

SPEAKING OF JUSTICE

News From The Florida Bar Foundation

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RAY STANWARD

"Thomas Mayer," 86, lives on \$911 a month in Social Security and \$16 a month in food stamps, the minimum benefit under the federal Supplemental Nutrition Assistance Program. Although he asked that his real name not be used, Mayer agreed to be photographed.

Rule challenge restores millions in food stamps, mostly to elderly, disabled

Thomas Mayer, 86, lives alone in a two-bedroom, tin-roofed house in the woods of rural Calhoun County, Fla., where his only companion is a 2-year-old Labrador mix named Boy.

Mayer, not his real name, does his own plumbing, air conditioning, electrical work and auto repair, enabling him to live on just \$911 a month in Social Security.

But when the Florida Department of Children and Families (DCF) notified him that he was no longer eligible to receive

\$16 a month in food stamps, he finally came up against a problem he couldn't solve on his own.

A retired Volkswagen engineer who spent his pension on his ex-wife's medical care when she developed ovarian cancer decades ago, Mayer uses the Internet daily to scout for bargains and troubleshoot, so that's where he turned in search of legal aid.

He came across the Florida Senior Legal Helpline run by Bay Area Legal Services in Tampa, which is funded primarily by the Florida Department of Elder Affairs and through a \$21,590 grant from The Florida Bar Foundation.



Leadership and Funding for Justice in Florida

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Message from the president

When The Florida Bar Foundation board meets Dec. 5, it will face some tough decisions.

Even anticipating a \$6 million loan recently approved by The Florida Bar Board of Governors to be made over the next two years, the Foundation this year will have only \$7.7 million available for its legal aid grantees, a 34 percent decrease from last year. In spite of having set aside the largest reserve of any Interest on Trust Accounts Program in the country, and having made it last through five years of near-zero interest rates, the Foundation faces the exhaustion of its reserve this year. We also have had four consecutive vetoes of civil legal assistance funding under Fla. Gov. Rick Scott.

The board therefore must consider various scenarios for making cuts not only to the Foundation's general support grants for legal aid, but also to programs such as affordable housing grants and salary

supplementation for legal aid attorneys. The Foundation continues to advise its grantees of impending cuts.

Under any scenario, the cuts are expected to necessitate layoffs of legal aid attorneys and other staff, along with other serious consequences. The board will consider the overall funding picture for the Foundation's grantees – including funding available to each from other sources – in making decisions about how to allocate the limited funds available.

In spite of already steep cuts, Florida's legal aid organizations continue to do incredible work. The stories in this issue illustrate how vital legal aid is in meeting Floridians' basic needs through the legal process and show us why a far-reaching, high-level initiative on access to justice is so important.

We look forward in the coming months to Chief Justice Jorge Labarga's launch of this effort, which we believe



Hon. Emerson R. Thompson, Jr.

will be a game-changer for Florida's justice system. We ask you to support the Foundation as it works with the Florida Supreme Court and The Florida Bar to be a part of a long-term solution.

Hon. Emerson R. Thompson, Jr., President
The Florida Bar Foundation

Foundation grantees stepping up to help children fleeing violence in Central America

Even though their mother had already died in the Arizona desert on her way north from their native Honduras, Angie, 17, and Oscar, 12, decided their odds of survival would be better if they followed her path than if they stayed at home, where they were under constant threat from gangs.

"Our grandmother told us that no family member of hers would ever make the journey in that way again, but after they shot up our house, I had no choice," Angie said. "I had to take my brother and leave."

Oscar had been threatened by gang members and robbed at gunpoint.

"I came here because of the drug dealers," he said. "They look for little kids for them to smuggle drugs. I just wanted to go to school."

Oscar and Angie's story is not unusual among the more than 63,000 undocumented minors who have arrived in the United States via Mexico in the last year or so. Many are from Guatemala, El Salvador and Honduras, which has the highest murder rate in the world.

The response from the legal aid community has been rapid and nonstop, with more than 10 Florida Bar Foundation grantees taking part.

Americans for Immigrant Justice (AI Justice) in Miami, whose Foundation-funded Children's Legal Program has been representing unaccompanied immigrant children for 15 years, in October released an in-depth report, "Children Fleeing Central America: Stories from the Front Lines in Florida," which describes the ordeals many of these unaccompanied minors have undergone, the system that awaits them in the United States, and some of the efforts being made to address their legal needs. The report also advocates for policy changes to ensure humane treatment and due process for



The United Nations High Commissioner for Refugees found that about 60 percent of unaccompanied Central American children they surveyed had potential claims for relief from deportation. Bryan, left, got help from pro bono attorney Yesenia Arocha, right.

unaccompanied minors, some of whom are as young as a few months old.

