



SOUTH CAROLINA
ACCESS TO
JUSTICE



2008 PUBLIC HEARINGS OF THE SOUTH CAROLINA ACCESS TO JUSTICE COMMISSION

EXECUTIVE SUMMARY

APRIL 2009

South Carolina Access to Justice Commission
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HISTORY OF THE SOUTH CAROLINA ACCESS TO JUSTICE COMMISSION

In early 2005 Texas Supreme Court Justice Harriet O'Neill, a South Carolina native and a graduate of the University of South Carolina School of Law, invited George Cauthen, a member of the South Carolina Bar to attend the Annual National Meeting of State Access to Justice Chairs presented by the American Bar Association in Austin Texas held on May 6, 2005.

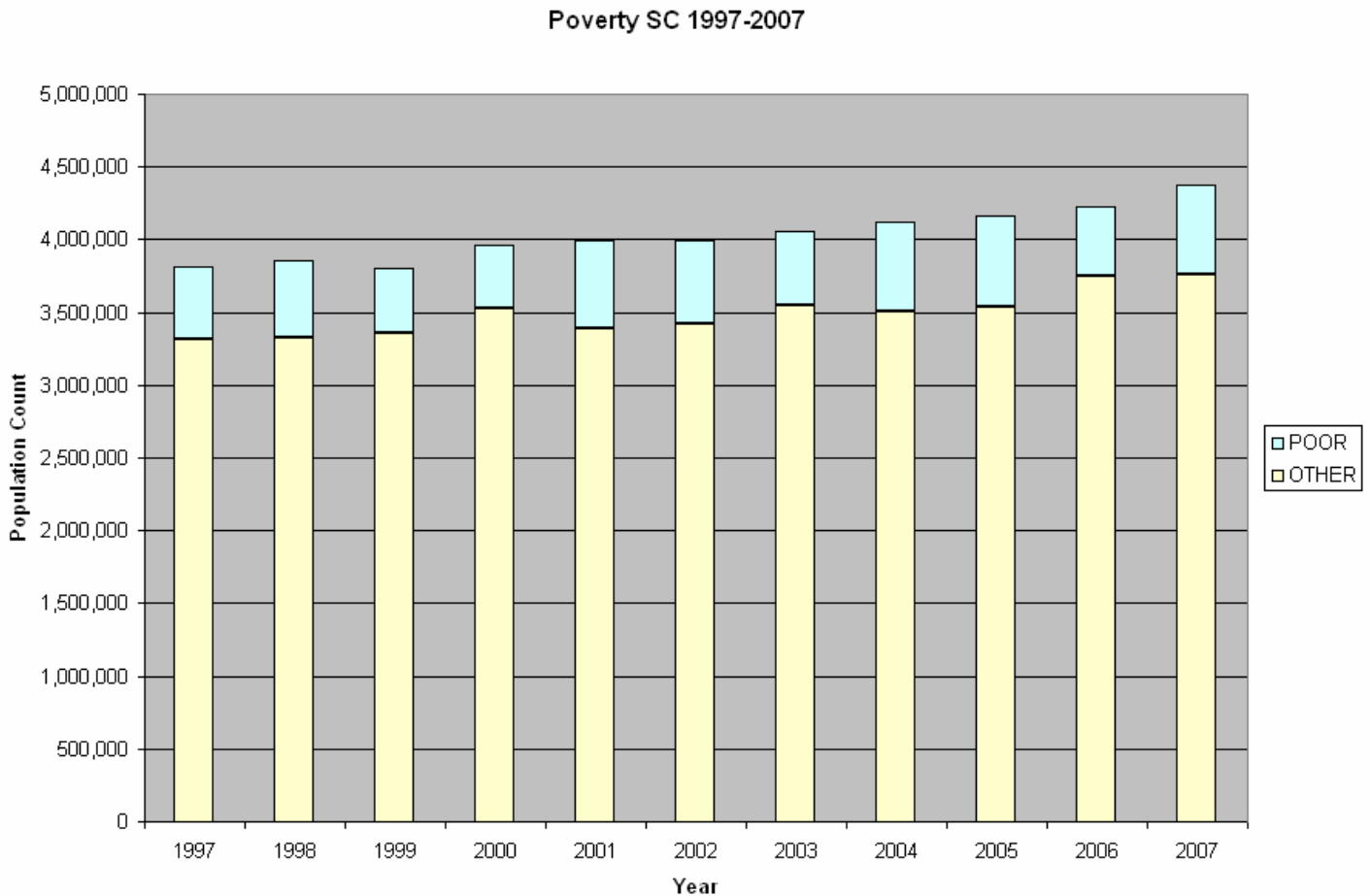
Mr. Cauthen subsequently presented a motion to the South Carolina Bar's Access to Justice Committee, a successor committee to the Bar's Service to Indigents Committee, to create a South Carolina Access to Justice Commission. The Service to Indigents Committee notified Chief Justice Jean Toal and then South Carolina Bar President Dan White of the Bar's progress on this proposal by letter of July 19, 2005. That Committee voted in favor of creating such a Commission in November of 2005, and recommended to the South Carolina Bar's Board of Governors to adopt a resolution calling upon the South Carolina Supreme Court to create such a Commission. The Board of Governors approved the motion and sent the proposal to the Bar's House of Delegates, which voted in favor of the resolution on January 26, 2006.

