

STATE OF MINNESOTA

IN SUPREME COURT

01-81-1206

OFFICE OF
APPELLATE COURTS

NOV 14 1996

FILED

ORDER FOR HEARING TO CONSIDER PROPOSED
AMENDMENTS TO THE RULES RELATING TO
REGISTRATION OF ATTORNEYS

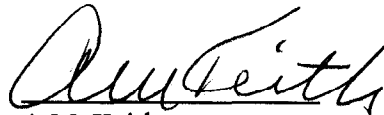
IT IS HEREBY ORDERED that a hearing be had before this Court in Courtroom 300 of the Minnesota Supreme Court, Minnesota Judicial Center, on January 21, 1997 at 2:00 p.m., to consider the petition of the Joint Legal Services Access and Funding Committee for an order Amending the Rules of the Minnesota Supreme Court for Registration of Attorneys. A copy of the petition is annexed to this order and is also available on the Court's WWW page(www.courts.state.mn.us).

IT IS FURTHER ORDERED that:

1. All persons, including members of the Bench and Bar, desiring to present written statements concerning the subject matter of this hearing, but who do not wish to make an oral presentation at the hearing, shall file 12 copies of such statement with Frederick Grittner, Clerk of the Appellate Courts, 245 Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155, on or before January 15, 1997 and
2. All persons desiring to make an oral presentation at the hearing shall file 12 copies of the material to be so presented with the aforesaid Clerk together with 12 copies of a request to make an oral presentation. Such statements and requests shall be filed on or before January 15, 1997.

Dated: November 14, 1996

BY THE COURT:



A.M. Keith
Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

**In the Matter of the Petition of Joint
Legal Services Access and Funding
Committee for Amendment of the
Rules of the Minnesota Supreme
Court For Registration of Attorneys**

File No. _____

**PETITION OF JOINT LEGAL SERVICES ACCESS AND FUNDING COMMITTEE
FOR ORDER AMENDING RULES OF THE MINNESOTA SUPREME COURT FOR
REGISTRATION OF ATTORNEYS**

I. INTRODUCTION

This petition, brought by the Joint Legal Services Access and Funding Committee ("Petitioner"), seeks an amendment to the Rules of the Supreme Court for Registration of Attorneys to increase the attorney registration fee by \$50 for lawyers practicing more than three years, and \$25 for lawyers practicing three years or fewer, with specified exceptions, with the proceeds generated by the fee increase allocated to the Legal Services Advisory Committee for distribution to legal services and volunteer lawyer programs.

II. BACKGROUND

There exists in Minnesota an acute need for civil legal services for low-income and disadvantaged individuals and families. These legal needs involve primarily matters directly affecting life's basic needs, including housing, family income, health, child support and personal safety. The proposed increase in the attorney registration fee will help address not only the immediate increase in need caused by the diminished role of federal funding for legal services, but also the persisting unmet need for legal services.

A. **The Critical Need for Legal Services for Low-Income and Disadvantaged Minnesotans.**

According to the 1990 census, there are over 640,000 low-income individuals in Minnesota, representing a 16 percent increase from 1980.¹ A 1994 study by the American Bar Association ("ABA") found that 47 percent of those low-income households experience at least one legal problem each year. Joint Legal Services Access and Funding Committee Report, Exh. A at 6 (citing Legal Needs and Civil Justice: A Survey of Americans, at 3-5 (ABA, 1994)). Consequently, it is fair to estimate that over 300,000 low-income individuals experience at least one legal problem each year in Minnesota. See id. Because many of the laws and regulations confronting low-income and disadvantaged persons are complex, self-help is frequently not an option; the guidance and counsel of a lawyer is needed.

Many organizations, including the Minnesota State Bar Association ("MSBA"), have documented the need for civil legal services for low-income and disadvantaged persons. This Court's Task Force on Race Bias in the Judicial System identified the lack of access to civil legal services for minority-race individuals as a serious problem. Additionally, this Court's Gender Fairness Task Force found that lack of access to civil legal services is a serious problem for low-income women and their children.

