumbull Connecticut have practices in which 10-20 clients are accepted at reduced rates of \$200/month.
 - (1) <http://blog.quinnipiac.edu/blog/2013/04/08/new-haven-register-highlights-school-of-law-alumni-serving-an-entire-class-of-underserved-people/>
 - (2) <https://www.linkedin.com/vsearch/f?type=all&keywords=darren+pruslow&orig=GLHD&rsid=&pageKey=oz-winner&trkInfo=tarId%3A1432145659522&search=Search>
 - (3) <http://blog.quinnipiac.edu/blog/2013/04/08/new-haven-register-highlights-school-of-law-alumni-serving-an-entire-class-of-underserved-people/>
 - (4) <http://www.jijonyounglaw.com/Pages/default.aspx>
- Gabriel Cheong, owner of Infinity Law Group in Quincy, Massachusetts, has a program to assist middle class clients and charges them only \$125 an hour for legal services.

(5) <http://solopracticeuniversity.com/2013/03/04/a-new-and-unique-law-firm-model-to-deliver-low-cost-unbundled-legal-services-to-the-middle-class/>

- Kansas firm Riling, Burkhead & Nitcher, formerly Pre-Paid Legal Services, provides legal services for the middle class.

(6) <http://www.rilinglaw.com/>

- Minneapolis lawyers Emily Cooper and Tracy Reid use a sliding-fee scale for all clients, and primarily serve those who fall in the gap between free legal services and the market rates.

As noted, the success of these kinds of programs may be dependent upon the support of federal, state and county bar associations and/or law schools providing programming that will educate, train and support small firms in these endeavors. Indeed, many law schools and local bar associations (sometimes in partnership with one another) already facilitate low bono incubator programs to assist newly admitted lawyers in starting and sustaining their own solo practices or small firms aimed at serving the moderate means client community. Such programs offer assistance in the form of free or subsidized office space, education and training opportunities (such as CLE programs on professional responsibility, the practical and procedural hurdles in “hanging your own shingle,” and business planning and budgeting), modest means panels, “tool kits” that assist lawyers establishing modest means practices, “low bono” sections of the local bar association or listservs to bring together attorneys practicing in this area, and directories of attorneys willing to charge reduced fees, or other, more informal, methods of referral. For example, such programs may provide financial assistance, education, or other resources that assist with regard to marketing. See Luz E. Herrera, *Encouraging the Development of “Low Bono” Law Practices*, U. Md. L.J. Race, Relig. Gender & Class 1, 17-18 (2014) (discussing cost-effective ways for solo or small-firm “low bono” practitioners to obtain affordable marketing services including contracting local technical

schools for logo design and professional head shots), available at <http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1229&context=rrgc>.¹

Here in New Jersey, county bar associations play this role, through their referral services, which match clients of limited means with attorneys who need work, primarily from small or solo practices. As just one example, the Middlesex County Bar Association helps moderate-income residents find affordable legal assistance through its Lawyer Referral Service Reduced Fee Program. That program, free to participating attorneys, almost all of whom, our research shows, come from small firms, extends the Middlesex County Bar Association's Lawyer Referral Service to clients who cannot afford to pay legal fees at market rates, but who do not qualify for free legal assistance from the Middlesex County Legal Services Corporation or other no cost legal services. Panel members are required to provide prospective clients referred with an initial consultation in exchange for a \$30 client application fee prior to all initial consultations. The program matches clients with members of the Bar Association in practice areas including bankruptcy, criminal matters, family matters, foreclosure defense, landlord/tenant disputes, municipal court matters, name changes, small claims actions, and tort defense. Fees are limited to \$75 per hour in accordance with the below retainer/flat fee schedule:

Case Type	Retainer	Case Type	Retainer
Bankruptcy	\$925.00	Municipal Court	\$300.00
Child Visitation	\$450.00	Municipal Court (DWI)	\$375.00
Child Support or Modification	\$450.00	Name Change	\$300.00
Criminal	\$750.00	Post Judgment Enforcement Orders	\$525.00
Custody Dispute	\$1,500.00	Small Claims	\$225.00
Divorce (Contested)	\$1,725.00	Special Civil Part	\$300.00
Divorce (Simple)	\$375.00	Tenant	\$225.00
Domestic Violence	\$375.00	Tort Defense	\$750.00
Expungements	\$300.00	Unemployment Appeals	\$375.00
Foreclosures (Defense Only)	\$600.00	Unmarried Child Support & Custody	\$750.00

¹ The American Bar Association has compiled a list describing over fifty different iterations of such programs, including some of those discussed herein. See American Bar Association Web Site, Incubator/Residency Program Profiles, https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_profiles.html. See also Herrera, *supra*, at 35-40 (discussing various state bar association efforts and local incubator programs)

The New Jersey State Bar Association's Solo and Small Firm Section, which has dynamic leadership, an active membership and sponsors excellent programming (including a forthcoming conference) may be a particularly effective support in further marrying the interests of small firms with the needs of those otherwise unable to procure necessary legal services.

Finally, as discussed at much greater length elsewhere in this Report, law schools play a particularly significant role as incubators of small firm low bono practice. Thus, for example, the Rutgers program, discussed fully elsewhere in this Report, not only provides a variety of legal services to low to moderate-income New Jersey residents at substantially-reduced rates, but also trains recent law school graduates as practitioners, including with regard to professional responsibility, small firm management, and relevant practice areas. Significantly, upon completing the program, these lawyers may receive referrals where the program experiences an overflow of clients. *See* <https://law.newark.rutgers.edu/rutgers-law-associates-fellowship-program>.

In sum, working through bar associations and law schools, large law firms may be expected to contribute resources, both financial and in-kind, to low bono programs, while small firms, in many ways the backbone of the practice of law in New Jersey, can, with appropriate support from the large firms, bar associations and our law schools, serve many in need who do not qualify for free legal assistance. The recommendations of this group contemplate just this kind of partnership.

In particular, the Subcommittee on Law Firms recommends that The New Jersey State Bar Association promote and coordinate a state-wide effort to meet unmet legal need. That effort, which is summarized in the Report of the Sub-Committee on Bar Associations, would be supported by a fundraising campaign directed at, among others, New Jersey's law firms. Furthermore, once up and running, with personnel dedicated to this effort in place at the NJSBA, that effort would continue to involve New Jersey law firms in way including recruiting big firms to act as co-counsel with or otherwise provide firm resources to law school clinical programs, providing mentors to law school post-graduate residency programs, incubator programs, Attorney Provider referral panels, and/or Bar Association efforts like the Jersey Legal Assistance Program proposed elsewhere in this

report. Small firms and solo practitioners could, with a similarly coordinated effort by the Bar Association, and as is set forth in further detail below, provide services and potentially increase their bottom lines by taking on low bono clients, defraying their costs by availing themselves of training opportunities and materials, provided by the Bar Association, as well as referrals from county bar associations. In sum, it may be that law firms cannot play the primary role with regard to the effort to meet the Unmet Legal Need that is at the heart of this discussion. But they can play a significant supporting role, in the ways discussed above.

Respectfully submitted,

Lawrence S. Lustberg
Chair, Sub-Committee on Law Firms

APPENDIX A.4
LAW SCHOOLS

TO: The Blue Ribbon Commission on Unmet Legal Need
FROM: The Law Schools Subcommittee
DATE: February 4, 2016
RE: Summary of the Existing and Developing Law School Programs

Please accept this report on behalf of the Law Schools Subcommittee.

The subcommittee met in February, 2015, and continued to communicate over email and phone to discuss the various existing and emerging enterprises at law schools that currently provide legal services to New Jersey's low and moderate income population, and outlined areas where current options could be expanded, and where additional study was needed.

The four areas discussed were:

1. Formal clinical programs within the existing J.D. curricula, supervised by law school clinical faculty, and filled with students in their second and third year of law school;
2. Less formal externships (for, and not for academic credit) and pro bono opportunities for law students and very recent graduates, supervised either by clinical law faculty or by private lawyers typically in the non-profit sector (Volunteer Lawyers for Justice, Essex-Newark Legal Services of New Jersey and its regional affiliates, Family Justice Center, for example);
3. Incubator programs, generally associated with law schools and supported by law schools, but filled with recent graduates of law school in their own small or solo practices; and
4. Post graduate residency programs, internal to law schools and supervised by law school faculty, but comprised of recently admitted law school graduates, enrolled as post-doctoral fellows.