One of the greatest challenges faced by those who endeavor to represent these children is the fast-tracking of their cases under an Obama Administration policy that began in July. AI Justice Executive Director Cheryl Little said that while Miami's immigration court used to see about 150 cases a month, it is now seeing 150 cases a day, with just four judges.

"Any child who arrived after May 1, their case is being fast-tracked, which is a real challenge for us and for any pro bono attorneys trying to help these children," Little said. "Our staff is working around the clock. I am very worried about them to tell you the truth. They tell me they want to do this because they have these children's lives in their hands, and if they don't step up these children may very well fall through the cracks."

AI Justice's report points out that the United Nations High Commissioner for Refugees found that about 60 percent of unaccompanied Central American children they surveyed had potential claims for relief from deportation. A number of paths to legal status exist, including Special

Immigrant Juvenile Status for children who have been adjudicated dependent by the state court due to abuse, neglect or abandonment; asylum for cases where there is evidence of persecution; or special visas for those who have been victims of human trafficking or other crimes.

"Often hanging in the balance is whether a child will have a shot at the American dream or be sent home to face abuse, violence, persecution or even death," the report states.

While staff attorneys are taking on as many cases as they can handle, legal aid organizations are also working diligently to recruit pro bono attorneys.

"We need both immigration lawyers and lawyers who can help caregivers obtain legal custody in family, probate and dependency courts," said Adriana Dinis, an attorney with Gulfcoast Legal Services in St. Petersburg whose work is supported in part by the Foundation.

Although the only immigration courts in Florida are in Miami and Orlando, the need for lawyers to help with custody and dependency issues is widespread, since the children tend to go where they have relatives, or where they are placed

see CHILDREN, p. 7



Special message from Florida Bar President Greg Coleman

The Florida Bar Foundation is the only nonprofit organization linking 30 legal aid grantees statewide to provide legal services to vulnerable populations including the elderly, children, domestic violence victims, and families living in poverty.

Your support has never been more critical. When a child with autism in Volusia County was being sent home from school for behaviors related to his condition and denied the special education services guaranteed him by the Individuals with Disabilities Education Act, legal aid was there to make sure the school system didn't fail him. When elderly Haitian-American agricultural workers from Miami-Dade County were being paid less than the federal minimum wage, legal aid was there to defend their rights. When a veteran of Desert Storm in Jacksonville is facing foreclosure, or a battered woman and her children in Tallahassee need protection from abuse, where do they turn? Legal aid.

These cases are real. And for these clients, there is often no other solution. Your support of The Florida Bar Foundation helps ensure that legal aid will continue to be there for those with nowhere else to turn.

Please give as generously as you can.

Gregory W. Coleman, President
The Florida Bar

Donate by credit card at www.FloridaBarFoundation.org/donate

Foundation's early investments in the fight against human trafficking continue to pay dividends

When her labor pains started, Jacinta Moreno, 15, pleaded to be taken to a hospital to have her baby, but the man who had forced her into labor in a Ft. Pierce, Fla., orange grove would not allow it.

"He said to me, 'You can't go to a hospital, because if you go, they will ask you where you live, and I will end up with problems,'" said Moreno, not her real name.

Having seen her captor shoot a young man in the leg as a warning against escape, she knew she had no choice. So with no doctor or midwife, Moreno had her baby girl in the overcrowded house where she, her father, her brother and more than 20 others were kept prisoner, allowed outside only to work in the groves from 5 a.m. until 7 p.m. as many as six days a week and without the pay they had been promised.

Recognizing that stories like Moreno's were all too common in Florida and that the state lacked a comprehensive strategy for addressing human trafficking, The Florida Bar Foundation made a \$60,000 Improvements in the Administration of Justice grant to the Center for the Advancement of Human Rights (CAHR) at Florida State University in 2007 to develop the Florida Strategic Plan on Human Trafficking.

The grant enabled CAHR to employ law school faculty member Wendi Adelson to conduct in-depth interviews with representatives of agencies engaged in fighting human trafficking.

"We took a three-pronged approach to find out from law enforcement, service providers and state agencies what the state of Florida could do more of," Adelson said.

"It felt like organizations were reaching out and trying to do what they could but that there wasn't an overarching



Lisa Murray and John Dubrule of Gulfcoast Legal Services

picture. People didn't understand what the state was doing as a whole or what other groups were doing."

At that time there had been no prosecutions in state courts of any human trafficking cases, CAHR's grant application noted.