B. **Minnesota Legal Services Coalition and Other Legal Services Providers, Including Volunteer Attorney Programs.**

¹Low-income refers to persons living on an income below 125 percent of the federal poverty level. In 1996, this standard was set at a gross annual income of \$9,675 for one person and \$19,500 for a family of four. 61 Fed. Reg. 8286 (1996).

Minnesota's legal services and volunteer attorney programs have long enjoyed a national reputation for excellence in providing access to civil legal services for low-income and disadvantaged people. See, e.g., Exh. A at 20; Legal Services Report (Summer, 1995), Exh. B at 5. Nationwide, Minnesota's programs serve as a model for a cooperative approach to addressing legal service needs. See Exh. A at 20. The programs work effectively with each other, the private bar, funders, the court system and the Minnesota Legislature. Id.

The Minnesota Legal Services Coalition ("Coalition") offers legal services in all 87 counties in Minnesota, thereby enabling low-income and disadvantaged families and individuals to obtain the basic necessities of life, as well as facilitating equal access to the courts, administrative agencies and other legal forums. A major source of funding for the Coalition's programs has been derived from the federal Legal Services Corporation ("LSC"), a private, non-profit corporation created and funded by Congress to make grants to local programs which provide such free legal assistance. In 1995, for example, LSC provided approximately \$5 million for the Coalition's programs, an average of 25 percent of their funding.² Notwithstanding the clear need for legal services, Congress cut substantially its 1996 funding to LSC as part of its effort to balance the federal budget, resulting in a loss of approximately \$1.2 million in funding to programs in Minnesota this year alone. Federal restoration of any significant portion of the lost funding for Minnesota programs is unlikely in the near future.

² Six private, non-profit programs comprise the Coalition: (1) Anishinabe Legal Services (ALS), (2) Judicare of Anoka County (JAC), (3) Legal Aid Service of Northeastern Minnesota (LASNEM), (4) Legal Services of Northwest Minnesota (LSNM), (5) Mid-Minnesota Legal Assistance (MMLA), and (6) Southern Minnesota Regional Legal Services (SMRLS).

Of the limited resources available to meet the critical legal needs of low-income and disadvantaged Minnesotans, the majority comes from the staff and volunteer attorneys who work with the Coalition. Exh. A at 2. The remainder comes through a variety of other staffed offices and independent volunteer attorney programs generally providing additional services in single counties or to special populations. Id.

For example, some type of organized volunteer attorney program exists for all 87 Minnesota counties. Over 1,700 private lawyers donate legal services through the Coalition programs' volunteer and judicare programs, donating thousands of hours of pro bono legal service each year. Exh. A at 9. These volunteer and judicare programs cover 78 of Minnesota's 87 counties. Volunteer lawyer services in the other nine counties are coordinated by five free-standing programs.³ While these organizations receive some funding from LSC grantees, they are managerially separate and also obtain funding from other sources, such as the Lawyers' Trust Account Board ("LTAB"), the Legal Services Advisory Committee ("LSAC"), county boards, and donations from local lawyers and law firms. The structure in Minnesota that enables this effective and efficient involvement of the private bar has been paid for in part with LSC funds. Thus, the recent cutbacks in LSC funding have imposed an even greater burden on free-standing volunteer attorney programs, as well as the administrative infrastructure necessary to maintain these programs.

³These programs are Volunteer Lawyers Network in Hennepin County, Legal Assistance of Dakota County, Legal Assistance of Olmsted County, Legal Assistance of Washington County, and the Volunteer Attorney Program of Duluth.