Justice O'Neill had reached out as well to Chief Justice Jean Toal in the fall of 2005 urging the creation of a South Carolina Access to Justice Commission. In February, 2006, Bob Wells, Executive Director of the South Carolina Bar, notified the Chief Justice of the Bar's Resolution requesting the Court to create a South Carolina Access to Justice Commission. Chief Justice Toal met with a delegation from the Bar on May 22, 2006, and formal work on creating the Commission began. In October of 2006, Chief Justice Toal designated Stuart Andrews as chair of the Access to Justice Task Force. On November 16, 2006 the first meeting of the Task Force was held. Bob Echols, an ABA consultant on Access to Justice Commissions, attended and covered various aspects of Commissions. The Task Force met again on January 25, 2007, with Chief Justice Toal presiding and Justice O'Neill participating. On January 31, 2007, the South Carolina Supreme Court entered Administrative Order 2007-01-31-01, formally creating the South Carolina Access to Justice Commission.

On September 27, 2007, the first formal meeting of the Commission was held. On October 1, 2007, Robin Wheeler started work as the first Executive Director of the South Carolina Access to Justice Commission.

POVERTY AND SOUTH CAROLINA

That South Carolina ranks eleventh out of all fifty states (next page) may not be surprising to many. From the years 1997 to 2007, the poverty percentage in South Carolina was at its lowest in 2000 at 11.1% and its highest in 2001 at 15.1%.



And at the time of this report, the state and the nation had officially entered into a recession and financial crisis with record unemployment lows not seen in many of the current population's lifetime. In fact, during this period, South Carolina's unemployment rate was consistently among the highest in the country.

Legal and social needs for people living at or close to poverty guidelines will continue to increase. The challenge to provide these services will increase as well while resources to provide the services decline. Now more than ever, access to civil legal representation and the court system is critical.

**Lowest 10: Two Year Average Median Household Income by
State: 2004-2007**

POVERTY RANK	STATE	Median Income 2004-2005 Avg. \$	Median Income 2006-2007 Avg. \$
1.	MISSISSIPPI	36,533	36,499
2.	WEST VIRGINIA	37,671	40,800
3.	MONTANA	38,451	42,963
4.	ARKANSAS	38,668	39,452
5.	KENTUCKY	39,033	40,029
6.	LOUISIANA	39,768	39,418
7.	ALABAMA	39,832	40,620
8.	OKLAHOMA	41,733	41,578
9.	TENNESSEE	41,822	41,521
10.	NEW MEXICO	42,396	42,760
11.	SOUTH CAROLINA	42,599	42,477
—	UNITED STATES	48,934	49,901

Source: U.S. Census Bureau, Current Population Survey, 2005 to 2008 Annual Social and Economic Supplements.

FIRST GOAL OF THE COMMISSION

The first goal of the Commission is to identify and assess current and future needs of low-income South Carolinians for access to justice in civil matters by examining the full range and volume of unmet legal needs. The public hearings presented the perfect opportunity for us to evaluate the needs of South Carolinians with low income or of modest means.

According to the Order establishing the Commission, the assessment was intended to:

- (a) determine and document how unrepresented people with legal disputes are attempting to meet these needs without attorneys, the extent to which these efforts are successful, and the consequences of the lack of attorney representation;
- (b) recognize the enormous efforts currently being made by attorneys to serve low-income South Carolinians;
- (c) analyze the need for funding and other resources to close the gap; and
- (d) address any other matters related to the delivery of equal access to justice in civil matters to all South Carolinians.