Armed with information gathered through the grant, CAHR developed the statewide strategic plan and has targeted its efforts and expanded its collaborations, particularly with Florida Attorney General Pam Bondi's office and with the Florida Department of Juvenile Justice.

"The Foundation's grant was crucial. It provided the groundwork for the state of Florida to actually look around and realize that we had more trafficking than we had ever imagined," said CAHR Executive Director Terry Coonan. "And we had it in sectors of the economy that we had not thought about. We discovered that labor trafficking is actually more pervasive than sex trafficking. We've got U.S. citizen victims as well as foreign national victims. Our resort industry has become permeated with this stuff – our hotels and restaurants. This has become, because of subcontractors, a significant part of the Florida economy."

In fact, Florida ranks third among U.S. states in calls to the National Human Trafficking Resource Center, which had 1,724 phone calls from the Sunshine State in 2012.

With its urban streets lined in hotels, restaurants and strip clubs and its rural areas stretching across a vast patchwork of farmland, Florida is a prime destination for human traffickers. In 2012-13, the Florida Department of Children and Families verified 182 victims of commercial sex trafficking in the state.

Besides the ghastly effects on victims, human trafficking leads to the spread of public health problems and organized crime, the disintegration of families, and the loss of human capital, while requiring significant costs for rehabilitation of victims.

Today, six years after CAHR published the Florida Strategic Plan on Human Trafficking, the state's response to human trafficking is more focused. Progress includes increasingly widespread training in the detection and prosecution of human trafficking, the expansion of legal services available for victims, and the enactment of legislation such as the 2012 Safe Harbor Act, which turned child

prostitution in Florida from a criminal act by the child into an act of abuse. Prosecutions of sex traffickers have taken off. The Associated Press reported in July that the Miami-Dade state attorney's office human trafficking unit alone has filed 236 criminal cases in recent years.

Coonan, meanwhile, keeps up a frenetic schedule that includes developing curricula and providing training for agencies including the Department of Economic Opportunity, the Department of Business and Professional Regulation, the Florida Highway Patrol and the Florida Department of Law Enforcement (FDLE).

"That has all been a direct result of that initial Florida Bar Foundation grant. It's a grant that continues to give. We've used up the money, but in terms of where we've been able to go with it, there's been a great multiplier effect to it."

Among victims of human trafficking, Moreno was fortunate. After eight months, she was able to escape. But more than 10 years later she is still paying the price. Her daughter, now 14, still has no birth certificate or Social Security card because her birth took place under the shadow of 21st Century slavery.

For immigration help, Moreno turned to Gulfcoast Legal Services (GLS), one of 16 Florida Bar Foundation grantees that work with victims of human trafficking. The human trafficking project at GLS serves immigrants as well as U.S. citizens, many of whom are runaways or homeless people who are preyed upon when they are at their most vulnerable.

GLS started its immigration project with help from what was then the Florida Immigrant Advocacy Center, now Americans for Immigrant Justice, also a Florida Bar Foundation grantee. Foundation funding has enabled these and other organizations to provide legal assistance for immigrants, regardless of their status, since Congress restricted the immigration legal services offered by Legal Services Corporation-funded programs in 1996.

"We would not have been doing this work without the Foundation's support and the Foundation's mentoring and fostering of Gulfcoast Legal Services becoming an unrestricted program that provides high-quality legal services to immigrants," said John Dubrule, GLS interim executive director.

The track record GLS developed in providing legal assistance for victims of human trafficking enabled it to obtain a \$321,000, two-year Department of Justice grant to expand the work.

"We were one of only a few selected nationwide, so it really was necessary to show that we had the expertise to be able to get the grant, and the fact that we did was due to Foundation funding," said Lisa Murray, a GLS attorney who works with human trafficking victims.

Even when law enforcement is doing its best to help, victims often struggle to get their stories out. Murray described a recent interview with a police officer in which her client, a victim of sex trafficking, was making the initial report of her victimization. Murray found it the most difficult thing she's done in 10 years at GLS, during which she's represented many crime victims.

"The client literally could not get it out," Murray said. After 10 minutes of sitting in silence, waiting for the client to gain the composure to speak, the officer resorted to asking yes or no questions, which were about all the victim could handle.

"It's upsetting because you see these people have been taken advantage of and manipulated, and you just can't understand how a person could treat another human being that way," Murray said. "It just doesn't make sense. It's so disturbing."

Resources and information for pro bono attorneys working with survivors of human trafficking are available at: humantraffickinglaw.net, a joint project of the American Bar Association, the Polaris Project and probono.net.

