

SPEAKING OF JUSTICE

NEWS FROM THE FLORIDA BAR FOUNDATION
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PETER CROSS

Attorney Meena Jagannath, co-founder of Community Justice Project, speaks at a press conference held by residents of a Liberty City housing complex sitting adjacent to a hurricane-debris dump site. Residents concerned about vermin and other environmental safety issues want open lines of communication and greater accountability on the part of Miami-Dade County. Community Justice Project is among 15 legal aid organizations receiving funding in the first round of The Florida Bar Foundation's disaster legal services grants.

Foundation makes \$781,000 in first-round disaster legal aid grants

by Nancy Kinnally

The Florida Bar Foundation has awarded \$781,000 in disaster grants to 15 legal aid organizations around the state to help them address the civil legal needs of Floridians affected by Hurricane Irma, as well as Puerto Ricans who have evacuated to Florida as a result of Hurricane Maria.

"The Foundation board set aside \$500,000 for disaster legal services grants several days before Hurricane Irma made

landfall in Florida and has been fundraising since that time through its Florida Hurricane Legal Aid Fund and other means to supplement those funds," said Florida Bar Foundation President Jewel White, who is also the county attorney for Pinellas County. "We knew from past experience that Floridians would face significant civil legal problems in the months and years after the storm, and we knew they would need additional capacity to meet those needs."

The grants to Bay Area Legal Services, Brevard County Legal Aid, CABA Pro Bono Legal Services, Community Justice Project, Community Legal Services of Mid-Florida, Dade Legal Aid, Florida Legal Services, Gulfcoast Legal Services, LatinoJustice PRLDEF, Legal Aid of Manasota, Legal Aid Service of Collier County, the Legal Aid Society of Palm Beach County, the Legal Aid Society of the Orange County Bar Association, the Seminole County Bar Association Legal Aid Society, and Three

Message from the President

Many of us in Florida felt the effects of Hurricane Irma – even if it was just being without power for a few days – but for Floridians who were already struggling, or who lost homes or jobs in the storm, the recovery is just beginning.

Many will be wrongly denied insurance and federal disaster benefits, taken advantage of by landlords who demand rent for housing that is no longer habitable, scammed by phony contractors, or unable to collect a final paycheck from an employer. Marginalized communities are facing challenges they cannot effectively solve alone.

Predicting the widespread civil legal problems that would arise, and the potential for damage to the legal aid infrastructure, the Foundation's board set aside funds prior to the storm for disaster legal services grants, the first round of which we approved in early November. (See page 6.)

The Foundation also set up the Florida Hurricane Legal Aid Fund. Donations have come in

from close to home – including from members of The Florida Bar Board of Governors and other Florida Bar members – and from bar associations and bar foundations as far away as Oklahoma, Mississippi, Ohio, Massachusetts and Pennsylvania. Nearly \$40,000 has been raised thus far, along with a major gift from a private foundation, and we are extremely grateful.

The enormity of the need is evidenced in the Foundation's new Hurricane Irma story map, a data-rich resource for understanding the impacts of the hurricane and the vulnerable populations who are likely to need civil legal aid to rebuild their lives. The map is now featured on our website, including on our Storm Aid page, www.TheFloridaBarFoundation.org/storm-aid, where visitors will also find the link to donate to the hurricane fund.

The hurricane also has added to the need for Florida attorneys to engage in pro bono work. Thankfully, the Florida Supreme Court has now approved amendments to The

Florida Bar's emeritus rule, which enables law professors, retired attorneys, and in-house counsel whose licenses are not currently active in Florida to volunteer their skills. The Foundation's Pro Bono Partnerships Program will be working with The Florida Bar Standing Committee on Pro Bono Legal Services and the Florida Commission on Access to Civil Justice to reach out to lawyers in those categories to notify them of the many pro bono opportunities that await them, including those offered on FloridaProBonoMatters.org.