In response to the four evaluative points, the South Carolina Access to Justice Commission developed and began work on the following initiatives:

- (1) Expanding and Enhancing resources for Self-Represented Litigants;
- (2) Expanding and Enhancing resources for Staffed Programs such as South Carolina Legal Services, the Center for Heirs' Property Preservation, the Center for Fathers and Families, Protection and Advocacy for People with Disabilities, Inc., and others;
- (3) Expanding and Enhancing Pro Bono Programs such as the South Carolina Bar Pro Bono Program, Pro Bono Legal Services, and Low Country Legal Aid, Inc. as well as support the development of formal pro bono programs by firms and private practitioners; and
- (4) Educating the public, attorneys, the courts and the legislature about the civil legal needs of lower-income South Carolinians as well as other groups that experience particular difficulty gaining access to the legal system.

EXECUTIVE SUMMARY

When the South Carolina Access to Justice Commission began its work, we knew that the first order of business would be to develop a clear understanding of the barriers facing South Carolinians in the civil legal system. Wanting to hear first from the people and organizations throughout the state who have had constrained access to the legal system, the Commission held seven regional public hearings and a final hearing before the South Carolina Supreme Court.

The regional public hearings were held in local courthouses and individuals, attorneys, and agency personnel presented the concerns about barriers to justice to Commissioner panelists. Charleston, Lexington, Colleton, Anderson, Lancaster, Florence and Spartanburg counties hosted the hearings and the Commission is grateful to their assistance for painlessly assisting us with the events.

The task was daunting yet exciting. The information we received was extraordinarily thoughtful, sometimes difficult to hear, and always informative.

South Carolina Legal Services is the largest state-wide nonprofit law firm that provides free civil legal services to low income South Carolinians.

SOUTH CAROLINA LEGAL SERVICES

South Carolina Legal Services (SCLS) was faithful in their attendance and their presentations at each of the hearings. SCLS shared information about their processes, their funding and their clients.

From the information shared by SCLS, the Commission learned that SCLS turns away almost as many people as it serves. Unfortunately, this leaves many individuals without legal assistance. The South Carolina Bar operates a pro bono program that takes a limited number of cases turned away from South Carolina Legal Services due to conflicts of interest or non-priority areas. Private practitioners, however, generally do not serve many individuals living at poverty levels.

SCLS must often turn away people because they do not qualify for income

SCLS also informed the Commissioners of their priority setting process. While many in the access to justice community are aware of this fact, the Commissioners learned that this is not well-known in the general legal community. Further testimony from SCLS indicated that the general public also is not aware of the scope of services that SCLS can provide. Due to limitations from their funding sources, SCLS clients must fall within strict income guidelines, generally up to 125% of federal poverty guidelines, but in some instances up to 200%.

SCLS provides its intake and case representation in both English and Spanish. The Limited English Proficiency (LEP) community welcomes this assistance for non-immigration cases. SCLS provides a special resource for the 15,000 migrant farm workers in South Carolina.

By far, the largest concern for SCLS was the fact that it must turn away so many people in crisis. When the individuals are unable to receive case representation from SCLS, there are very few options left for these individuals. As a result, much of SCLS' efforts are spent giving counsel and advice or otherwise assisting individuals to represent themselves.

SCLS provides legal clinics for self-represented litigants (SRLs). These clinics are offered throughout the year in various locations. They explain the court process to SRLs and provide forms for the SRLs. The need to provide this

service throughout the state is crucial because many individuals with low income do not have reliable transportation and most would be unable to travel long distances to attend the session.

Intake is taken in both English and Spanish.

LATIS' toll-free telephone lines are open from 9:00 a.m. to 6:00 p.m. Monday through Thursday.

Staffing is also a major consideration for SCLS; their starting pay for attorneys is well below that of private firms and, in many cases, government attorneys. Additionally the greatest need for SCLS attorneys is in rural communities, which are often the most difficult to staff due to limited social and educational opportunities .



SELF-REPRESENTED LITIGANTS

Many members of the working poor, the low-income, and the moderate-income populations cannot afford to hire attorneys.

Without funds for an attorney and lack of knowledge of resources available to them, many individuals are entering the courtrooms without the benefit of counsel. These individuals, often referred to as self-represented litigants (SRLs), recognize they have a right to proceed on their own, but often do not have knowledge of the process or the requirements of their court case. The trend in South Carolina mirrors the national trend of an increase in SRLs. SCLS, the SC Bar and the South Carolina Judicial Department provide some resources for SRLs but the need for additional resources remains great.