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– Lisa Murray
Gulfcoast Legal Services



Florida ranks third nationally in the number of calls to the National Human Trafficking Resource Center's hotline, 1 (888) 373-7888. This heat map shows where cases were reported in the last year.

"The Helpline is analogous to triage in the medical sense, where people call with what they think is a civil legal problem, and it's our job to spot the issue, and then give them legal advice," said Ellen Cheek, the Senior Legal Helpline attorney who fielded Mayer's call.

In a form letter, DCF had told Mayer his income was too high, but it hadn't changed, and he'd been receiving food stamps for 20 years under a federal Supplemental Nutrition Assistance Program minimum allotment policy governing small households.

"He was offended because the reason they'd given him for terminating him after all these years was so vague, he couldn't possibly challenge it," Cheek said.

She had seen other cases where she suspected the state had misinterpreted a federal rule governing public benefits, and in such cases she always turned to the experts at another Florida Bar Foundation grantee, Florida Legal Services, for advice.

"Their job is to provide that support and that technical assistance," Cheek said. "They told me that if I could get it referred to Legal Services of North Florida, then Florida Legal Services would be the technical assistance and support. And that's what happened."

The result was better than Mayer could have possibly imagined. Working together, the legal aid attorneys found the state had developed a policy that incorrectly interpreted federal law, hurting not only Mayer, but others in the same eligibility category.

Florida Legal Services attorneys Cindy Huddleston and Valory Greenfield, along with Paul Arnold of Legal Services of North Florida, also a Florida Bar Foundation grantee, filed a rule challenge before an administrative law judge of the Division of Administrative Hearings (DOAH), asking that DCF be ordered to stop using its policy to deny minimum benefits to those eligible under the federal regulation, effective immediately.

Arnold prevailed in Mayer's case before a DCF hearing officer, enabling him to receive his benefits again while the rule challenge proceeded. Huddleston and Greenfield led negotiations with the assistant general counsel of DCF assigned to defend the agency. After acknowledging that its interpretation violated federal law, DCF agreed to identify and retroactively restore benefits to those adversely affected by the illegal minimum allotment policy.

As a result, more than 33,000 food stamp recipients had their cases reopened and their \$16 monthly benefit restored. By a conservative estimate based on a six-month period for those households, the rule challenge resulted in the distribution of nearly \$3 million in food stamps. This doesn't take into account future applicants who would have been improperly denied the minimum benefit, or the future benefits paid to those households whose minimum allotment was restored.

Nationally, about 41 percent of those receiving the minimum benefit are elderly, and an additional 25 percent, although not elderly, are disabled, according to the U.S. Department of Agriculture.

Mayer is well aware that his case affected thousands who might not have had the wherewithal to challenge the rule themselves.

"Half of them are probably in pretty bad health on top of everything else," Mayer said. "They are trying to deal with all the paperwork and that stuff. When they are being told, 'We can't pay you anymore,' they accept it. They say, 'What can we do?' and they give up. So I'm glad I did something to help those people, too. It makes me feel great. It makes me feel like a hero."

Arnold said it's easy to underestimate the impact of \$16 a month in food stamps.

"It seems like a small amount of money, but for our clients, they know how to stretch money, and it made a big impact," Arnold said.

A brief conversation with Mayer about his shopping habits is enough to drive home Arnold's point. Mayer has found fresh produce too expensive, so he doesn't buy it anymore.

"It's really too much for me to pay for it, so I buy cans. I eat mostly from vegetable cans," Mayer said. "The cheapest place is the dollar store where I can get them for about 50 cents each."

He also shops at Walmart, where he can buy frozen dinners for \$1, and adds noodles or potatoes for a little extra bulk.

"They used to give five meatballs in those things. Now there are only four in it. It used to be beef. Now it's chicken and pork, the cheapest meat they can buy," Mayer said.

The successful resolution of the rule challenge will allow for better nutrition for tens of thousands of elderly and disabled Floridians in small households, as well as millions of federal dollars from SNAP that will be spent at the state's food retailers.

And the outcome was a bargain from a legal standpoint in that it was resolved in a matter of a few months, with minimal litigation.

"When faced with an obvious violation it's often because of a good working relationship with agency counsel that such resolutions are achieved," said Greenfield, explaining that she and Huddleston have formed relationships and built a reputation with DCF counsel over many years.

Cheek said the case is a great example of why the Helpline, the referral system and collaboration among legal aid programs are so important. With just a phone call, Mayer, who faced a two-hour round trip to the nearest legal aid office, was able to set his case in motion, a case that ultimately affected tens of thousands.