Jewel White

I offer my heartfelt thanks to all those who have supported our hurricane relief efforts and who are doing pro bono work to help needy Floridians in the wake of one of the worst natural disasters in our history.

Emeritus rule change opens door to more pro bono lawyers

The Florida Supreme Court has approved Bar rules encouraging inactive and retired lawyers to provide pro bono service and specifying that lawyers who have voluntarily chosen inactive status remain "members in good standing." The Florida Commission on Access to Civil Justice had recommended that inactive members be allowed to register as emeritus attorneys under Bar rules and then be able, as part of a legal aid program, to offer pro bono services. The court amended two rules, 1-3.2 and 12-1.2, dealing with inactive members and with emeritus attorneys. The changes to emeritus attorney rules also provide that retired judges and current or former law professors may register as emeritus attorneys to provide pro bono services. Several other related changes were made to the emeritus rules in Chapter 12.

Source: The Florida Bar News

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**THE FLORIDA BAR
FOUNDATION**



First statewide LGBTQ Summit brings legal, social services advocates together

by Nancy Kinnally

More than 200 legal aid attorneys, human services providers and other advocates gathered at the Hilton Marina Ft. Lauderdale Oct. 2-3 for a first-of-its-kind statewide LGBTQ Summit sponsored by The Florida Bar Foundation and organized by Legal Aid Service of Broward County and Legal Services of North Florida (LSNF).

"As legal services providers, we recognize that LGBTQ individuals are as much a part of our client population as anyone else we serve," said Leslie Powell-Boudreaux, executive director of LSNF. The goal of the summit is to make sure we're addressing the needs of our LGBTQ neighbors and ensure that we're serving our entire communities in the best ways possible. The summit will help us build a more collaborative approach with our LGBTQ service providers."

Among the summit participants was David Baker-Hargrove, president, co-CEO and co-founder of Two Spirit Health Services Inc. in Orlando, Central Florida's LGBTQ health center and one of the largest transgender health clinics in the United States.

"Especially for LGBTQ people who are transgender or are members of communities of color, there are a lot of disparities that exist, both from an economic perspective and from an access perspective," Baker-Hargrove said, "so I think it's really incumbent on all of us as professional organizations that care about the health and welfare of our LGBTQ community to become knowledge-based and to disseminate that knowledge amongst our peers. Hopefully that knowledge will help people increase access and increase referrals so that people will get the services they need."

Two Spirit Health Services already had a relationship with local legal aid providers Community Legal Services of Mid-Florida and the Legal Aid Society of the Orange County Bar Association prior to the summit.

"I do try to stay connected, because we do get a lot of requests for legal services at the clinic," Baker-Hargrove said. "If the goal [of



Misty Eyez of SunServe was one of the presenters for "LGBTQ 101," a cultural competency session that was the opening plenary for the LGBTQ Summit.

the summit] is to broaden the knowledge base of attorneys in general, I think that's great, especially throughout the legal aid organizations."

About half the participants in the summit were from legal aid programs all over the state, while the other half were from a broad array of organizations including those devoted to LGBTQ advocacy or services, as well as local police departments, public schools, and other non-legal agencies. Topics included employment law and same-sex spouse or partner benefits; immigration issues affecting LGBTQ youth and adults; the legal aid and pro bono response to the Pulse tragedy in Orlando; discrimination; state and national law; and issues affecting LGBTQ seniors, youth, veterans and people of color.

Sean Rowley, advocacy director for landlord/tenant issues at Legal Services of Greater Miami (LSGMI), said his organization elevated LGBTQ issues to its list of priorities in 2016. LSGMI has begun working on name changes for transgender individuals, as well as LGBTQ housing discrimination cases. About two years ago the organization had its first LGBTQ cultural competency training for staff.

"I think that training was incredibly important for our program in terms of just getting the basic concepts and the basic ideas

down and how to treat people," Rowley said. "It's really great to see this happening statewide for the first time because I think it made a huge difference in our office, and I think statewide it will make a big difference. I think for a long time the thought among public interest attorneys was that LGBT issues would be for LGBT-specific organizations like Lambda Legal. And they do more of the impact work but I'm sure they don't have the resources to do all the direct client services like name changes and basic access to health care."