As the Commission learned of the plight of individuals attempting to seek justice in the civil court system, we could not deny the immediacy of the need. In fact, one individual's story of her struggle to navigate the system and her subsequent failure was so compelling that after the hearing itself, a family court judge and SCLS offered to assist her. The Commission decided that even while the hearings continued, we had to assist SRLs. The Commission conducted training for clerks of court, magistrates and judges about SRLs and special considerations when they appear at the Court.

The number of SRL filings has increased since the time of the hearings due to increasing numbers of foreclosures and bankruptcies in this financial climate. The need for additional resources and training for SRLs is greater than ever.

Tami Carey's experience trying to navigate the Family Court system on her own was so compelling that after the public hearing, a family court judge and SCLS offered to assist her. Here's her story.

She and her husband had been married less than 2 weeks when they realized that they had made a grave mistake. Unable to procure an annulment, they remained married, yet lived apart for one year.

After the year's separation, together they proceeded to the courthouse to file the papers themselves. At the clerk of court's office, they were advised to get an attorney before the papers were filed. They persisted and when the papers were filed, they asked whether service could be completed by one of the courthouse deputies. The clerk advised them that service MUST be completed by the Sheriff's department. Together they drove to the Sheriff's office and the sheriff completed service of the papers upon the husband.



When their court date arose, they represented themselves. They brought a witness and presented their case. The judge told them that they had not properly presented their case and that they needed to hire attorneys. When the wife asked what else was needed, the judge refused to respond.

With assistance from SCLS and the family court, they were finally granted a divorce in July 2008 – 2 years after they decided to divorce.

Additionally the Commission worked with SCLS, the SC Bar, Court Administration and Family Court Judges to put together an instructional packet for individuals seeking to represent themselves in a “simple” divorce action based on a continuous one-year separation, with no children or property or an agreement regarding the children or property.



The Commission also formed a clerk of court workgroup to provide ethical training and guidance to clerks when questioned by SRLs. Due to fear of unauthorized practice of law charges, some clerks were offering less assistance to SRLs than to others - including simple information or forms. With assistance from University of South Carolina Law School Associate Dean for Academic Affairs and Professor of Law Robert M. Wilcox, the Commission offered an ethics training to clerks of the difference between legal advice and legal information. Additionally the workgroup developed signage for the public with clear guidance about what they can and cannot do.

The Ask-A-Lawyer Program coordinates volunteer lawyers for televised phone banks and Web chats in an effort to assist the public with its legal questions. During each event, phone banks are aired on evening news programs to encourage the public to call in with questions. Lawyers also respond to questions via the Internet.

PRO BONO

As previously noted, in addition to SCLS, the SC Bar Pro Bono program provides much-needed assistance to South Carolinians with low income or of modest means. While the SC Bar offers assistance to SRLs via their Ask-A-Lawyer and Law School for Non-Lawyers programs, the Pro Bono program offers legal representation through volunteer members of the South Carolina Bar.

In addition to the SC Bar Pro Bono program, two other pro bono services are available within South Carolina; one is Pro Bono Legal Services, Inc. (PBLIS) in Berkeley, Charleston and Dorchester counties, and the other is Low Country Legal Aid, Inc. (LCLA) in Beaufort County. PBLIS serves as a pro bono clearinghouse by connecting individuals in need with members of the private bar. LCLA uses retired volunteer attorneys to work under a supervising attorney to provide pro bono legal services to low-income clients.

The Bar periodically offers a seven-week Law School for Non-Lawyers course covering a variety of general legal subjects such as an Overview of State Courts; Child Protection Hearings; Wills, Estates and Probate Law; Employment Law; Criminal Law; and Torts to name a few. The course includes a textbook on South Carolina law.

Several of the attorneys who spoke at the regional public hearings discussed pro bono in the context of Rule 608. Rule 608 is the court rule that establishes a process for managing indigent appointments required under several state statutes. Numerous attorneys cited appointments required by these laws under Rule 608 as creating as a barrier to providing a broader selection of services to low-income people.



Attorneys in practice in rural counties pointed to the fact that in the civil appointments, they generally receive the maximum number of appointments under Rule 608 per year – 10. If the attorney has registered in more than one county, they may receive up to 12 appointments per year. Some of these matters, especially family court abuse and neglect cases, may last for several years. In contrast, it is not uncommon for attorneys in urban areas to receive no more than one appointment every other year.