What follows is a report on the subcommittee's findings, having researched how each is being implemented at the New Jersey law schools and elsewhere. The report also offers a preliminary assessment of which could effectively be expanded to help address the unmet legal needs of the low and moderate income population within New Jersey.

1. Formal Clinical Programs within Existing J.D. Curricula

Each of the law schools has an extensive robust clinical program, and all are designed primarily to serve the indigent population. Rutgers Law School in Newark developed one of the nation's first law school clinics almost half a century ago, and it now offers ten different clinics on that campus, providing legal services in Child Advocacy, Civil Justice, Community and Transactional Lawyering, Constitutional Rights, Criminal and Youth Justice, Education and Health Law, Federal Tax Law, Immigrant Rights, Intellectual Property Law, and International Human Rights. Each semester more than one hundred students enroll in a clinic, and many enroll for multiple semesters. More than half the students at Rutgers Law School in Newark have taken a six or eight credit clinic by the time they graduate, and many take more than one in the course of their law school careers. It is therefore estimated that each year more than 30,000 hours of pro bono service are provided each year by the law students in clinics at Rutgers on its Newark campus alone. On its Camden campus, eight clinics are offered, ranging from three to six credits (with the majority at six credits), in subject areas that include Child and Family Advocacy, Civil Practice Domestic Violence, Immigrant Justice, and several "hybrid clinics" that engage students in written work for government agencies and legal nonprofits. Rutgers Law students on the Camden campus provide comparable numbers of hours of pro bono service through its clinics to the numbers of hours provided by their Newark counterparts. Most Seton Hall Law School clinics are integrated within the law school's Center for Social Justice, which offers seven clinics that provide legal services in Constitutional and Civil Rights Litigation, Civil Litigation and Practice, Immigrants' Rights/International Human Rights, Family Law, Juvenile Justice, Equal Justice, and Impact Litigation.¹ Seton Hall also offers an Investor Advocacy Project, which operates as a one-year, five-credit clinic. Each year, approximately 80-100 students participate in one of these clinics, most of which are one-semester five credit enterprises. Through these clinical programs Seton Hall provides 15,000 to 20,000 hours of pro bono legal service. Thus, altogether the clinical programs at Rutgers and Seton Hall are providing between 75,000 and 95,000 hours of pro bono legal services in New Jersey each year.

While these clinics have been an integral resource to address the State's unmet legal need for its indigent population, certain academic/curricular issues have limited the service they can provide. For one thing, because the active "practitioners" are predominantly full-time law students with typical fall/spring schedules, cases are often selected, and the caseload is managed, so that most matters undertaken can generally be concluded before the students leave for summer vacation. For another, the clinics are generally specialized around a particular legal discipline (Immigration Law Clinic, for example), and the curricular concern of the professor supervising each matter will limit the cases taken such that if some other legal arena (matrimonial or criminal law, for a prospective immigration client, for example) is implicated, those matters will generally

¹ The Constitutional and Civil Rights Litigation Clinic is not running for the 2015-2016 or 2016-2017 academic years because the supervising tenured faculty member is on leave.

not be undertaken.² Still, these programs have done much to fill the access to justice gap, and certain changes in law school accreditation guidelines in recent years have made it easier for law schools to put more curricular emphasis on clinical coursework and other practical training programs, and expansion of the law school clinical offerings and student participation in these courses should be encouraged.

Unfortunately, expanding the offerings at the current time may present insurmountable financial obstacles to law schools. Accreditation guidelines limit the number of students a clinical professor can supervise at one time (eight), and at most law schools, most clinical offerings are at or above capacity. (On both Rutgers campuses, for example, almost all of the clinics have so many registrants that registration is lotteried.) Thus, to expand the clinical offerings, either non-clinical faculty must be reassigned to teach in the clinics (which may not be feasible), new faculty must be hired to assume this role, or more revenue must be allocated to, or generated by, the clinical programs. Because the clinics are themselves not generally revenue-generating (although they occasionally win attorneys' fees in their cases, and cy pres awards, and often receive external grant funding), it may not be possible to expand the clinical programs at this time, without a substantial influx of new financial support on a sustaining basis.³

While not providing additional hours of service, one area of possible expansion of the clinical opportunities that might increase the clinics' efficiency in providing access to justice would be to expand the law firm/clinic collaborations that over the years have provided legal services to scores of clients within the target population. Certain law firms have permitted, and, indeed, encouraged their lawyers to perform pro bono work as co-counsel to the clinics, offering firm resources to cases that would be beyond the capacity of law clinics acting on their own. These joint ventures have proven extraordinarily rewarding both to the students and the private lawyers involved, and have at times performed truly remarkable, ground-breaking work. Informing the NJSBA membership of the clinical programs on each law school campus, and promoting pro bono collaborations could stimulate greater pro bono engagement by the private

² Where possible, different clinics within the same law school will cross-refer clients so that they may handle different legal needs for the same client, but this practice still limits the services to those practice areas represented by the school's clinics' specialties.

³ On the other hand, the specialized nature of many of these clinics offers a possibility for funding that is just now being tested at Rutgers—Newark. If clinics (and residency programs; see below) partner with independent service non-profits with no internal legal departments, but with strong fund-raising ties in a particular philanthropic arena, clinics could receive funding indirectly from those non-profits, to provide their clients the legal services they require. For example, a safe home shelter for battered women might fund, through its philanthropic resources, a clinic to provide legal services to help the victims it serves with divorce and child custody proceedings. In this way, the non-profits can expand the service they provide, and use their experience and strength in fundraising to a specialized, energized donor base that would otherwise likely be unreachable by the law schools. This model is being tested through a Chancellor's Seed Grant by the Rutgers Health Law Clinic in collaboration with the Rutgers Medical School, and through a second Chancellor's Seed Grant by the Rutgers Law Associates program, in collaboration with the school of Public Affairs and Administration, and in partnership with the non-profit NJ-STEP. For several years, Seton Hall Law School has had a relationship with the Fair Housing Council through which the Council provides a small amount of support each year for the Civil Litigation and Practice Clinic in exchange for the clinic providing assistance to clients referred to it by the Fair Housing Council.

bar while increasing the efficiency of the law school clinical work and broaden the already broad appeal of clinical experience to the students.

2. Externships and Pro Bono Opportunities for Law Students

Each of the law schools also has extensive externship and pro bono programs, with students either volunteering or earning credit for participation. When credit is earned, accreditation guidelines impose requirements in terms of supervision, kind of work permissible, and number of hours. Because of these limitations, the actual service the students perform may be limited: agencies that take on externs must devote substantial resources to supervision and guidance of the students, taking away from their own productivity providing services to needy clients. Thus, while an excellent learning experience for students, for-credit externships may be of limited net value in terms of meeting the unmet legal need.

Externships that are not for credit and other pro bono programs may be more effective in terms of the net service these provide. Although, historically, a smaller segment of the student population participated in these enterprises, today a large proportion of students is doing this work to serve the public, to bolster their skills and credentials, and to develop relationships with more experienced lawyers who could develop into mentors, and might ultimately provide critical references when they are seeking full time employment. More and more frequently, students are taking on these unpaid positions for as much time each week as their counterparts enrolled in for-credit externships. Law schools should continue to encourage their students to take part in these enterprises throughout their law school careers. It should be noted that the ABA now requires all law schools to offer meaningful law-related pro bono opportunities to law students, and as a result, 135 law schools have now instituted structured voluntary service learning programs, and 39 have mandatory pro bono programs.