The summit opened with an interactive "LGBTQ 101" cultural competency session presented by Misty Eyez and Bryan Wilson of SunServe, a South Florida nonprofit that provides life assistance and professional mental health services focused on economically disadvantaged, marginalized LGBTQ youth and senior adults.

Wilson and Eyez reviewed concepts such as gender identity, gender expression and sexual orientation and the acceptable, affirming terms and appropriate pronouns for people at different points of the spectrum for each. They also explained biological terms such as intersex, in which an individual's sex characteristics are neither clearly male nor female, and Klinefelter syndrome, in which a

see **SUMMIT**, p. 7

Settlement helps seniors, disabled on Medicaid avoid nursing homes

by Stacey Singer DeLoye

Following painful spinal surgery, Janet Cramer, 79, suffered a fall that left her a paraplegic. As upset as they were by her sudden disability, Cramer's family members were completely devastated by the blow that came next.

At the most vulnerable moment in her life, Cramer was swept into Florida's Medicaid long-term care program during major reforms. In the midst of those changes, her Medicaid managed long-term care insurer denied claims for services doctors deemed necessary for her to live safely at home.

As her managed long-term care company attempted to control costs through repeated service denials, she sought out an attorney, Nancy E. Wright of Gainesville. Wright joined forces with Southern Legal Counsel, a non-profit public interest law firm funded in part by The Florida Bar Foundation, and Disability Rights Florida. Their suit, on behalf of five disabled Floridians, demanded that the state meet its obligations for the 46,000 long-term-care enrollees who receive nursing and other services at home.

Florida's Agency for Health Care Administration (AHCA) settled the case, agreeing to launch a set of guidelines for the state's private Medicaid managed long-term-care contractors. The settlement requires the insurers to assess an enrollee's total care needs, including the limitations of caregivers, and consult a common rulebook before denying services. The home-based services must include whatever is required for the enrollee to live at home safely. The state agreed to pay the attorneys' fees in the settlement.

The settlement ensures needed care for the plaintiffs and provides clarity for thousands of other frail and disabled Medicaid long-term-care enrollees who seek home or community-based services, said Kirsten Anderson, litigation director for Southern Legal Counsel, which received a \$498,000 grant from the Foundation this year. Importantly, it will provide enrollees with a clear basis for appeal of denials going forward, she said.

"Programs had been arbitrarily slapping

on restrictions that shouldn't have applied, and there were no guidelines to cite," Anderson said. "It was really something that needed to be addressed on a systemic level statewide."

In the suit, five plaintiffs accused the state of violating Title II of the Americans with Disabilities Act. On hearing the state's motion to dismiss, on Dec. 24, 2016, U.S. District Judge Robert L. Hinkle cited the U.S. Supreme Court's 1999 Olmstead decision: "Unnecessary institutionalization of individuals with disabilities is discrimination by reason of disability under Title II of the ADA."

Another plaintiff, Adriana Parrales, is a Miami woman who battles a rare, painful genetic disorder called neurofibromatosis type 2, which left her on a respirator in her 20s. Parrales enrolled in Medicaid's home-based long-term care program only to be nearly abandoned by her insurer, leaving her exhausted mother to monitor her respirator and attend to her needs for 23 hours a day.

For most of her adult life, Cramer had enjoyed caring for her family. She raised five daughters and worked as a travel agent and interior designer. The Cramers' Florida home radiated her love for gardening and design, said one of her daughters, Elizabeth Cramer Ernst. After being dropped at the nursing home, her mother's greatest wish was to return home, her daughter said.

When her family brought her home, "she just broke down and cried, she was so overwhelmed and happy to be in the place she loved," Ernst said. That joy was short-lived, however, as her Medicaid managed care provider denied the 24-hour services ordered by her doctor and suggested her ailing 83-year-old father could provide the care. On her mother's behalf, Ernst appealed to AHCA.