Despite the excellent legal services network that exists in Minnesota, the Coalition and volunteer attorney programs can meet only a fraction of the legal needs of eligible clients. In fact, a 1989 study by the Minnesota State Bar Association found that legal service providers were able to accept for full representation only 27 percent of the low-income eligible callers requesting help with family law problems. Exh. A at 6 (citing Family Law: A Survey of Unmet Need for Low-Income Legal Assistance, (MSBA, 1989)). While there is one lawyer for every 253 persons in the general population, there is only one lawyer -- including legal services staff and judiciary full-time equivalents -- for every 3,000 low-income individuals in Minnesota. Id. The recent drastic federal budget cuts affecting both legal services programs and their clients further diminish Minnesota's ability to meet even the most critical civil legal needs of low-income and under-represented individuals and families.

C. **The Joint Legal Services Access and Funding Committee and the MSBA.**

Anticipating federal funding cuts, the 1995 Session of the Minnesota legislature directed this Court to

create a joint committee including representatives from the Supreme Court, the Minnesota State Bar Association, and the Minnesota Legal Services Coalition to prepare recommendations for state funding changes or other alternatives to maintain an adequate level of funding and voluntary services that will address the critical civil legal needs of low-income persons as a result of reductions in federal government funding for such programs.

By Order dated September 21, 1995, this Court established the Joint Legal Services Access and Funding Committee ("Committee"), and directed it to

examine the alternatives for addressing the critical civil legal needs of low-income people including systemic changes in the legal and judicial systems and the legal services delivery system to facilitate access . . . identify[ing] costs and funding options for these alternatives and make recommendations to the Court and Legislature by December 31, 1995.

The 29-member Committee, co-chaired by Barbara F.L. Penn and Roger V. Stageberg, included members of the legislature, the federal and state judiciary, lawyers in public and private practice, legal services program staff and members of the public. The Honorable Edward Stringer served as this Court's liaison.

The Committee adopted a partnership approach, developing recommendations directed at the court system, the legal services programs and their clients, and the private bar, as well as recommending a number of proposals for legislative action. See Exh. A at 3-5 (outlining recommendations), 16-42 (detailing recommendations). One of the Committee's many recommendations was to increase annual attorney registration fees in order to create a stable funding base for legal services, and to offset partially federal funding cuts. The proposed attorney

registration fee increase has been thoroughly debated and enjoys widespread support across the bar. See, e.g., Supporting Letters, Exh. C.

The MSBA, through its Legal Services to the Disadvantaged ("LAD") Committee, considered the Penn-Stageberg Committee recommendations and other funding proposals for legal services for the disadvantaged. The LAD Committee supported the Penn-Stageberg proposal, and also recommended an attorney registration fee increase of \$100 for 10-year practitioners. See LAD Committee Report, Exh. D.

The MSBA also appointed an ad hoc committee to evaluate the Penn-Stageberg registration fee proposal. The ad hoc committee, which issued majority and minority reports, recommended that the MSBA decline to support that proposal. Ad Hoc Committee Report, Exh. D at 12; but see id. at 14 (Minority Report).

At the meeting of the MSBA Board of Governors on June 20, 1996, the Penn-Stageberg Committee's proposal met with wide support. Endorsers included Minnesota Women Lawyers, the Minnesota Defense Lawyers' Association and the 15th and 16th and Range District Bar Associations. Additional support is found in the attached letters. See Exh. C. The proposal was endorsed by the Board of Governors with the addition of a provision to establish a smaller fee increase for low-income lawyers. The next day, after thorough debate and consideration of all the proposals, the MSBA General Assembly voted to adopt the Penn-Stageberg Committee resolution:

- I. [Resolved,] that the MSBA support the petition to the Minnesota Supreme Court expected to be filed by the Joint Committee on Legal Services Access and Funding to Amend the Rules of the Minnesota Supreme Court for Registration of Attorneys to increase the annual attorney registration fee by \$50 for lawyers practicing more than three (3) years, and \$25 for lawyers practicing three (3) years

or less, with the increase going to the Legal Services Advisory Committee for allocation to legal services providers, including volunteer attorney programs.