Attorney concerns varied. For example, attorneys would like to receive reimbursement for their time; the practice of law has increasing fields of specialization and many attorneys were concerned about trying cases outside their practice areas; attorneys receive last minute

Lawyers are less likely to take cases pro bono when they know that they may receive several 608 appointments as well.

notification of appointments barring them from investigating the facts and sometimes meeting with their clients prior to the court date; and the broad array of possible civil appointments ranging from family court cases to

post conviction relief and sexual violent predator cases. For all these reasons, child advocacy organizations expressed concerns that children and parents alike may receive inadequate counsel under the mandatory appointment process.

The Commission heard from many that Family Court was frequently the forum where individuals most commonly felt marginalized. Many SRLs appear in Family Court and their reception was uneven at best. Child support and visitation is difficult for non-custodial parents. South Carolina has a high rate of children born out of wedlock. If fathers want to maintain visitation, often they must initiate legal action in order to do so.



Lack of legal representation is a concern for many lower-income South Carolinians, but the homeless face even more obstacles. Not only do they not have money to pay for attorney fees, but often they lack basic necessities such as access to telephones, computers or basic benefits. Due to their transient lifestyle, when legal services are available to them, it may be difficult to reach them by phone or mail service. The Charleston community is particularly qualified to assist homeless people through the Crisis Ministries Homeless Justice Project which provides legal assistance and social services. In addition a nationally-affiliated program known as Project Help began providing legal services to the homeless in Columbia in 2009 through the assistance of the Richland County Bar.

Domestic violence cases offer their own challenges. Frequently victims of domestic violence are left without access to bank accounts and as a result are left without funds for attorneys. While SCLS is able to provide assistance in some domestic violence cases, soon after leaving the abuser, the victim wants to procure an order for protection – maybe even prior to contacting SCLS. The process for orders of protection is complex, and orders of protection are often hard to secure. Additionally, the Commission learned of many instances in which victims were left to fend for themselves in court while the abuser frequently had counsel. Lack of counsel in court was reported to increase intimidation of victims.

COMMUNICATION

In addition to language barriers, Limited English Proficiency (LEP) victims face even greater challenges. SCLS helps many of the LEP victims but noted that often cultural differences, fear of authority figures such as police and judges, and lack of knowledge of their rights inhibited many victims from seeking assistance.



Communication barriers were presented not only for LEP individuals but also for Deaf individuals. When speaking to the issue of access for Deaf in the civil justice system, advocates and individuals noted that the largest barrier is the lack of court certified interpreters in South Carolina. There is a statewide shortage of qualified interpreters in



South Carolina and there are few adequate programs to train interpreters in the state. American Sign Language (ASL) is not signed English. In fact, it is based on French

Many deaf individuals do not know their rights under the Americans with Disabilities Act of 1990.

grammar. Often English is the Deaf person's second language and without regular usage, and English is often not understood, even in written form.

According to speakers at the hearings, the payment for ASL interpreters is a large barrier to the courts. Court Administration's rate per hour for a court interpreter is \$45.00 which is far below the market rate for interpreters in other settings. Additionally some courts are confused about the procedure for scheduling and paying an interpreter.

Interpreters for Hispanic and LEP individuals present their own challenges. South Carolina has one of the fastest growing Hispanic populations in the Southeast. According to the University of South Carolina's Consortium for Latino Immigration Studies, there are approximately 400,000 to 500,000 Hispanics live in South Carolina, roughly 10% of the state's population. As with interpreters for the Deaf, interpreters for LEP individuals is also challenging. Currently the court certification program is having difficulty responding to the need for court interpreters. And procedures for scheduling an interpreter vary from county to county.



Illegal immigrants often face additional barriers. SCLS and other organizations are prohibited from serving undocumented individuals – unless they are victims of domestic violence or, in limited circumstances, children of illegal immigrants.

Verbal communication is not the only barrier present. Indeed blind citizens can attend a court hearing and understand the proceedings, but written communication to blind individuals continues to need to be addressed. Alternative formats such as Braille, CD-Rom or simply having a designated “reader” for forms and other written communication would address this barrier.

Communication with individuals with mental illness or cognitive impairments presents other challenges. People with mental illness may be able to read and hear information, but sometimes processing the information can be difficult. Often they may be hesitant to seek legal assistance in civil matters because they may not know they have a legal right or they may have had bad experiences with the criminal system. Individuals with cognitive impairments such as traumatic brain injury, mental retardation or learning disabilities may understand legal concepts, but may not be able to process the legal terminology. Instead, plain language forms or Picture Communication Symbols may be easier for them to understand.

