



PBA President  
Thomas G. Wilkinson Jr.

## Ensuring Access to Justice When It Really Counts

There has been a lot of discussion at the local, state and national bar levels about access to legal services to those in need, and a number of innovative ideas have been put forward. Some of those ideas are bold and somewhat controversial, such as New York's recently enacted requirement that all new lawyers provide 50 hours of pro bono service before being admitted to the bar. Others are less ambitious but equally well intentioned, such as expanding practical-skills training through clinical and legal aid programs at law schools.

One initiative that has been under discussion for some time is the adoption of a statewide "civil Gideon" effort providing representation to the indigent who are facing crisis situations in their lives, such as the loss of housing or the loss of custody of a child.

On March 13, 2013, we mark the 50th anniversary of *Gideon v. Wainwright*, the Supreme Court's landmark 1963 ruling granting a right to counsel for indigent criminal defendants. One of the books that inspired my interest in the law was *Gideon's Trumpet* by Anthony Lewis.

The question posed by the proponents of a civil Gideon initiative is whether the due process clause of the Constitution also grants a right to appointed counsel where basic human needs are at stake, such as shelter, sustenance, safety, health or child custody, and if no such right is guaranteed, can such a right be granted by state legislation?

The American Bar Association House of Delegates passed a resolution in 2006 urging states to provide free legal counsel to poor civil litigants when these basic human needs are in jeopardy, and some pilot programs are under way in other states. In November 2007 the PBA House

of Delegates passed a similar resolution. There are now civil-Gideon working groups in Pennsylvania, and there have been a number of educational programs that have explored strategies to narrow the civil justice gap.

Many are being turned away from civil legal aid agencies these days due to reductions in funding, staff layoffs and a general increase in the number of people who financially qualify for assistance in this down economy. One commentator recently observed that we provide appointed counsel for those facing potential confinement for months or years while we do not do so for those facing eviction and homelessness for months or years. But while the pressing need for some form of civil Gideon may be clear, serious questions have been posed about it, chief among these being the question of where funding will come from when state and local governments' budgets are strapped and contributions to legal aid agencies are stable at best.

In any event, the 50th anniversary of the *Gideon* decision is as good a time as any for the legal profession, the judiciary and the wider community to focus on what steps can and should be taken to help close the civil justice gap for those facing legal proceedings that will have a momentous impact on their lives but who are unable to afford counsel to guide them. As the late U.S. Supreme Court Justice Lewis F. Powell Jr. once observed, "Equal justice under law is not merely a caption on the façade of the Supreme Court building; it is perhaps the most inspiring ideal of our society. ... [I]t is fundamental that justice should be the same, in substance and availability, without regard to economic status."

One initiative that has been under discussion for some time is the adoption of a statewide "civil Gideon" effort providing representation to the indigent who are facing crisis situations in their lives, such as the loss of housing or the loss of custody of a child.

[T]he 50th anniversary of the *Gideon* decision is as good a time as any for the legal profession, the judiciary and the wider community to focus on what steps can and should be taken to help close the civil justice gap for those facing legal proceedings that will have a momentous impact on their lives but who are unable to afford counsel to guide them.

→ page 12



Executive Editor, Marcy Carey Mallory  
 Editorial Director, Donald C. Sarvey  
 Editor, Geoffrey S. Yuda  
 People Editor, Patricia M. Graybill

**Contributing Writers:**

Gertrude Block; Jeff Gingerich; Amy Kenn; David J. Millstein, Esq.; David L. Narkiewicz, Esq.; Barry M. Simpson, Esq.; Victoria White, Esq.; Thomas G. Wilkinson Jr., Esq.

**Design:** Kelly Vaneck

Cassidy Communications, Inc.; Bethlehem, Pa.

**Display Advertising:** Diane Diamond; Phone: (267) 282-5468; Fax: (267) 460-6190; Mobile: (215) 205-7727; email: ddiamentpubrep@comcast.net.  
**Classified Advertising:** Sarah Germak; Phone: 800-932-0311, Ext. 2226; Fax: (717) 238-2342; email: Sarah.Germak@pabar.org.

Views expressed in *The Pennsylvania Lawyer* do not necessarily reflect the official views or policies of the Pennsylvania Bar Association. The appearance of a product or service advertisement herein does not constitute an endorsement of the product or service by the Pennsylvania Bar Association. *The Pennsylvania Lawyer* welcomes editorial submissions from members of the bar. Letters to the editor from readers on all topics concerning the legal profession are welcome. The publisher reserved the right to select letters to be published. Letters may be edited for length and style. Editorial items and correspondence should be mailed to the Pennsylvania Bar Association, Attn. Lawyer Magazine Editor, 100 South Street, P.O. Box 186, Harrisburg, Pa. 17108-0186. Telephone 800-932-0311. Email address: editor@pabar.org. Unsolicited manuscripts will not be returned unless accompanied by a self-addressed, stamped envelope.

*The Pennsylvania Lawyer* is distributed to all PBA members as a membership benefit. Subscription is \$30 per year. To join the PBA, call 800-932-0311. *The Pennsylvania Lawyer* is underwritten in part by the Pennsylvania Insurance Fund. Soy-based inks used in printing.