"My dad couldn't position her, or sit her up, or change her diaper, or manage her meds. She was on 40 different medications. He couldn't take care of that," she said.

Meanwhile, things went from bad to worse when a van transporting Cramer to a medical appointment crashed. The driver — hired by Cramer's insurer — had failed to



Janet and Thomas Cramer

PETER CROSS

secure her wheelchair, and she was thrown from the chair, breaking both ankles and a hip, her daughter said. Amazingly, the denials continued.

"My mom was sedated, and they would trap her into saying things that weren't true, and then cut care," Ernst said. "Two nurses asked if she could roll over, and she said 'yes.' It confused her. She couldn't roll over. She was paralyzed and had two casts on. But they removed her care."

Thanks to the settlement and a change in insurer, her mother now has the 24-hour care she requires. With regular physical and occupational therapy, she's regained some function in her hands. Her favorite thing to do now is to drive her scooter out into her garden.

"She should have been dead 100 times," Ernst said. "But she's feisty."

Anderson said Southern Legal Counsel will continue to monitor AHCA's implementation of the settlement. Once all of the terms have been met, the suit will be dismissed.

"If you know it's a covered service and you meet the criteria and are entitled to it, you now have a basis to appeal," Anderson said. "Systemic changes to a program are only as good as their implementation. The point of doing work like this is to help the people who aren't coming through your doors."

Nelson named pro bono program officer

by Deshani Semaan

Claud B. Nelson III has joined The Florida Bar Foundation as its new pro bono program officer.

"We're excited to have Claud join us in increasing pro bono partnerships in Florida through current and new initiatives," said Ericka Garcia, the Foundation's director of pro bono partnerships.

As pro bono program officer, Nelson will work with Garcia to foster pro bono relationships and collaborations with bar associations, law firms, courts, law schools, legal aid organizations and other groups.

Nelson most recently served as an assistant city attorney for five municipalities in Central Florida as an attorney of counsel with Stenstrom, McIntosh, Colbert & Whigham, P.A., while also representing

private clients in various civil matters. He previously served as a criminal prosecutor with the Seventh Judicial Circuit in Daytona Beach and the Suffolk County District Attorney's Office in Massachusetts.

Nelson has volunteered extensively for Community Legal Services of Mid-Florida and provided pro bono services independently to his own clients. He will work out of the Foundation's Maitland office. The Foundation previously had a pro bono program officer based in Miami, for whom Akerman LLP donated office space. Garcia and Nelson will continue to utilize Akerman's donated office space when working in South Florida.

"As pro bono program officer with The Florida Bar Foundation, I will strive to make a meaningful and lasting impact on the lives of



Claud B. Nelson III

Floridians," Nelson said.

Nelson has a bachelor of science in business administration and finance from the University of Florida and attended Seattle University School of Law before transferring to Northeastern University School of Law, where he earned his law degree.

York joins Foundation as grant program officer

by Jessica Brown

Catherine "Kate" York has joined The Florida Bar Foundation as its grant program officer.

The Foundation will award \$10.5 million in grants in 2017-18. As grant program officer, York will review grant applications, manage grantee relationships and review performance outcomes.

"Kate will be an integral part of our team as we work to create collective impact in collaboration with our grantees and other partners," said Jennifer Wimberly, director of grants. "Our board is familiar with Kate's stellar legal aid work, how she has worked in the trenches and has tremendous insight into the needs of our state's most vulnerable populations."

Previously, York worked as a Guardian ad Litem staff attorney at the Legal Aid Society of the Orange County Bar

Association and the Florida Guardian ad Litem Program in Miami. She has experience advocating for foster children, settling dependency cases, training pro bono attorneys and litigating bench trials.