These opportunities, however, are limited in the volume of legal services they can provide. First, students are generally not encouraged to undertake extra-curricular commitments in their first year of law school, because of the demands that intensive program imposes. Over the second and third years, students typically do not undertake more than two such positions, at no more than 10-15 hours per week. And second, the supervisory resources required in order to insure high quality legal services to clients and adherence to the Rules of Professional Conduct are extensive; unlicensed students may work with licensed lawyers to serve clients' needs, but ultimately the lawyer is responsible for all decisions and work product. Nevertheless, even if just providing support for lawyers serving clients with limited means to operate more efficiently, the sheer manpower that law schools can offer will do much good. It is estimated that at Rutgers Law School, on the Newark campus alone, approximately 15,000 hours of such service was provided this past year, much of it in the form of unpaid service by law students at partner organizations. Similarly, at Seton Hall law School, students provided approximately 5,000 hours

of pro bono service in 2014-15 through externships and pro bono placements. It is recommended that law schools continue to support participation in externships and pro bono work, and that opportunities for law students to work with reliable, high quality partner organizations continue to be nurtured. (One existing and illustrative model at Rutgers is the involvement of trained students in group information and intake sessions for family law and bankruptcy matters, in partnership and under the supervision of lawyers from Volunteer Lawyers for Justice.)

Summer public interest placements also contribute to the provision of legal services to those in need. Historically unpaid or supported modestly by student public interest fund raisers at the law schools, these positions allow students to explore practice areas of possible interest and gain valuable professional skills and contacts. Increased funding for summer placement would allow more students to engage in ten to twelve weeks of sustained work at legal nonprofits.⁴

One additional potential way of expanding access to justice would be to implement a program similar to Chief Justice Lippman's new 500 Pro Bono Scholar Program in New York State. This new initiative allows law students at participating law schools in New York State (and in other states if the schools opt in) to take the bar exam in February of their third year of full time study and then devote the remainder of their third year to providing 500 hours of pro bono service, either in a clinical law program at their law school or with a pro bono legal services provider. The students do not graduate early; they continue to pay tuition and must successfully complete their 500 hours and any accompany coursework in order to graduate with their peers in May. Based on the first year of the program, a total of approximately 100 students from law schools across New York State participated, providing an estimated 50,000 pro bono hours. This model is currently being evaluated in New Jersey to assess: 1) whether the not-for-profit legal service providers have the capacity to supervise additional law students working 50 hours a week for about 12 weeks; 2) whether there exists the capacity of clinical programs at the New Jersey law schools to supervise the students; 3) whether undertaking such a program would have unintended consequences such as diminished clinical opportunities for students; and 3) whether there is sufficient support for this type of program at the New Jersey law schools and with the judiciary.

3. Incubator Programs at Law Schools for Recent Graduates

Since 2007, a growing number of law schools have created a variety of “incubator” programs to aid their recent graduates who have decided to start their own small or solo practice firms. Although the incubators vary widely in structure and in the services they provide, all have certain features in common. First, almost all provide space for the lawyers, with offices, conference

⁴ Rutgers Law School recently announced a \$1 million gift that will fund up to 40 summer internships throughout the State each summer for the next five years. Investment of this type would greatly expand the volume of legal services available to New Jersey residents in the target income bracket.

rooms, and telecommunications. Second, virtually all provide some education, whether in the form of CLE, or mentorship, or a combination of both. Third, in all incubators, the participants are independent lawyers, starting out and trying to make a living, and are participating in the incubator in large part because it allows them to keep costs down in their first year(s) of practice.

Beyond these commonalities, the differences among the (currently) 43 incubators are vast. Some charge the participants rent, some as high as market rate, while others provide the space and the technical support at no cost. Some provide the participants with a small start-up stipend, but most do not. Some require pro bono service, or a commitment to serve low and moderate income clients as a part of their practice, but, again, most do not. Some expect participants to charge substantially below market rates, but most permit participants to use whatever fee structure they want, and, consequently, most lawyers participating in incubators charge at or near market rates. Most incubators rely heavily on volunteers from the neighboring legal community for mentors, and, frequently, for client referrals. Most serve between four and ten new lawyers each year. Some operate at a fairly low cost to the parent institution (because rents are charged), but most require some, and in many cases substantial financial commitment by the law schools each year. In most cases, an ongoing fundraising and grant writing program is underway at the law school to cover the cost of operating the incubator.

Statistics for success of these programs relative to access to justice is difficult to track. (Indeed, most measure their success, not in terms of the service they provide to the low and moderate income population, but in the success of their participating lawyers in launching viable practices.) Because these programs are comprised of independent new lawyers, none require (or could effectively monitor) record-keeping regarding the amount of pro bono or low bono service they provide, and few impose income restrictions for the clients these lawyers serve, or mandate that some proportion of the work be performed at rates affordable to the low and moderate income population. Indeed, because for the most part the newly-minted lawyers in these programs must dedicate substantial time to marketing and developing their start-up client base, and their livelihood depends on how much work they generate, there is built into these programs a disincentive to devote time to low-return enterprises such as professional development and reduced fee service. Inquiries into several of these programs have found that at some, no pro bono or low bono work is done, and there is no means test to determine eligibility for legal services. Attached to this report is a supplemental memorandum prepared by Diego Rodriguez, who performed an extensive independent review of some of the existing incubators, and provides in that report a detailed analysis which this subcommittee adopts by reference.

Incubators at law schools serving those schools' immediate past graduates have not yet been shown to contribute significantly to a solution to the access to justice problem. However, an incubator supported by the NJSBA, as has been suggested by other subcommittees to this Commission, might succeed toward this end, if the participants came, not directly from law school, but from a post graduate residency (see below), in which a host of skills, and an ethos to serve the target population, is instilled.

4. Post Graduate Residency Programs for Recent Graduates

Since 2013, three law schools (Arizona State, Pace, and the legacy law school at Rutgers-Newark) have developed post graduate residency programs, again, in large part to aid their recent graduates who are considering starting their own small or solo practice firms, and a fourth was scheduled to open such a program in October, 2015 (Georgetown). These programs differ from the incubator programs because, like clinics, they are law firms within the law school (actually, at ASU, the program was created as an independent corporate entity, but appears to be closely tied to the law school), but differ from clinics and the incubators by providing a fixed stipend or salary to their lawyer-participants, and collecting the legal fees earned. This arrangement permits the residency program to maintain control of the client intake, the rates charged, and the allocation of time of the participants in terms of legal work, client development and legal education. This arrangement also permits accurate monitoring of the quality and quantity of pro and low bono service provided. Finally, because these programs are revenue-generating, once start-up costs have been marshalled, these programs can be self-sustaining.

Rutgers Law School has made available to the Committee the most recent data from its residency program's first fifteen months of operation. The program includes one supervising attorney, six lawyer-participants, and two law student volunteer or work-study students who handle initial intake, bookkeeping, and some legal research and drafting. Limiting its practice to low and moderate income clients (which is established during the intake process), and its billing rate to \$50 per hour, the program takes matters covering a broad range of practice areas, including consumer protection and other civil litigation, family court matters, foreclosure, will contests and criminal defense. In its first (start-up) year of operations, the program served 110 low or moderate income clients, and conducted more than 500 intake interviews. In its second year, the program receives approximately 50-100 telephone inquiries each week, from which ten to twenty eligible clients emerged. This stream of prospective clients was so strong that an impromptu "incubator" made up of past residency program participants in their own practices and four other recent graduates in solo practice were taking referrals (at \$50 per hour) of the qualifying prospective clients the residency program could not handle. Now in its third year, the program has achieved self-sustainability, and has expanded to include an eighth lawyer, a "graduate" of the prior year's fellowship who both serves clients at the \$50 per hour rate, and supervises the work of the six new fellows. The success of this program has driven Rutgers Law School to begin planning for a second office at the Camden campus, and thus expanding its operations two-fold in the next few years.

Like other residency programs (and unlike the incubators described above), the Rutgers Law Associates program provides formal post graduate education and CLE to its participants, and pays a modest stipend (\$30,000) for the one-year program. (The Georgetown program, which is probably the most similar to the Rutgers program, will also be a general practice "internal" law

firm, which will pay \$30,000 for the 15 months of its program. Unlike the Rutgers program, the Georgetown residency will culminate in conferral of an LL.M. at the conclusion of the 15 months.) Such programs are expensive at start-up, while a client base is developed: salaries, stipends and insurance alone should be budgeted at \$300,000 per year for each unit of one supervisor and six participants. But once the programs are up and running, they can be expected to generate at least that much in fees earned, as the participants are expected to bill four to six hours each day.