EDUCATION

Although SCLS provides services in many areas of the law, one area in particular has a continuing need for experienced attorneys – that of Public Education, specifically Special Education. During the public hearings, advocates, attorneys and parents shared information about how they often must proceed on their own, without legal assistance, or pay exorbitant attorneys’ fees to simply enforce the law. The school districts are always represented by counsel and parents feel a great disadvantage proceeding on their own. While there are pockets of assistance available, this area needs more attention.

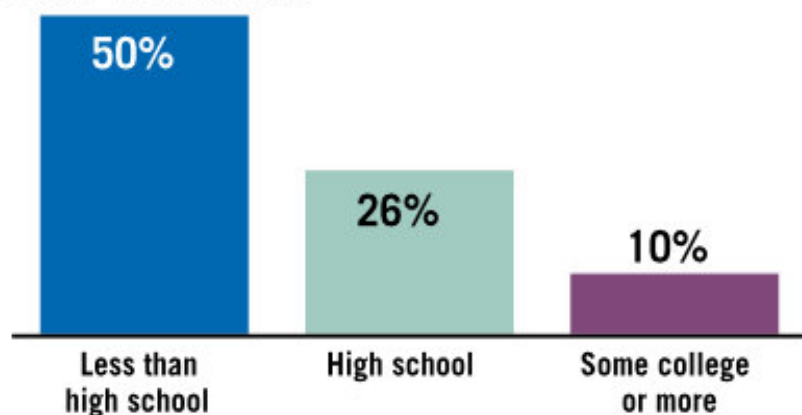
Navigating the education system is very traumatic for self-represented parents. Many simply abandon their case because they lack legal representation.

Public school enrollment is also an issue when the family is homeless. Although federal law entitles children to continue their public education, lack of communication between schools often results in delays or arbitrary decisions of where to send the child to school. The family often lacks access to a phone or computer to find an attorney, and if they do find one, they are unable to pay.

Another part of the education system in need of legal assistance is for adults caring for a child, other than parents and legal guardians, who properly attempt to enroll the child in school. This category may include

non-custodial parents, grandparents or foster parents. In specific circumstances enrollment should be allowed, but is often inappropriately denied.

Children in Poor Families in South Carolina, by Parents' Education, 2007



© National Center for Children in Poverty (nccp.org)
South Carolina Demographic Profiles

SENIORS

Seniors with low income have different needs and the senior population is the fastest growing demographic in the state. Often the sole source of income for seniors with low income is social security or maybe social security plus a small supplement. The 2000 U.S. Census indicated a 30% increase from the 1990 U.S. Census in the number of grandparent-headed households. In 2000, 90,866 children in South Carolina lived in grandparent-headed households. Many of these grandparents are supporting the children with no financial assistance from the parents.



Additionally seniors may face family conflicts and legal assistance to plan for incapacity before it happens. The Probate Court serves the public in matters dealing with marriage, death and incompetency. SCLS does not practice in the probate area. For most South Carolinians with low income, the barriers in probate court are the cost of filing fees, especially in relation to In Forma Pauperis (IFP). Generally IFP allows for a waiver of filing and service fees, however in probate court, it is confusing because the fees are remitted to the county, not the court.

Lack of decision-making capacity about one's person results in a GUARDIANSHIP.

Lack of decision-making capacity regarding one's property results in a CONSERVATORSHIP.

Guardianship and conservatorship actions raise due process issues and if the person has not properly planned for the incapacity by meeting with an estate planner, this can be particularly strenuous for families. Because both guardianship and conservatorship remove an individual's basic freedoms, it is of particular concern to courts to ensure that the process is thoroughly understood and properly utilized. This area of law is complex with decidedly difficult choices without many resources available to the low income individual or family member. Judges estimate that 40% of other interested persons (family members, caregivers, etc.) appear in probate court as SRLs.

PROPERTY

When someone dies without a will, the process for distributing assets can seem difficult and confusing; however it is particularly difficult when land has been passed down without a will. If the property is still titled in the name of someone who died at least 10 years earlier, it is known as heirs' property.

Heirs' property is usually valued less than property with clear title.

Heirs' property owners cannot get a mortgage.

Heirs' property owners cannot finance or access any state or federal funding to have repairs completed on their homes.

Heirs' property owners are not able to obtain traditional mortgages

In South Carolina, a will must be in writing and South Carolina's probate code has a 10 year statute of limitations in which to probate a will. Historically heirs' property was passed down by oral tradition and was not written down. This has created difficulties for the heirs.



The Center for Heirs' Property Preservation offers free assistance to low-income individuals with heirs' property disputes or to clear title to the land. South Carolinians with low income also experience property issues in bankruptcy and foreclosure actions.