"This is really a case where the system worked exactly as we envisioned," Cheek said.

Foundation taps Donna Marino to lead development efforts

Donna Marino, CFRE, has joined The Florida Bar Foundation as its development manager with responsibility for increasing financial support for the Foundation's mission of providing greater access to justice in Florida.

Principal support for the Foundation's charitable activities comes from the Interest on Trust Accounts (IOTA) Program authorized by the Florida Supreme Court in 1981. Additional support comes from gifts from attorneys, law firms, corporations, foundations, community partners and others, as well as cy pres awards, which derive from the residuals in class actions.

Previously, Marino developed resources to provide access to education at Valencia College in Orlando, Fla., where she began in 2000 as part of the college

and community relations team and in 2007 joined the staff of the Valencia Foundation. She fostered \$200,000 in scholarship support during an eight-week campaign and increased faculty and staff giving by 33 percent in the last year. She also was instrumental in garnering more than \$750,000 in endowed gifts, \$225,000 in grant support, and a \$1 million pledge for nursing education.

Marino was awarded the Certified Fund Raising Executive designation in 2009 and serves as Central Florida president for the ethics-based Association of Fundraising Professionals. She is experienced in all areas of fundraising, including capital campaigns, major gift solicitations and planned giving. She has a master's in business administration from Belhaven University and a bachelor of science in business management from the University of Central Florida.



Donna Marino, CFRE, Florida Bar Foundation development manager, can be reached at (800) 541-2195 or dmarino@floridabarfoundation.org.

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with other sponsors. Legal aid groups are collaborating with community partners to maximize resources.

The Florida Bar Foundation-funded One Campaign is working with the Cuban American Bar Association Pro Bono Project, also a Foundation grantee, and the Miami Pro Bono Roundtable to assist children showing up in Miami's immigration court. The joint project has "adopted" a juvenile immigration docket by providing volunteer lawyers to do intake interviews with the children, serve as friends of the court, and request continuances so that the children can be provided with pro bono representation before their cases are decided. AI Justice and Catholic Legal Services has each also adopted an immigration court docket.

Of more than 250 children interviewed so far through CABA's Immigrant Children Program, 120 were found to be potentially eligible for Special Immigrant Juvenile Status and have been placed with an attorney from among nearly 100 volunteers.

Legal aid organizations provide training to enable lawyers not experienced in children's immigration issues to help.

"CABA has had volunteers who have never done this type of work, but who have been trained, and they have been successful. It's definitely something that can be done if you are not an immigration expert, especially if the organization you are volunteering with has the infrastructure and the resources to give you the training that you need," One Campaign Director Ruth Reyes said.

"The rewarding experience is making that connection with the child and knowing that you've helped ensure equal access to justice for people who can't afford an attorney and who are going through a very difficult period in their lives. Most of these kids have left their country because of a really bad situation, and you are giving them a chance to stay in this country or at least helping them navigate the legal system."

In Orlando, the Legal Aid Society of the Orange County Bar Association has

provided free continuing legal education to private attorneys willing to take two unaccompanied minor cases and is working with Catholic Charities and the immigration clinic at Barry University's law school on client intake and referral to pro bono attorneys. In Miami, AI Justice collaborates with the Cuban American Bar Association, area law schools, Catholic Charities and the American Immigration Lawyers Association.

Among many successful outcomes so far, AI Justice was able to get Oscar and Angie's deportation proceedings terminated, and they are in the process of obtaining lawful permanent residency while living with their grandmother. Angie is studying English and hopes to become a medical assistant or maybe even a lawyer so that she can help others as she was helped. Oscar hopes to become a pilot.

Attorneys interested in volunteering to help unaccompanied minors can visit http://is.gd/FL_Unaccompanied_Minors to find local legal aid organizations that are recruiting pro bono lawyers.

Voluntary bar association issues giving challenge to other bar associations

In celebration of its 15th anniversary, the Florida Trial Court Staff Attorneys Association (FTCSAA) made a donation of \$5 per member to The Florida Bar Foundation and challenged other voluntary bar associations in Florida to do the same. Florida Bar Foundation board member Pat Casey addressed the group at its annual conference in West Palm Beach Oct. 16-17 and thanked FTCSAA for its contribution. The FTCSAA was founded by Caroline Emery to promote legal research, writing and efficiency for the benefit of the Florida state court system.

SPEAKING OF JUSTICE

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we help legal aid help those least able to afford a lawyer.

We are The Florida Bar Foundation,

and we believe the justice system works best when it works for everyone.