Currently, the Rutgers Law Associates program is meeting that goal. It is anticipated that the program will provide more than 7,000 hours of direct legal services this year to low and moderate income New Jerseyans this year, and, if the ancillary legal assistance provided by the law student volunteers and work-study students is added, this number increases to approximately 7,500 hours. As stated, the program expanded this year, having received a substantial “seed grant” from the Rutgers-Newark Chancellor’s Office, adding the intermediate level “supervising” attorney, and is slated to grow by two additional residents each year for the next two years.

How Can the NJSBA Help?

The subcommittee was asked to provide the Commission with what steps might law schools take to increase its impact on the low and moderate income population, and provide increased access to justice, and how the New Jersey State Bar Association might contribute to or facilitate their efforts in taking these steps.

First, the historic and increasing collaborations between law firms and the clinics in joint legal representation in complex matters beyond the resources of the Law Schools can be enhanced and expanded. These collaborations have resulted in landmark decisions providing very welcome positive exposure for both the schools and the firms. The NJSBA can greatly assist in this effort by using its outstanding visibility to exhort the bar to take on more and more of these projects with the clinics. Active promotion of such cooperative endeavors by the NJSBA would not be costly, and would likely do much to advance the work of the clinics in support of the target population’s access to justice.

Second, although it is probably unrealistic to hope that the Bar Association might fund any new clinic, it could certainly provide financial support and help efforts to raise more funds to serve the clinics, and to expand the pro bono and summer internship programs that are described in full above.

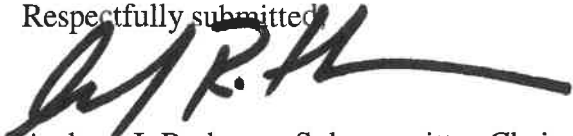
Third, the subcommittee recommends that the NJSBA focus attention on the existing post graduate residency program, and dedicate resources to its expansion and replication. As indicated above, Rutgers is already exploring the possibility of expanding its program in Newark

significantly and has taken affirmative steps to open a second staffed office on its Camden campus. Past experience indicates that launching such a program at a new site, assuming managing legal personnel can be drawn from the faculty or elsewhere without impacting the program budget, requires an original outlay of approximately \$300,000, but the program can be self-sustaining after that original outlay. Expansion of an existing program by just a single fellow requires at least \$50,000 up front. Law schools across the country are facing budget cuts within their universities, as law school enrollments remain low. Outside financial help will be needed to expand or duplicate elsewhere the program initiated at Rutgers in Newark, and the NJSBA could be a critical partner in developing the resources needed.

The NJSBA can also provide immediate, more modest support of the existing residency program through its access to the bench and bar, and its ability to publicize the marketability of the program's alumni in the legal job market. A necessary ingredient to expansion will be a strong applicant pool of law school graduates seeking the kind of training the program provides, and willing to forgo other employment opportunities. And if the NJSBA chooses to create an improved referral system based on the work of other subcommittees of this Commission, that referral system would itself provide indirect support for the post-graduate residency program(s), as it would serve as an initial screening service, and therefore improve the efficiency of the existing intake system.

Finally, this subcommittee has not found support within the New Jersey law schools for creation of an incubator, for many of the reasons expressed above. However, if the NJSBA were itself to create an incubator (which proposal has emerged in the work of another subcommittee of this Commission), such an incubator could be most successful if organized in cooperation with the law school residency programs. The weakness of many of the incubators that have been developed at law schools around the country has been the lack of training the participants have had before starting their practice, and the inability of the incubators to fill that void. If instead an NJSBA incubator were to be developed, and would target alumni of the residency programs seeking to start their own firms, who will thus have had a year of intensive training and practice, and a history of working with the target population, it is imagined that just the limited support that the incubator would provide would be all that is needed for these young lawyers to launch successful low bono practices, and thus to continue to chip away at the access to justice deficiencies affecting the low and moderate income population.

Respectfully submitted,



Andrew J. Rothman, Subcommittee Chair

APPENDIX A.5
NEW AND UNTESTED INITIATIVE

Subcommittee on New and Untested Initiatives

Many lower-middle income New Jerseyans have pressing legal needs but no access to an attorney. It is a strange Catch-22: People caught in the “justice gap” make too much income to qualify for free legal assistance, but not enough to afford to hire a lawyer. These folks represent a huge untapped client base - if a model can be developed to serve their needs.

The New Jersey State Bar Association (NJSBA) could do an immense service to the public and profession by bringing together people in the justice gap and underemployed lawyers, particularly young lawyers. To do so, the NJSBA (or New Jersey Bar Foundation) should create a legal clinic (“Clinic”), a law practice serving lower-middle-income clients

Lawyers

To start, Clinic should be staffed by 5 - 10 attorneys - new graduates, clerkship alumni and lawyers in transition. Clinic can recruit lawyers by working with regional law schools, the judiciary (for clerks), and appropriate NJSBA sections (for lawyers in transition).

Lawyers’ work for Clinic would be somewhat project-based. Lawyers would be assigned to cases as they come in. At least at first, the work would probably be part-time.

Mentors

Clinic would require mentors, and we envision mentors of two sorts. First, practicing attorneys would volunteer perhaps a few hours a month to conduct trainings on specific topics, e.g., how to obtain a temporary restraining order, or how to defend against an eviction. It would also be very helpful to have practicing attorneys on call, to occasionally answer questions or talk through issues.

Second, Clinic needs mentors who can devote more time to supervising attorneys, being in the office when Clinic is in session and guiding lawyers as they practice. The ideal mentors for this would be retired attorneys and judges, or a combination thereof.

New lawyers need to learn the formal demands of practicing law - proper legal writing,

court procedure, etc., and retired judges would be perfect for that. New lawyers also need to learn the pragmatic realities of practice - client management, billing, etc., and retired attorneys would be perfect for that. Ideally, these more hands-on mentors should be willing to volunteer perhaps two days a week.

Clients

Clients should have limited income. In my view, an appropriate range would be 251 - 400% of the federal poverty level (FPL). In 2015, 400% FPL is \$63,720 for a two-person household. (This is the cutoff to receive Affordable Care Act health insurance subsidies.)

Clinic should serve clients on matters that are simple enough for new attorneys to handle, and that are likely to be resolved quickly. Appropriate matters may include landlord-tenant (eviction, housing law violations); domestic violence (temporary restraining orders); municipal court, small claims and special civil part matters; and simple business matters (incorporation).

Clients would pay \$50 - \$75 per hour, with a sliding scale based on income. Perhaps \$40 of this would be paid to the lawyer, with the rest covering Clinic's costs.

Referrals In

Legal Services and other non-profit organizations may be willing to refer clients with incomes too high to qualify for free service. The court system may also be a source of referrals, and NJSBA could advertise Clinic. Opening a storefront in a mall may also be a way to reach under-served clients, although there may be issues with that.

Referrals Out

Clinic may encounter people who make too much money to qualify for Clinic's services, or whose cases are too complex for new lawyers to handle. For these folks, Clinic can make referrals to the appropriate county bar association, which could help foster a closer working relationship between the state and county bars.

Office Management

Clinic should have a staff office manager, to do accounting, taxes, managing money as it

gets paid in and out, etc.. Clinic could hire a staff member part-time, or perhaps a current NJSBA staff member would be willing to serve in this role, with pay from Clinic.

Malpractice

Clinic could likely get insurance through NASPPG, which insures many legal pro bono organizations. Insurance for ten lawyers and supervisors might be around \$10,000.

Conclusion

If the program outlined above is too ambitious or hands-on, Clinic could also work as an incubator. Lawyers starting their own firms would get referrals, supervision and other support, in exchange for serving Clinic clients at a reduced rate.