York is a co-recipient of the Foundation's 2017 Paul Doyle Children's Advocacy Award along with her Legal Aid Society colleague Bethanie Barber and several pro bono attorneys. She was a member of a legal team that represented a 2-year-old boy who witnessed his father murder his mother. The team worked to prevent the father from using his paternal rights, while in jail, to determine the child's custody.

The case was instrumental in winning passage of the Child's Best Hope Act, a new law that allows Florida judges to apply the child's best interest standard in decisions about adoption intervention.



Catherine "Kate" York

York earned her bachelor's degree at the University of Central Florida and her law degree at Florida Coastal School of Law in Jacksonville. She is a member of The Florida Bar Young Lawyers Division, the Orange County Bar Association and the Central Florida Association of Women Lawyers.

Rivers Legal Services were awarded in the first of what is expected to be at least two rounds of funding.

A portion of the funds comes from a private foundation that recently made a significant grant to The Florida Bar Foundation to fund free civil legal aid to immigrants impacted by Hurricane Irma, marking the largest private grant The Florida Bar Foundation has received in its 61-year history. The grant funds from the private foundation are earmarked for immigrants in the 49 Florida counties declared federal-disaster areas, with funding priorities to include access to safe and affordable housing, health care and food, as well as employment, domestic violence, and other disaster recovery-related issues.

"We are truly honored to have been entrusted with the stewardship of these funds," said Jennifer Wimberly, The Florida Bar Foundation's director of grants. "Our long history as a funder of civil legal aid in Florida gives us the capacity to ensure the funds will



Anna Pippin, a Sanford mother of three, attended an Ask-A-Lawyer clinic hosted by disaster grantee Community Legal Services of Mid-Florida Oct. 23 after her home sustained damage during Hurricane Irma. "I was just looking for a friendly face, and someone to be honest and help guide me, and that's exactly what I got," Pippin said.

be put to their highest possible use, and that's what we're going to do."

In the wake of natural disasters, legal aid protects the rights of people who are, among other things: denied insurance and federal disaster benefits to which they are entitled; taken advantage of by landlords who demand rent for housing that is no longer habitable or who try to evict them unlawfully; scammed by phony or unscrupulous contractors; or unable to collect a final paycheck from an employer

when laid off. Legal aid organizations also help those at risk of being left out of the recovery effort because they are part of a marginalized community.

As a resource for its grantees and others, The Florida Bar Foundation has published an online story map, a data resource revealing the impact of Hurricane Irma on Florida and the vulnerable populations who could potentially need civil legal aid in the recovery. With the Geographic Information Systems (GIS) expertise of the Self-Represented Litigation Network (SRLN), the Foundation has developed this interactive story map at <https://arcg.is/CCDzi>, which provides access to geospatial data from the Federal Emergency Management Agency, the U.S. Department of Housing and Urban Development, the Centers for Disease Control and Prevention, the U.S. Census Bureau and the Florida Department of Children and Families.

Users can click on maps to see data for specific geographic areas regarding hurricane impacts, social vulnerability, housing and location affordability, FEMA applications, D-SNAP/Food for Florida applications, immigrant and limited-English-proficient populations, population below 125 percent of federal poverty level, renters and uninsured. The Foundation also worked with SRLN to develop an innovative Legal Vulnerability Index, which displays the sum of multiple at-risk indicators for each county's population and is part of the story map.

Donations can still be made to the Florida Hurricane Legal Aid Fund at www.TheFloridaBarFoundation.org/storm. All proceeds from that fund will be added to future disaster legal services grants.

First round of disaster grants awarded

The Foundation's disaster relief initiative supports civil legal aid and other organizations providing legal services to impacted communities, including displaced Puerto Ricans relocating to Florida due to Hurricane Maria. Funds may be used to repair damage sustained by applicant organizations, or to address a surge in demand for civil legal aid as a result of a disaster.