BANKRUPTCY AND FORECLOSURE

Petitioners in bankruptcy actions, without attorneys to assist them, may unnecessarily lose their homes, cars or other possessions. Many people may not realize that bankruptcy is an available option and that they may qualify for assistance through SCLS. Instead they try to file themselves. An SRL may be able to navigate a Chapter 7 action, but Chapter 13 actions are complicated and SRLs rarely succeed. Bankruptcy courts are in three cities in the state – Charleston, Spartanburg and Columbia – which makes it difficult for people without reliable transportation. In many rural areas, it is even difficult to find a bankruptcy attorney.

Many people do not find a private attorney for bankruptcy, which may lead to unnecessary loss of homes, cars, and other possessions.

Foreclosure actions are increasing in South Carolina at record rates; 50% in Charleston County alone from 2007 to 2008. SC Appleseed Legal Justice Center

Many defendants in default do not understand the summons or the complaint and, as a result, end up waiving their rights.

examined 156 foreclosures and found only nine litigants had retained counsel, with 135 of the litigants unrepresented and in default. In any given month during this period, over 4,000 foreclosure cases were pending. While many foreclosure actions had defenses available, there were not enough attorneys to provide representation. SCLS attorneys are assisting with foreclosure actions, but they are running at full capacity.

Foreclosure procedures in smaller counties create additional barriers for litigants. Due to their small size, many counties are not required to have a master in equity; instead, a special referee handles foreclosures. This may lead to inequitable results for litigants because special referees are often hand-picked by the lender's attorney and are paid for their services based on the foreclosure sale price. The special referee, therefore, has a financial incentive to ensure that the foreclosure sale takes place and an inherent conflict of interest.

The Commission heard additional testimony about barriers within the civil justice system as well. Barriers outside the legal system affecting low income South Carolinians included lack of reliable transportation and lack of knowledge of existing resources.

RESPONSE FROM THE COMMISSION

Priorities for the Commission are reflected by its four principal initiatives: (1) Education to the public, attorneys, the courts and the legislature about the issues facing South Carolinians with low income; (2) Expanding and enhancing resources for self-represented litigants; (3) Expanding and enhancing resources for staffed programs such as SCLS, the Center for Heirs' Property Preservation, the Center for Fathers and Families, Protection and Advocacy for People with Disabilities, Inc., and others; and (4) Expanding and enhancing pro bono programs such as the South Carolina Bar Pro Bono Program, Pro Bono Legal Services, and Low Country Legal Aid, Inc. as well as support for the development of formal pro bono programs by firms and solo practitioners.

With regard to the SRL access to the courts, the Commission learned shortly after the public hearings that both the South Carolina Bar Pro Bono Program and South Carolina Legal Services had simultaneously developed similar packets for SRLs to use for divorces based on one-year separation for couples without children or property or who had reached agreements about these issues. In the meantime, Court Administration had been developing standardized forms. It was a natural progression for the Commission to work with both the Bar and SCLS to consolidate the efforts and create standardized court forms, now available online on the courts' website. After working with both entities, the Commission also worked closely with Court Administration and the Family Court Advisory Committee to ensure that the forms met appropriate substantive standards. The forms included instructions for both parties, petitioner and respondent, and were written in conformance with current statutes while ensuring that they were written at relatively low reading levels. These forms will be available online shortly at no cost.

The work with Self-Represented Litigant initiatives was also taking the Commission in other directions. In the spring and into the summer, the Commission presented methods of how to work more effectively with self-represented litigants and developed a bench guide for new magistrates. This work continues.

The Commission is also producing videos to complement SRL training for both family and circuit court judges.

Another initiative by the Commission was to form a Clerk of Court workgroup to develop tools for clerks of court to more effectively communicate with SRLs while at the same time maintaining neutrality. The work group developed signage about what they can and cannot do in order to provide better service to the general public.

Dean Wilcox worked with the Commission and presented ethical training for the clerks to assist them as they work to ensure that they comply with legal information in lieu of legal advice. This work continues and the Commission will provide additional training at the Clerks' spring conference.

In the area of communication, the Commission formed a work group to work toward increased resources for interpreters for the deaf in the court system. This work group is ongoing and encompasses advocates, Interpreter groups, Court Administration, legal service providers and commissioners.

The Staffed Programs have much work ahead, especially in the current economic climate. The Commission remains committed to developing expanded sources of revenue. Thus far, along with the SC Bar Foundation, the Commission has collaborated with SCLS and other staffed programs on grant applications. We anticipate moving forward more aggressively in this area.