Mentorship and supervision are key elements of this project. New lawyers need someone to teach them how to practice law. In addition to helping the public, this project is an opportunity to help the profession by putting underutilized legal talent to work and training the next generation of lawyers. As a bar association, we should take advantage of that opportunity; whatever solution is chosen should include supervision and mentorship.

If Clinic succeeds and becomes profitable, we will have created a scalable model that can be replicated across the country. NJSBA will have an answer to the question of how the legal sector can better serve the public within the existing system. It will also be a boon to our state, our profession and the public, reducing unemployment, improving quality and creating access to justice for people who currently fall through the cracks.

Respectfully submitted,

Mark R. Friedman

APPENDIX A.6
NOT FOR PROFITS

**NEW JERSEY STATE BAR ASSOCIATION
BLUE RIBBON COMMISSION ON UNMET LEGAL NEEDS**

REPORT OF THE SUBCOMMITTEE ON NON-PROFITS

The Need

The New Jersey State Bar Association (NJSBA) has determined that countless New Jersey moderate-income residents cannot afford attorneys and face unmet legal needs. In addition, the NJSBA has determined that numerous attorneys are unemployed or underemployed and seek employment and legal experience.

The Commission's Stated Program Goals

1. Provide reduced-fee representation to persons of modest means, and
2. Provide paying jobs for unemployed and underemployed lawyers.

Proposal Summary

The NJSBA will assess potential unemployed/underemployed lawyers for selection to a newly-created "Attorney Provider" referral panel. The NJSBA will also screen potential clients for financial eligibility, determine the general subject matter of the clients' concerns and refer the clients to the appropriate not-for-profit law offices which specialize in the relevant subject matter areas. The not-for-profit law offices will then screen the cases for merit, refer meritorious cases to the Attorney Provider referral panel and act as "Sponsors" which supervise the designated Attorney Providers' work on behalf of the clients.

The Steps to Achieve the Program Goals

1. Set client income eligibility levels for reduced-fee assistance.
 - Define "modest means" individuals as those individuals who are at least above the Legal Services current income guidelines for free assistance from the Legal Services system, namely modified net income levels above 250% of the federal poverty level (FPL), and below some amount to be defined by the Commission members. Consideration may be given to deducting the following from income: child support, maintenance and disability-related expenses. Child support and maintenance are deducted by most reduced-fee panels, while disability-related expenses are deducted by some entities, including Volunteer Lawyers for Justice. It should be noted that the Community Health Law Project was recently granted permission by the New Jersey

Supreme Court to implement a fee-for-service program that provides legal services at reduced rates for people with income up to 325% over FPL. We propose that modest means be defined as 251%-350% of the FPL.

- Develop an application form to facilitate income eligibility assessment.
2. Decide types of eligible cases to be handled and eligible services to be provided.
 - Identify the areas of the law which will be addressed, with consideration to be given to suggestions made by New Jersey's not-for-profit law offices which could be polled by a questionnaire such as the one found in Appendix 1.
 3. Create the precepts for the reduced-fee arrangements
 - The reduced fee arrangements should include general guidelines and rules of membership and may include a sliding fee scale, a reduced hourly rate, a reduced retainer, a reduced initial consultation fee and contingency fees.
 4. Adopt parameters for both the attorneys who will provide services ("attorney providers") and the not-for-profit law offices, individual attorneys, firms, and law schools which may oversee the attorney providers ("sponsors").
 - Attorney Providers should include both recently graduated attorneys and others who may or may not be experienced, but are not working or need more work. While *pro bono* contributions from attorneys are always encouraged and welcome, this initiative's stated goals are not focused on *pro bono*.
 - NJSBA can recruit and screen Attorney Providers to become members of a reduced-fee panel which could mirror the reduced-fee membership panel established by the Wisconsin Bar Association (see Appendix 2). Information obtained during Attorney Provider screening should be as expansive as possible to facilitate the most appropriate case referrals. There should be no need to incur the additional costs to create a new not-for-profit organization in order to recruit and screen the Attorney Providers; NJSBA should coordinate this effort with the existing county bar referral systems. We suggest that, initially, the NJSBA not engage in marketing the program until the extent of client need is known and the availability of matching attorney providers is available to meet that need.
 - The Attorney Providers will require malpractice insurance, and consideration should be given to NJSBA providing such insurance or seeking grant money to cover the additional cost of malpractice insurance which the Sponsors will incur.
 - Sponsors can include practicing lawyers in not-for-profit law offices, firms, corporate law departments and law schools.

- The Sponsors will serve the reduced-fee clients in the same manner they serve their other clients, and work with the Attorney Providers in the same manner they work with other volunteer attorneys in their practice, including providing the Attorney Providers with extensive training and supervision.
5. Develop programs to pay Attorney Providers who will receive referrals for reduced-fee eligible clients.
- Program models must hold the promise of being self-sustaining over time. Public funds will not be available to pay attorney providers. Apart from private contributions from lawyers or various foundations or institutions, these programs will have to be sustained through reduced fees. Possible additional funding sources are set forth below.
6. Determine the methods for case screening and referral.
- Map a system to link eligible clients with the reduced-fee programs, building upon existing systems and resources whenever possible.
 - Many of New Jersey's not-for-profit law offices screen individuals for income eligibility and thereby become aware of individuals of "modest means" who require legal assistance. Legal Services has operated the statewide legal assistance hotline, LSNJLAW, which fields tens of thousands of inquiries annually, many from people slightly over its eligibility guidelines. Use of existing resources to the maximum extent possible in order to avoid duplication should be a goal of this program. A pivotal design question is whether, for potential clients not already screened by New Jersey's not-for-profit law offices, screening will be undertaken by some new entity or by the attorney providers themselves. The latter path obviously will require less funding.
7. Determine the methods for marketing the program.
- Once the guidelines for the program are developed, NJSBA, together with New Jersey's not-for-profit law offices, can market the program to potential clients, and inform all of New Jersey's not-for-profit law firms of the eligibility guidelines. NJSBA can maintain the lists of the members of the panels and other programs to which referrals are to be made.

Summary of the Role of the New Jersey State Bar Association

The NJSBA, in coordination with the county bar associations, will:

- a. recruit potential unemployed/underemployed lawyers for the "Attorney Provider" referral panel.

- b. assess the capabilities of potential unemployed/underemployed lawyers for eligibility on the “Attorney Provider” referral panel.
- c. screen potential clients for financial eligibility
- d. determine the general subject matter of the clients’ concerns
- e. refer the clients to the appropriate not-for-profit law office which specialize in the relevant subject matter areas.

Proposal Costs

The proposal costs will include:

- a. the cost of NJSBA performing the functions enumerated above;
- b. the cost of malpractice insurance for the “attorney providers;”
- c. the cost of the not-for-profit law offices screening the cases for merit; and
- d. the cost for the not-for-profit law offices acting as “sponsors” to supervise the work of the “attorney providers.”

Possible Sources for Financing the Proposal

- * the New Jersey State Bar Foundation
- * other foundations
- * law firms and corporate law departments

Given the desperate need of individuals in New Jersey living below 250% of the poverty guidelines, we urge that no public funding be utilized to support the Proposal.

The Benefits of Involving Not-For-Profit Law Offices in the Proposal

- * both the Clients and the Attorney Providers will be served by entities with vast legal experience generally, and vast experience in the relevant subject matter areas
- * the Attorney Providers will have the possibility for loan forgiveness
- * the Attorney Providers will establish mentoring relationships with the not-for-profit law office staff
- * the Attorney Providers will have extensive opportunities to network with the staff and board of the not-for-profit law offices, as well as the attorneys with whom the not-for-profit law offices interact, and the not-for-profit law office’s supporters

- * the Attorney Providers will gain quick, in-the-trenches experiences

- * the Attorney Providers can take advantage of free Continuing Legal Education credit which is available to staff of the not-for-profit law offices

- * the Attorney Providers may be able to fulfill their mandatory *pro bono* requirements while at the not-for-profit law offices

- * the Attorney Providers will have the opportunity to “do good”

Other benefits will no doubt surface if/when the Commission determines to poll the not-for-profit law offices, as discussed above.