Bay Area Legal Services	\$30,300
Brevard County Legal Aid	\$18,000
CABA Pro Bono Legal Services	\$113,000
Community Justice Project	\$12,000
Community Legal Services of Mid-Florida	\$61,100
Dade Legal Aid	\$28,500
Florida Legal Services	\$157,250
Gulfcoast Legal Services	\$41,345
LatinoJustice PRLDEF	\$46,000
Legal Aid of Manasota	\$1,000
Legal Aid Service of Collier County	\$99,225
Legal Aid Society of Palm Beach County	\$46,000
Legal Aid Society of the Orange County Bar Association	\$53,239
Legal Aid Society of the Seminole County Bar Association	\$15,800
Three Rivers Legal Services	\$58,242

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male has one extra X chromosome.

Ashley Mayfaire of TransSOCIAL Inc., a South Florida transgender-led nonprofit organization that assists people with name and gender marker changes, said the summit has led to connections with legal aid and other organizations working on common issues. Specifically, Mayfaire pointed to UpdateNameGender.org, an online resource being developed by Southern Legal Counsel and the Florida Justice Technology Center to guide self-represented litigants through the name change process. Mayfaire is interested in working with the two organizations to bring Miami-Dade and Broward counties on board as the system is rolled out to all 67 Florida counties.

"We were impressed by the turnout and how engaged everyone is," Mayfaire said. "To have this welcoming space with all these allies is really inspiring."

Hayley Gorenberg, deputy legal director and general counsel of Lambda Legal, the largest national nonprofit organization that advocates and litigates on behalf of LGBTQ and HIV-positive people, gave the summit keynote.

"We are in an all-hands-on-deck situation right now in this country," Gorenberg said, "and I am standing in a room full of very capable hands. There is a lot of need, and you are some of the best-equipped people to address it."

Cultural competency in all realms, including understanding LGBTQ culture, can be "life-changing and life-saving" for clients, she said.

"If you don't think that many trans people avoid hospitals and doctors and lawyers, too, when they are misgendered and gawked at and maltreated, then you don't know humanity, and I know that legal aid and legal services practitioners know humanity. You can inject your cultural competency into your day job, changing and saving lives that way."

Gorenberg also encouraged legal aid organizations to "leverage pro bono power" to spread their reach further.

"A lesson from every civil rights

movement is that it's never over," she said.

The summit concluded with breakout sessions in which legal aid and other service providers met by geographic regions within Florida to discuss how they could partner to better meet the needs of the LGBTQ community.

Tony Karrat, executive director of Legal Aid Service of Broward County, which hosted the summit along with LSNF and whose staff handled most of the logistics, said what was important to him was to see legal aid programs and social service organizations begin working together to find and implement solutions.

"It's been great to get these exceptional presenters to guide us on what the issues are and how to address those issues and to see the people here take that back to their communities and put that knowledge into effect," Karrat said.

The LGBTQ Summit was supported by a \$143,000 grant from The Florida Bar Foundation through funding from a national settlement reached by the U.S. Department of Justice and multiple states with Bank of America.

"I think this was very generous of the funders who put this together," Baker-Hargrove said. "It was very nicely done."



Tony Karrat, executive director of the Legal Aid Service of Broward County, opened the LGBTQ Summit Oct. 2.

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During an Oct. 17 Justice on the Block event at Community Action Program Committee's headquarters in Pensacola, residents received free civil legal advice. Justice on the Block is one of three pilot programs of the Escambia Project, a joint initiative of The Florida Bar Foundation, Legal Services of North Florida and Pathways for Change. See coverage from WUWF-FM at: <http://wuwf.org/post/escambia-project-expands-residents-access-legal-help>



Disaster grants awarded

Homes in a 350-unit Liberty City housing development, Northpark at Scott Carver, now face 350,000 cubic yards of hurricane debris dumped on a Miami-Dade County-owned plot where a proposed industrial park instead had promised jobs. The community's residents are among the millions of Floridians affected by Hurricane Irma, many of whom will need civil legal aid in the months and years ahead. The Florida Bar Foundation recently awarded grants to 15 legal aid organizations that will play a critical role in disaster response.