



June 5, 2020

Board of Directors
Legal Services Corporation
3333 K Street, N.W.
Washington, DC 20007

Dear Board of Directors:

The National Association of Consumer Advocates (NACA) appreciates the opportunity to support the Legal Services Corporation and to advocate for the continued maintenance of LSC's critical function in our society. We also share our views below in recognition of legal aid attorneys, who are highly valued members of the NACA community.

As we have noted in every prior communication to the Board, LSC deserves significantly more funding than it currently receives. With 58 million Americans eligible for free civil legal assistance, LSC's current funding is insufficient to support this tremendous responsibility. Moreover, the ongoing health and economic fallout stemming from the coronavirus pandemic, which disproportionately impacts low-income Americans, demands a funding increase of hundreds of millions of dollars. As such, NACA will continue to back the Board's efforts to push for considerably more funding for your FY 2022 budget request to support the important work of the country's independent legal aid organizations.

NACA's legal aid attorneys and our other members, which include private and public sector attorneys, law professors, and law students, have represented hundreds of thousands of consumers victimized by fraudulent, abusive, and predatory business practices. They are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means. As part of our mission, we maintain a forum for communication, networking, and information-sharing among consumer advocates nationwide, particularly regarding legal issues to help facilitate quality representation of clients.

NACA is engaged with approximately 40 percent of LSC-funded legal aid programs. Our legal services attorney members represent veterans, seniors, homeowners, servicemembers, students, victims of domestic abuse, and working families. They help Americans to protect and enforce their rights when confronted with distressing issues, such as wrongful foreclosures and reverse mortgages, abusive debt collection practices, inaccurate and illegal credit reporting and employment background checks, landlord-tenant abuses, and predatory lending.

Legal Aid Attorneys Tackle the Coronavirus Challenges

NACA anticipates that the wide justice gap in civil legal services for low-income Americans will grow exponentially as a consequence of the health and economic crisis from the coronavirus pandemic. While we note that LSC recently received \$50 million in the CARES Act that passed March 27 to aid the impact on Americans, those funds are insufficient for the short- and long-term consequences of this crisis.

NACA members are already responding to the COVID-19 impact on their clients and communities. At **Legal Aid Chicago**, for example, attorneys helped clients whose bank accounts were frozen or seized by creditors at a time when they most needed their limited savings. Advocates worked with creditors and their attorneys to protect their clients' funds. Advocates also began work to ensure that their clients received the stimulus payments issued by the IRS under the CARES Act, and began a project to attempt to contact clients who are "financially off the grid," to help them access their stimulus payments.

Legal Services Alabama experienced a huge surge in call volume due to COVID-19. In response, the advocates adjusted their existing statewide call center, and created Call Center Plus to expand their services during the crisis. Advocates, at home as a result of the quarantine, worked remotely to advise clients and handle cases. Their most significant work involved evictions and public benefits, specifically unemployment and food stamps. Legal Services Alabama foresees a big increase in consumer debt collection and garnishment cases as the courts begin to reopen.

Similarly, advocates at **Central Jersey Legal Services** expect a surge in demand when courts, that had shut down during the quarantine, re-open. Advocates expect that individuals who lost their jobs may become newly-eligible for free legal assistance. Consumer attorneys also anticipate calls from their existing clients, and expect that they will need assistance with bankruptcies, foreclosures, and collection defenses caused by the pandemic.

In April 2020, **Indiana Legal Services, Inc. (ILS)** and three community partners, petitioned the Indiana Supreme Court to protect CARES Act stimulus payments from attachment or garnishment by judgment creditors. ILS anticipates a spike for consumers in need of legal assistance in primarily debt collection, bankruptcy matters, evictions, and foreclosures.

Before **Legal Aid Society of Middle Tennessee & the Cumberlands** learned about the COVID-19 pandemic and the legal issues stemming from it, Tennessee communities were hard hit by deadly tornadoes that tore through several counties within its service areas in early March 2020. In response to both emergencies, the advocates drafted and distributed pamphlets with vital legal information and resources for consumers affected by the events. In addition, the consumer advocates spoke with the media about the legal issues affecting consumers as a result of the disasters.

NACA Members' Outstanding Work in 2019

To demonstrate the value of NACA's legal aid attorney members to their respective communities, we have highlighted some of the work of programs below:

The advocates at **Legal Aid Society of Cleveland's Economic Justice Group** provide direct representation to low-income consumers and work to solve problems faced by their clients in a five-county service area of Northeast Ohio. The advocates handle matters involving foreclosure, debt collection, utilities, student loans, and bankruptcy. In one example, advocates successfully argued in a bench trial on behalf of their clients that tax liens in a foreclosure case were expired and procedurally deficient. The Court denied the property tax foreclosure, deemed the tax liens to be void, and the County Treasurer cleared the liens from the client's property, so that her housing was preserved and stabilized. In another example, advocates, after identifying that a client's wages were being wrongfully garnished, worked to get the garnishment reversed. They also assisted their client in filing a federal lawsuit against her employer for unpaid wages under the Fair Labor Standards Act and tort claims. They reached a favorable settlement, and their client was compensated for the

employer's repeated wrongful acts. In 2019, the total financial benefit—asset/income increase and debt reduction—to Cleveland Legal Aid clients with consumer matters (not including foreclosure) was over \$5.7 million.