**BOARD OF GOVERNORS**

**President:** Thomas G. Wilkinson Jr., Esq.  
**President-elect:** Forest N. Myers, Esq.  
**Vice President:** Francis X. O'Connor, Esq.  
**Immediate Past President:** Matthew J. Creme Jr., Esq.  
**Chair, House of Delegates:** Charles Eppolito III, Esq.  
**Secretary:** Penina Kessler Lieber, Esq.  
**Treasurer:** Phyllis Horn Epstein, Esq.  
**Chair, Young Lawyers Division:** Jacob Gurwitz, Esq.  
**Chair-elect, Young Lawyers Division:** Robert T. Datorre, Esq.  
**Immediate Past Chair, Young Lawyers Division:** Hope Guy, Esq.

**ZONE GOVERNORS**

**At Large:** Melinda C. Ghilardi, Esq., Scranton, (570) 343-6285; Emmanuel O. Iheukwumere, Esq., Philadelphia (215) 567-0493; Jacqueline B. Martinez, Esq., Pittsburgh (412) 291-0200  
**Unit County:** Jessie L. Smith, Esq., Harrisburg (717) 705-6940  
**Zone 1:** Sayde J. Ladov, Esq., Philadelphia (215) 665-8000  
**Zone 2:** William Z. Scott Jr., Esq., Lehigh (484) 895-2306  
**Zone 3:** James L. Goldsmith, Esq., Harrisburg (717) 232-7661  
**Zone 4:** Rito G. Alexyn, Esq., Wellsboro (570) 724-1832  
**Zone 5:** David E. Schwager, Esq., Wilkes-Barre (570) 824-3511  
**Zone 6:** MariAnn Hathaway, Esq., Washington (724) 263-5258  
**Zone 7:** Steven E. Riley Jr., Esq., Erie (814) 453-3343  
**Zone 8:** John J. Bagnato, Esq., Johnstown (814) 255-2023  
**Zone 9:** Herbert K. Sudfeld Jr., Esq., Warrington (215) 345-7500  
**Zone 10:** Marion Laffey-Ferry, Esq., Butler (724) 282-7707  
**Zone 11:** Ann B. Wood, Esq., Clearfield (814) 765-5537  
**Zone 12:** Shelly R. Pogac, Esq., Pittsburgh (412) 263-4343

**EDITORIAL COMMITTEE**

**Chair:** Stephanie F. Latimore, Esq.; **Vice Chair:** David L. Narkiewicz, Esq.; **Members:** William I. Arbuckle III, Esq.; Karen M. Balaban, Esq.; Thomas L. Cooper, Esq.; Chester C. Corse, Esq.; Joseph A. Curcillo III, Esq.; Frederick N. Egler Jr., Esq.; John W. Flannery, Esq.; Richard J. Frumer, Esq.; Jeanette Hsin Ho, Esq.; Bernadette M. Hohenadel, Esq.; Hon. Thomas King Kistler; Lawrence B. Mansfield, Esq.; Seth A. Mendelsohn, Esq.; Karen Jackson Vaughn, Esq.; Thomas G. Wilkinson Jr., Esq.; **Board of Governors Liaison:** Forest N. Myers, Esq.

**PBA Staff — Executive Director:** Barry M. Simpson, Esq.; **Deputy Executive Director:** Francis J. O'Rourke; **Communications Director:** Marcy Carey Mallory; **Controller:** Lisa L. Hogan, C.P.A.; **County Bar Services Director:** Nicole R. Antos, Esq.; **Director of Legislative Affairs:** Fredrick Cabell Jr., Esq.; **Management Information Systems Director:** Alan Trosky; **Meetings Director:** Wendy A. Loranzo; **Member Services Director:** Elizabeth A. Kramer

**S I D E B A R**

→ from page 2

Here are several stark facts conveying how access to justice is rationed in our state and nation. A careful study by the national Legal Services Corp. found that for each eligible client represented by a legal aid program there was another person in need of and eligible for assistance who had asked for that assistance but had to be turned away due to the lack of legal aid resources. This 50 percent under-service rate holds true in Pennsylvania, and in fact the need for legal aid was shown to be more acute in rural parts of the state.

Other studies have shown that only about 20 percent of the legal needs of low-income individuals are being met. This can be contrasted with the results of a recent study by the Pennsylvania Interest on Lawyers Trust Account Board documenting the benefits generated by legal aid. The study found that for every dollar spent on civil legal aid in Pennsylvania there is a more than 10-fold return on investment in dollars generated to benefit the client and in savings on things such as shelter costs.

The ongoing discussion concerning adequate access to counsel in civil cases and helping self-represented litigants navigate the justice system go hand in hand with the PBA's efforts this year to highlight in our publications and on the website those lawyers "Making a Difference" by providing extraordinary pro bono service. I have had the pleasure of participating in many local bar events where lawyers, legal aid agencies and bar

foundations have been recognized for outstanding service to the community and to individual clients facing crisis situations such as abuse and the need for assistance with housing and benefits following floods or mortgage foreclosure. And it has been exciting to hear about what proactive local bars such as the York County Bar Association are doing to launch programs in conjunction with their local court administration to assist self-represented litigants.

It is important that we continue to expand pro bono participation well beyond the core group of lawyers who can always be counted upon to take on another client in need. We must also get the word out to the public about those lawyers across the state who are giving generously of their time and expertise to make a difference in people's lives day in and day out.

Those PBA members who have devoted many hours to leading the efforts to narrow the justice gap and expand access to civil legal representation are to be commended. Going forward we need to continue to urge that all the key players, including the judiciary, civil legal aid organizations, the organized bar, the Legislature and community groups, actively participate and resolve to bridge the civil justice gap. ♦

*Tom*  
 Thomas G. Wilkinson Jr.  
 PBA President

**PBA's Preferred Partners**  
 They are PBA product/service providers offering special benefits to PBA members.  
 See page 48.