Respectfully submitted,

Ruth Lowenkron

Chair, Sub-Committee on Non-Profits

Appendix 1

QUESTIONNAIRE FOR NOT-FOR-PROFIT LAW OFFICES

Introduction

The New Jersey State Bar Association has identified a justice gap facing New Jersey residents. Its response has been to create a Commission to study these unmet legal needs. The Commission, headed by Justices Helen E. Hoens and Virginia Long, is addressing the challenge of providing legal services to residents of modest means who are not served by existing legal services programs. One of the areas being explored is the possibility of pairing unemployed or underemployed New Jersey attorneys with existing legal services programs. It is in connection with this concept that we are seeking input from legal service providers within New Jersey to see if a workable model exists for providing additional legal services within the existing New Jersey legal services providers.

The Commission is exploring possible workable models. One possible model is to pair attorneys with existing legal service programs or not-for-profit providers, with the New Jersey State Bar Association providing some sort of stipend or other incentives.

This model requires the Commission to seek information from not-for-profit providers to see if such a program would be possible within each organization's existing framework. It is in that regard that you are receiving this questionnaire and we thank you in advance for assisting the Commission by filling it out.

Questions

1. The name of your organization.
2. The population served by your organization.

3. Whether your organization serves individuals of "modest means" (defined as those with gross income at ____% - ____% above the federal poverty guidelines)?
4. Whether your organization's guidelines permit your organization to serve individuals of modest means?
5. The kind of cases handled by your organization.
6. How your organization is staffed.
7. Whether and to what extent your organization has supervised volunteer attorneys in the past.
8. What your organization sees as the critical area(s) of legal need for individuals of modest means.
9. Whether your organization could benefit from the placement of an attorney provided by the New Jersey State Bar Association (NJSBA) or some related entity, at no expense to your organization.
10. If such an attorney were provided to your organization, whether you would have the resources to supervise such an attorney.
11. If such an attorney were provided, and your organization were unable to provide supervision, whether you would be amenable to supervision from the NJSBA.
12. Whether any impediments might exist within your organization to participating in a program, as described above, in conjunction with the NJSBA.
13. If an NJSBA attorney were assigned to your organization, the types of cases/matters would you assign to the attorney.
14. Please provide any other information you think might be helpful to understanding your organization, or any additional thoughts you have about the Commission's goals.

Appendix 2

SUMMARY OF THE WISCONSIN EXPERIENCE – REDUCED-FEE REFERRAL SERVICE

Name: The State Bar of Wisconsin Reduced-Fee and Modest Means Referral Service, also called the Lawyer Referrals and Information Service (LRIS). The program operates as a reduced-fee membership panel referral service.

Charges, financial guidelines and the screening process: In Wisconsin's program, the client is not charged a fee for the referral. The standard financial guidelines for client participation are above that state's legal services' programs and range from 125 to 200% of the federal poverty guidelines. The state bar program conducts the initial financial screening of the clients, which requires an application and supporting financial documentation. The guidelines use the gross income of the applicants, but allow certain deductions, such as for the payment of child support and maintenance.

Fees charged and areas of law served by the program: There is no set fee arrangement in Wisconsin's program (although many other states' programs have gone this route). Wisconsin requires participating attorneys to sign an agreement which includes the charging of a reduced-fee for hourly rates, retainer agreements and contingency percentages, and informs clients that the attorneys can charge up to a \$20 fee for the initial half-hour consultation. The program is limited to Family, Consumer, Landlord/Tenant, Bankruptcy, some Estate (Powers of Attorney and Wills) and pre-charging conferences in Criminal cases.

How it works: Potential clients submit an application and financial documentation to the Bar's program. Interested lawyers submit a registration form and must agree to abide by panel member rules, including the charging of reduced-fees. Panel member attorneys must be in the private practice of law and maintain a law office, and are offered malpractice coverage under the state bar program. Representation provided under the program constitutes *pro bono* legal services under the state's court rules. Once an application for services is received by the LRIS, it is evaluated by staff, and staff attempt to find a lawyer who will handle the type of case and is located in the geographical area identified by the applicant. The lawyer receives the referral but is under no obligation to accept the case.

Applicability of Wisconsin's Program to New Jersey

As noted above, New Jersey can create a panel of attorney providers who have agreed to accept reduced-fees from eligible clients referred by NJSBA and county bar referral programs. There is no need to duplicate the services being provided by the existing not-for profit law offices to screen clients, make referrals and supervise Attorney Providers.

APPENDIX B

SUBMISSIONS AND PROPOSALS

APPENDIX B.1
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Proposal for the Blue Ribbon Commission on Unmet Legal Needs

Legal Services of New Jersey

February 19, 2016

Prepared by: Melville D. Miller, Jr. and Dawn K. Miller

This proposal outlines Legal Services of New Jersey's recommendations for key elements of a reduced fee plan. We begin by framing concisely what we understand to be the *two broad goals* of the enterprise. These goals are followed by *three core principles* that we believe should be applicable to any program design. Finally, we offer a few recommendations for *selected program details* that should be incorporated in any reduced fee design.

Basic goals of the Reduced Fee Program

- Provide employment opportunities for unemployed and underemployed attorneys, especially, but not exclusively, new admittees.
- In so doing, target the expanded legal representation to be provided under the program to potential clients with *net incomes above publicly-funded Legal Services guidelines* (250% of the federal poverty level, or FPL), by charging such clients reduced fees according to a prescribed scale.

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James H. Coleman, 2006-2010
Michael R. Cole, 1996-2005
William D. Hardin, 1989-1996
Douglas S. Eakeley, 1981-1989

Three Core Principles
(Applicable to any program design)

1. **The new reduced fee program should be realistic in scope and carefully tailored to avoid duplication of existing services and resources and any unnecessary expense.**

Any new program must build upon the efforts of Legal Services and other legal assistance providers, rather than duplicating them. A key example is the Legal Services of New Jersey statewide Legal Hotline, 1-888-LSNJLAW, which annually receives and processes tens of thousands of requests for legal assistance. Each year many thousands of these requests are from people just over the 250% FPL Legal Services guidelines, providing a large already-screened and referral-ready stream of new clients for the proposed reduced fee program. There is no need, for the foreseeable future, to create a brand new intake, screening and referral process.

2. **The newly designed reduced fee program must not disrupt the existing Legal Services delivery systems and cause unnecessary confusion to the public.**

Creation and marketing of a new 800 number aimed at clients seeking legal assistance inevitably would cause confusion with the well-established statewide Legal Services Hotline and delivery system, and threaten to misdirect and mislead *Legal Services-eligible* clients away from the no-cost services available to them. Such confusion and misdirection would be even more damaging to Legal Services-eligible clients given the close tie-in between Legal Services' Hotline and Legal Services' public-facing legal assistance and information website, lsnpjlaw.org, which provides an ever-growing wealth of *pro se* support and assistance, including interactive form-generation video-supported programs, along with other information concerning laws, rights, legal processes, courts, and an array of relevant resources that are of critical importance to those who will have no lawyer at all.

3. **No public funding is available, or should be used for, this reduced fee plan.**

The reduced fee program goal of assisting underemployed and unemployed attorneys and increasing the availability of legal assistance to those who have the ability to pay some part of the market rate for attorneys is important, but it must not diminish the inadequate public resources presently available to low-income individuals. One-third of New Jersey's population – some 2.8 million people – live in actual deprivation and poverty, below 250% FPL, the net income ceiling for Legal Services approved by the State and IOLTA. This low-income population currently is *only able to secure a lawyer for less than one-tenth of these civil legal problems*. The unmet legal needs of this actual-poverty population must be the overriding priority for any new public funding, which has dropped sharply over the past decade and offers no realistic hope of significant increase in the foreseeable future. Any public funding that does become available in the future must be channeled to, and not dilute, help for those with net incomes below 250% FPL.

Program Details

1. Client financial eligibility criteria for reduced fee assistance.

Define client reduced fee program eligibility as those who are above the Legal Services current income guidelines for free assistance from the Legal Services system, meaning net income levels above 250% of the FPL¹ (the “minimum income level”). At a minimum, “net income” should provide for deduction of taxes, child support, extraordinary health costs, disability-related expenses, seasonal income variations, and extraordinary expenses necessary merely to sustain the essentials of life. Limits should also be placed upon a potential client’s available or liquid assets.