Last year, advocates at **Legal Services Alabama** handled and won a major appeal regarding the rights of debtors to protect their wages from garnishment. They argued that a state statute, which said that claim wages were no longer exempt from garnishment, violated Alabama's constitution. The Court of Appeals agreed that the statute was unconstitutional. As a result, the advocates protected the wages of all low-income Alabama workers. (The case is currently on appeal to the Alabama Supreme Court.)

Indiana Legal Services, Inc. (ILS) handled two significant cases before the Indiana Supreme Court during the past year, the results of which will benefit low-income citizens statewide. In one case, *Rainbow Realty Group, Inc. v. Katrina Carter et. al.*, No. 19S-CC-38, the court's decision ensured that companies can no longer legally engage in extremely unfair "rent to buy" contracts or similar arrangements. The City of Indianapolis and the Indiana Attorney General, among others, joined with ILS advocates as amicus partners.

Bay Area Legal Services, which serves Hillsborough, Pinellas, Pasco, Manatee and Sarasota Counties in Florida, closed 1,427 consumer cases in 2019. The advocates assist consumers with bankruptcy issues (320 cases), collection and garnishment (493), contracts and warranties (406), collection practices and loans (30), utility billing (10), unfair sales practices (66), and other consumer issues (102). In addition to assisting members of their five-county service area, Bay Area Legal operates two statewide legal helplines: the Florida Senior Legal Helpline and the Florida Veterans Legal Helpline. Through these helplines, advocates connect with seniors and veterans around the state to offer advice about many civil issues, including consumer matters. Consumer attorneys also help clients through the Home Ownership Protection Program.

New Mexico Legal Aid's Consumer Law Practice Group litigates to achieve justice for low-income New Mexicans who have been scammed, ripped-off, or otherwise unlawfully taken advantage of. In 2019, NMLA's clients recovered \$99,000 in damages for their claims and avoided \$715,000 in debt liability. NMLA handled cases involving consumers being sued for debts that were time-barred, cases where the debt collector could not prove standing to collect on the debt, and cases of businesses engaging in the unauthorized practice of law and other unfair and deceptive sales practices.

In 2019, the **Legal Aid Society of Middle Tennessee & the Cumberlands** provided direct services to 1,001 clients in consumer matters. The consumer clients received a total financial benefit of \$1.3 million, involving services in bankruptcy, collections, contracts, collection practices, loan installment contracts, public utilities, unfair and deceptive sales practices and issues related to reverse mortgages, mortgage foreclosures and home retention. For example, consumer attorneys assisted the statewide non-profit organization Tennessee Alliance for Legal Services (TALS) in successfully challenging the law which had exempted medical billing practices from coverage under the Tennessee Consumer Protection Act. Appearing as amicus for TALS, the Legal Aid Society provided both written and oral arguments to the Tennessee Supreme Court. As a result of these efforts, the billing practices of medical providers can now be challenged under the Tennessee Consumer Protection Act. In a second example, the advocates also successfully challenged the assessment of a "customary fee" which was based on an annual percentage rate of 279.50%. The

court found the fee to be “unconscionable and unjust.” If the ruling is upheld on appeal it will curb predatory lending practice in the area.

In Oregon, the three civil legal aid programs, including **Legal Aid Services of Oregon**, assisted hundreds of homeowners and their family members through the statewide Legal Aid Foreclosure Help program in 2019. Foreclosure Help had a financial impact of \$1.2 million. The benefits included preserving home equity; preventing homeowners who would otherwise lose their homes from having to pay rent in amounts that would have exceeded their mortgage payments; putting homeowners in position to access Hardest Hit funds; and avoiding expenses from having to relocate. Foreclosure Help also assisted tenants facing eviction as a result of foreclosures on their homes.

At **Legal Aid of Arkansas**, consumer attorneys helped their clients hold predatory businesses accountable. In the first example, attorneys helped families to recover money paid to a buy here-pay here auto dealer that sold unsafe salvage cars without the necessary disclosures. The advocates also helped the families to recover money that their clients had to pay others for replacement transportation. After several successful cases, the buy here-pay here dealer finally began making the required salvage disclosures resulting in fewer salvage car sales. In another example, a consumer purchased a car and was unable to complete her payments because she became quarantined due to COVID-19. She attempted to negotiate with the seller, but he tried to repossess her auto. The attorneys helped the mother stop the repossession, facilitated payment to the seller, and recovered the title to the vehicle for the mom. And in a third example, advocates helped a consumer to recover funds from a debt consolidation company who had pocketed payments from the consumer and failed to pay toward lowering the consumer’s debt.

As the examples above show, consumer attorneys at legal aid programs not only help the clients that are directly affected, but it is also clear that the advocates’ work also benefits the larger community. Any progress that legal aid programs make to cut down risky and illegal business practices helps consumers and the marketplace as a whole.

LSC funding provides the essential baseline for legal aid programs to function. These programs necessarily receive supplementary financial support from other sources including foundations, grants, state governments, and *cy pres* awards. Receiving funding from these sources is often complex and competitive due to the funding needs of other community and nonprofit organizations.

It is our view that the legal needs of low-income people in the United States, compounded by the current unprecedented health and economic crisis, far exceed the amount of LSC’s current appropriation. We strongly support LSC’s efforts to secure appropriate funding for its programs. The needed funds will help committed attorneys provide essential legal aid to vulnerable members of our society.

Thank you for considering our views and leading the effort to maintain the exceptional contributions of legal aid programs.

Sincerely,

Christine Hines
Legislative Director