As much as the economy weakens the current staffed programs, it has further decreased pro bono involvement. The Commission has also been asked by the South Carolina Supreme Court to study Rule 608 and make recommendations for improvement to the current process by which private practitioners are appointed to indigent civil cases.

And education remains a priority in all initiatives. In December, the commission was the focus of SCETV's The Big Picture, with special emphasis on SRLs. A blog maintained by the Commission's Executive Director offers education about the issues in South Carolina as well as initiatives undertaken by other states.

The Commission remains devoted to working toward solutions with the legal system as it relates to South Carolinians in poverty. Collaboration and participation are the key elements as we move toward solutions at the local and statewide level.

LEGAL SERVICE DELIVERY IN SOUTH CAROLINA

In South Carolina, although many legal service providers assist people living in poverty, there are not enough. The Commission has attempted to identify the organizations providing free or low-cost legal services to indigent South Carolinians. We thank them all.

Each of the entities conducts their intake a little differently, has different funding sources including some state, local and federal programs in addition to grants, private donations and other resources.

- Catholic Charities Immigration Services
- Center for Heirs Property Preservation
- Citizens Opposed to Domestic Abuse
- Community Mediation Center
- Crisis Ministries Homeless Justice Project
- Digna Ochoa Center for Immigration Legal Assistance
- LowCountry Legal Aid
- Pro Bono Legal Services
- Protection and Advocacy for People with Disabilities, Inc.
- Richland County Court Appointed Special Advocate
- Sistercare
- South Carolina Appleseed Legal Justice Center
- South Carolina Bar:
 - * Ask-A-Lawyer and Clinics Program
 - * Pro Bono Program
- South Carolina Center for Fathers and Families
- South Carolina Legal Services
- South Carolina Volunteer Guardian ad Litem Program
- Upstate Community Mediation Center

Several of the legal service providers listed received funding from the South Carolina Bar Foundation; however, due to changes in the economy which impacted interest rates, Interest on Lawyer Trust Accounts (IOLTA) funding has decreased to record lows. For most of these entities, IOLTA was not their sole funding source, but it did offer much needed assistance.

Every effort to identify legal service providers has been made, but there may be some providers inadvertently left off the list. If so, the Commission offers its sincerest apologies.

Other advocacy organizations exist that support these providers and often collaborate to meet the needs of the whole person via a holistic approach. These organizations are too numerous to list, but also provided valuable testimony at the hearings. Social services organizations in particular help individuals get back on their feet and often lend assistance to the legal team.

The Administrative Order establishing the Commission specifically outlined having members from the legal services community. Current Commissioners represent providers from the Center for Heirs Property Preservation, South Carolina Appleseed Legal Justice Center, South Carolina Legal Services and the South Carolina Bar.

The Commission and the South Carolina Bar Foundation, which is the charitable arm of the South Carolina Bar, have joint interest to ensure that the current legal service providers are provided with sufficient resources to effectively administer their duties. The current economic climate has presented challenges to the legal service providers. In an effort to ease the burden by many as they work through reductions in force and occasional office closings, the Commission, the Foundation and legal service providers have joined together to improve service delivery and collaboration between providers from the client's perspectives.

Another way to fund civil legal services is via the cy pres doctrine. In fact, the South Carolina Appleseed Legal Justice Center has been successful in procuring cy pres awards. The cy pres doctrine allows for distribution of funds in class actions where it is not possible to determine actual damages, when plaintiffs fail to collect the award or when fund recipients cannot be located. Under the cy pres doctrine, courts order these unclaimed funds to be put to the next best use for the benefit of the class and may approve a charitable donation to an entity whose work indirectly benefits members of the class.

MEMBERS OF THE ORIGINAL SOUTH CAROLINA ACCESS TO JUSTICE COMMISSION

The Honorable Jean Hoefer Toal (Chair)
Stuart M. Andrews (Vice Chair)
The Honorable John E. Waites
The Honorable J. Cordell Maddox, Jr.
The Honorable Deadra L. Jefferson
The Honorable Robert N. Jenkins, Sr.
The Honorable Rita A. Simmons
The Honorable John M. Spratt, Jr. (Charlie McDow/
District Director)
The Honorable Vincent Sheheen
The Honorable William F. “Bill” Cotty
The Honorable Jackie S. Bowers
The Honorable Rosalyn Frierson
Luther J. Battiste, III
Patricia Logan Harrison
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Dean Walter F. Pratt, Jr.
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