2. Parameters for membership in the attorney provider panels.

An application process should be developed that includes self-certification of (a) the date of admission to the New Jersey Bar, (b) current good standing, and (c) competency in the particular areas(s) of the law in which cases are to be referred. As a pragmatic consideration, we would caution against, and think the program should disclaim, any additional testing process for participating attorneys.

Once membership guidelines are developed, the NJSBA can recruit lawyers to become members of a reduced fee panel through an application process similar to that implemented by the Wisconsin Bar. As the Wisconsin experience shows, there may be no need to incur the additional costs and expend resources to create a new not-for-profit organization to recruit attorney providers. The NJSBA should coordinate this effort with the existing county bar referral system.

3. Set parameters for the reduced fee arrangements.

The reduced fee arrangements should include a sliding scale based on the client’s income, up to the maximum income level, with a reduced upfront retainer, reduced hourly rate, and reduced initial consultation fee as well, to increase the likelihood that applicants can actually secure an attorney.

4. Process for referral and screening –the optimal role for non-profit legal assistance organizations.

At the outset of a new program, the number of attorneys who will enlist to participate and, equally important, remain with the program, is unknowable. Given that Legal Services and likely other non-profit providers can, through their current screening procedures, potentially refer thousands of likely-eligible applicants annually, LSNJ strongly urges the NJSBA *not* to market the new program to the general population, at least initially, in order to avoid a potential human and public relations disaster. Future marketing decisions can be made in the light of actual attorney enrollment and client participation. Referrals can come from non-profit

¹ In 2016, 250% of the federal poverty level is approximately \$ 50,400 for a family of three.

legal assistance providers, law schools, private attorneys, and, perhaps in time, the judiciary and social agencies, as the eventual dimensions of the program become clear. The not-for-profits can pre-screen their referrals, as part of their own eligibility determination, as long as the reduced fee guidelines are simple and streamlined. The participating attorneys inevitably will be second, ultimate screeners, since they are unlikely to countenance reduced fees for those who can well afford services.

5. Supervision and quality control.

It appears unrealistic and therefore unwise to build in at the outset a requirement of outside supervision, oversight or evaluation of participating attorneys. Absent clear evidence of a substantial cadre of willing outside supervisors, to do so would vastly and impractically increase costs, unnecessarily duplicate the current processes of the judiciary's disciplinary system, potentially impede attorney interest in enrollment, and overall likely inhibit implementation. No evidence has been advanced that a sufficient number of such sponsors would be available. In Legal Services' experience it is extremely unlikely that Legal Services and other contract non-profit legal assistance providers have leeway under their grants and contracts to divert resources to oversight or supervision of the provision of legal assistance to clients not eligible under those grants and contracts.

APPENDIX B.2
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AMERICAN BAR ASSOCIATION**Commission on the Future
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To: ABA Entities, Courts, Bar Associations (state, local, specialty, and international), Law Schools, Disciplinary Agencies, Individual Clients and Client Entities

From: ABA Commission on the Future of Legal Services

Date: November 3, 2014

Re: Issues Paper on the Future of Legal Services

I. Introduction

The American Bar Association Commission on the Future of Legal Services is conducting a comprehensive examination of issues related to the delivery of, and the public's access to, legal services in the United States. This issues paper is intended to identify and elicit comments on topics that the Commission is currently exploring.

The Commission takes no position on the matters addressed in this paper at this time. Rather, the Commission expects to use any comments and supporting documents that it receives to supplement its research, decide which issues to address, and guide the development of various reports, proposals, and recommendations. Comments received by the Commission may be posted to the Commission's website and should be submitted by **Wednesday, December 10, 2014.**

II. Background

Access to affordable legal services for the public is critical in a society based on the rule of law. The resolution of legal matters is growing more expensive, time-consuming, and complex. Many who need legal advice cannot afford to hire a lawyer and are forced to represent themselves. Even those who can afford legal services often do not use them or turn to less expensive law-related alternatives. For those whose legal problems require entry into the court system, various challenges arise due to serious underfunding of the courts.

At the same time, technology, globalization, economic, and other forces continue to transform how, why, and by whom legal services are accessed and delivered. Familiar and traditional practice structures are giving way in a marketplace that continues to evolve. New providers emerging online and offline offer a range of services in dramatically different ways.

The Commission has created six working groups to study these developments and draft recommendations and related work product for the Commission's consideration and possible approval:

- **Data on Legal Services Delivery.** This working group will assess the availability of current, reliable data on the delivery of legal services, such as data on the public's legal needs, the extent to which those needs are being addressed, and the ways in which legal and law-related services are being delivered; identify areas where additional data would be useful; and make existing data more readily accessible to practitioners, regulators, and the public.
- **Dispute Resolution.** This working group will assess developments, and recommend innovations, in: (a) court processes, such as streamlined procedures for more efficient dispute resolution, the creation of family, drug and other specialized courts, the availability of online filing and video appearances, and the effective and efficient use of interpreters; (b) delivery mechanisms, including kiosks and court information centers; (c) criminal justice, such as veterans' courts and cross-innovations in dispute resolution between civil and criminal courts; (d) alternative dispute resolution, including online dispute resolution services; and (e) administrative and related tribunals.
- **Preventive Law, Transactions, and Other Law-Related Counseling.** This working group will assess developments, and recommend innovations, in delivering legal and law-related services that do not involve courts or other forms of dispute resolution, such as contract drafting, wills, trademarks, and incorporation of businesses.
- **Access Solutions for the Underserved.** This working group will assess developments, and recommend innovations, in facilitating access to legal services for underserved communities.
- **Regulatory Opportunities.** This working group will study existing regulatory innovations, such as Alternative Business Structures in countries outside of the U.S. and Washington State's Limited License Legal Technicians, as well as related developments, including the recently-released Canadian Bar Association's Legal Futures Initiative report. The working group will then recommend regulatory innovations that improve the delivery of, and the public's access to, competent and affordable legal services.
- **Blue Sky.** This working group will propose innovations that do not necessarily fit within the other working groups, but could improve how legal services are delivered and accessed, such as innovations developed in other professions to improve effectiveness and efficiency, collaborations with other professions, and leveraging technology to improve the public's access to law-related information.

III. Issues for Public Input

To guide its work over the coming months, the Commission seeks comments on the following questions:

1. **Better service.**
 - a. **Clients.** How can the legal profession better serve clients of all types, including individuals, governments, corporations, and institutions?
 - b. **Potential clients.** How can the legal profession better serve people who currently cannot afford a lawyer, or who decide to use alternative service providers or go it alone?
2. **Most important problems in delivering legal and law-related services.**
 - a. **Dispute resolution/litigation.**
 - i. What are the most important problems in delivering legal and law-related services in dispute resolution/litigation?
 - ii. How do you think those problems should be addressed?
 - iii. What existing innovations should the Commission study?
 - iv. What ideas for new innovations do you have?
 - b. **Outside of dispute resolution/litigation.**
 - i. What are the most important problems in delivering legal and law-related services outside of dispute resolution/litigation (e.g., wills, contract drafting, trademarks, incorporation of businesses, etc.)?
 - ii. How do you think those problems should be addressed?
 - iii. What existing innovations should the Commission study?
 - iv. What ideas for new innovations do you have?
3. **Alternative providers and regulatory innovations.**
 - a. **No J.D./law license requirement.** Can access to legal services be improved if the pool of available providers is expanded to include people without a J.D. and full law license?
 - i. Will legal services become more affordable if people without a full law school education and law license are authorized to deliver legal services?
 - ii. How can the delivery of legal services be effectively regulated to prevent harm to consumers if the system of providers is expanded in these ways?
 - b. **Ownership interest in law firms.** To what extent should those who are not licensed to practice law be permitted to have an ownership interest in law firms?
 - c. **Other regulatory innovations.** What other kinds of regulatory innovations in the United States or other countries could help to improve the delivery of legal services (e.g., entity regulation and proactive risk-based management/compliance programs, such as those in Australia that have helped foster ethical infrastructures and reduced complaints against regulated firms)?

4. **Underserved communities.**

a. **Facilitating access.** How can we better facilitate access to civil and criminal legal services for underserved communities?

- i. What services are most needed by those who are underserved?
- ii. What barriers prevent them from accessing such services?
- iii. What existing models or innovations have had the greatest impact on expanding access to legal services?
- iv. What further innovations might help to expand access to legal services?
- v. How can the profession help to educate the underserved about their legal needs and ways to address those needs?

b. **Facilitating delivery by small law practices.** How can small law practices (e.g., solo practitioners, lawyers in rural communities, small firm lawyers, etc.) sustainably represent those who do not have access to legal services?

- i. What specific tools or innovations can lawyers leverage to reach this goal?
- ii. What kind of new training might lawyers need to meet this goal?

5. **Policy changes.** To what extent should the Commission explore policy changes to improve access to legal services (e.g., recommending that the ABA lobby for changes to government policies that would improve the quality of, or access to, legal services)?

6. **Insights from other fields.** What insights might the legal profession gain from innovations in other professions, industries, or disciplines (e.g., WebMD, IBM Watson, technology advancements, design-thinking, project management, gamification, checklists, organizational psychology, etc.)?

7. **Data.** Significant amounts of data are available on lawyers, the delivery of legal services, and the legal needs of the public. What additional data is needed?

8. **Legal education and training.** In what ways should the profession address the findings of the ABA Task Force on the Future of Legal Education Report? What competencies and specialized training does the public expect and need from lawyers (problem-solving, familiarity with related disciplines, etc.)?

9. **Diversity and Inclusion.** How can the legal profession address diversity and inclusion in the recruitment and retention of practicing lawyers? What impact do diversity and inclusion have on the public's need for legal services? Would greater diversity and inclusion enhance access?

10. **Other considerations.**

a. **Specific issue or challenge.** Is there a specific issue or challenge regarding access to, or delivery of, legal services that has not been addressed by the above questions and that you think needs the Commission's attention? If so, what is the issue and why do you see it as important?

- b. **Other questions.** What other questions should the Commission consider that are not addressed above?

The Commission would particularly appreciate submitted comments with links to relevant resources and citations to specific examples, illustrations, and solutions. Any comments should be submitted by **Wednesday, December 10, 2014** to:

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APPENDIX B.3
STUDENT LOAN FORGIVENESS

Overview of Student Loan Forgiveness Programs

Issue: The current public interest loan forgiveness program forgives the remaining balance of the individual's loans after 10 years of full-time employment in qualifying public interest jobs. In other professions there is a shorter loan forgiveness period. For instance, primary care physicians and dentists may be eligible for loan forgiveness after 4 years of services. Similarly, teachers may be eligible for loan forgiveness (up to \$17,000) after 5 years if they teach in low-income schools or special education.

Possible Solution: Develop a new state loan forgiveness program through legislation.

Current Loan Forgiveness Programs for Attorneys:

1. **Public Service Loan Forgiveness Program**, 20 USCS § 1087e(m). Under this federal loan redemption program, the amount forgiven is the remaining outstanding balance of principal and accrued interest on an eligible federal loan for a borrower who is not in default and who makes 120 monthly payments on the loan. The borrower must be employed full-time in a public service job during the period in which the payments are made and at the time that the cancellation is granted. This is approximately 10 years. For more information visit: <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service>
2. **John R. Justice Loan Redemption Program**, 42 USCS § 3797cc-21. This program is administered by New Jersey's Department of Higher Education and is contingent on funds from a federal grant (Grant No. 2014-RJ-BX-0040). This federal loan redemption program was established in 2010 and provides funds toward the federal loans of attorneys working as prosecutors and public defenders. Last year, 30 applicants were chosen; 7 prosecutors and 23 public defenders. The applicants chosen were found to be the least likely to pay back their loans based upon student loan debt and current income. Each were given an average of \$1,700 toward their loans. As a condition on receiving the funds, the chosen applicants must sign a contract agreeing to work as a public defender or prosecutor for at least 3 years. The applicants can re-apply every year, and if chosen, must agree to work an additional year on top of the 3 years they already committed to. All funds awarded to applicants are considered taxable income and must be reported to the IRS. It does not look like this program will exist much longer as the federal grant amount has been less and less each year. Next year the program will only accept a total of 18 applicants; 9 prosecutors and 9 public defenders. For more information visit: <http://www.equaljusticeworks.org/ed-debt/students/loan-repayment-assistance-programs/federal-LRAPs/JRJ>
3. **Loan Repayment Assistance Programs (LRAP)**

- a. **Law School Loan Repayment Assistance Programs.** These programs are established individually by law schools and provide financial aid to law school graduates working in the public interest sector, government, or other low-paying legal fields. Each law school sets its own requirements and the amount of funds it is willing and able to contribute to a chosen applicant's student loan debt. For a list of law school's LRAPs visit:
<http://www.equaljusticeworks.org/resources/student-debt-relief/law-school-lraps/list-law-school-lraps>
- b. **State Loan Repayment Assistance Programs.** According to the American Bar Association, there are twenty-four statewide LRAPs providing assistance in Arizona, District of Columbia, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, New Hampshire, New Mexico, New York (two programs), North Carolina, Ohio, Oregon, Pennsylvania, Texas, Vermont, and Virginia. The LRAPs range in age, size and scope. Some are administered by a state bar association or foundation while others are administered through stand-alone nonprofit organizations. Some are funded through state legislative appropriations while others rely on funding from the private sector or from IOLTA funding. There is not a LRAP in New Jersey. For a list of all statewide LRAPs visit:
http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/loan_repayment_assistance_programs/state_loan_repayment_assistance_programs.html
- i. *For a helpful breakdown of State LRAP see also:*
http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/lslcaid_lrap_state_chart_summary.authcheckdam.pdf
AND
http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/lslcaid_lrap_state_chart_funding_amounts_sources.authcheckdam.pdf

Loan Forgiveness Programs for Other Professions:

1. **Primary Care Practitioner Loan Redemption Program of New Jersey, N.J. Stat. § 18A:71C-33, et seq.** Authorized by the New Jersey legislature under the Health Care Cost Reduction Act of 1991, this program will provide up to \$120,000 in student loan forgiveness in exchange for the applicant agreeing to work for a minimum of 4 years (which includes a 6 month probationary period) in a medically underserved area of the state. Primary care physicians, dentists, certified nurse midwives, certified nurse practitioners, and certified physician assistants who have completed their

graduate training/residency program may apply for loan redemption. Only graduate loans are eligible for repayment, and all money received by the applicant is considered taxable income. For more information visit:

<http://rbhs.rutgers.edu/lrpweb/index.html>

2. **Nursing Faculty Loan Redemption Program**, N.J. Stat. § 18A:71C-53. Provides loan forgiveness in exchange for full-time employment for a minimum of 5 years in a faculty position at a New Jersey nursing school. This program was established by a state grant and will provide up to \$50,000 towards an applicant's loans. Applicants must meet very specific criteria and so far only 10 applicants have qualified. It does not look like this program will exist much longer since the program has not received any additional funding. For more information visit:

<http://www.hesaa.org/Pages/NursingFacultyLoanRedemptionProgram.aspx>

3. **Teacher Loan Forgiveness Program**, 20 USCS § 1078-10. This program grants federal loan forgiveness of up to \$17,500 for teachers in certain specialties and up to \$5,000 for other teachers, who teach for five years in certain low-income schools and meet other requirements (ex: special education). In NJ there are many pending legislative initiatives to further loan repayment for teachers (See

<http://www.njleg.state.nj.us/bills/BillsByKeyword.asp>). For more information visit:

<https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/teacher>

State v. Federal Loan Forgiveness Programs:

- State: generally private money through bonds. Payable towards state and federal loan programs.
- Federal: Federal grants are only payable toward federal loans.

APPENDIX B.4
UNIFYING GRAPHIC

NJSBA Blue Ribbon Commission on Unmet Legal Needs Process of Client Flow