Official Proceedings: MSBA General Assembly, Exh. E at 19. The Assembly also endorsed the recommended lower fee increase for low-income lawyers. Reflecting the consensus of its constituency, the MSBA stands fully behind this Petition.⁴

III. JOINT LEGAL SERVICES ACCESS AND FUNDING COMMITTEE'S PROPOSAL

Petitioner respectfully petitions this Court to amend Rule 2 of the Rules of the Supreme Court for Registration of Attorneys to provide for a registration fee increase of \$25 for lawyers admitted to practice for three years or less, and \$50 for lawyers admitted to practice more than three years. Petitioner also requests that lawyers pay only one-half of the fee increase if they certify that their adjusted gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year. Petitioner proposes that attorneys in retired or inactive status paying no registration fee be exempted from the fee increase, and that out-of-state and military lawyers be treated the same as in-state lawyers for purposes of the fee increase.

Consistent with this Court's jurisdiction to regulate the practice of law, the funds received pursuant to the fee increase may be disbursed by this Court in accordance with Minn. Stat. § 481.01. Petitioner requests that this Court allocate the funds to this Court's Legal Services Advisory Committee ("LSAC") for distribution.

IV. DISCUSSION

^{4/} Petitioner understands that the MSBA will be filing a letter in support of the proposed registration fee increase.

A. Stable Economic Support for Critical Civil Legal Services Is Necessary to Ensure Access to Justice for All.

Access to justice is fundamental to our system of government. The right of every citizen to access to justice is recognized in the Constitution of the State of Minnesota:

Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

Minn. Const. Art. I, § 8. Given the complexity of the legal system, access to legal services is necessary in many cases for access to the legal system. Without access to the legal system, there can be no equality before the law. See Robert A. Katzmann, Ed., The Law Firm and the Public Good 6 (Brookings Institution 1995). Funds raised through an increase in annual attorney registration fees would provide a stable, partial funding base to provide those legal services, and would help to protect Minnesota's low-income and disadvantaged citizens from the effects of unpredictable political change.

B. Lawyers Have a Professional Obligation to Help Ensure Access to the Court System.

It is appropriate that lawyers share the cost of ensuring that all citizens have access to necessary legal services. Although lawyers are not solely responsible for meeting the unmet need for civil legal services, lawyers are the gatekeepers of justice, and as such have the unique ability to take the lead. The legal community has a legal monopoly; it alone controls access to justice. Given their unique role as officers of the Court, lawyers have an obligation to take a leadership role in assuring that there is access to justice for low-income and disadvantaged Minnesotans. See In re Daly, 291 Minn. 488, 189 N.W.2d 176, 178 (1971) (recognizing that lawyers have a monopoly to perform legal services and therefore are subject to strict regulation with respect to admission to practice, the performance of professional services, canons of ethics, accountability for adherence to the rule of law, and standards of professional responsibility).

Many Minnesota lawyers already make great contributions, including substantial donations of pro bono civil legal services each year through Coalition and volunteer attorney programs. Ensuring access to justice for low-income and disadvantaged individuals is an integral part of the lawyer's role in the judicial system. Just as continuing education of lawyers, the elimination of discrimination within the bench and bar, the creation of the Client Security Fund to protect clients against theft by their lawyers, and the enforcement of the disciplinary rules -- all of which have been adopted by this Court -- are essential to the integrity and health of the profession and our system of justice, so too is the continued responsibility of lawyers to facilitate and ensure access to the courts for all low-income and disadvantaged persons in the state.

By no means does this proposal effect a mandatory pro bono requirement upon members of the Minnesota bar. On the contrary, the proposal neither requires that lawyers volunteer their time nor suggests that the additional license fee will satisfy the professional obligation to provide pro bono publico legal services pursuant to Rule 6.1 of the Minnesota Rules of Professional Conduct. Rule 6.1 provides an aspirational goal:

A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

- (a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:
 - (1) persons of limited means or
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means;
 -

Petitioner encourages all lawyers to volunteer time to provide legal services for the disadvantaged. Certainly, an increase in the attorney registration fee will help facilitate lawyers' attempts to meet the aspirational goal of Rule 6.1; it will provide financial support to the administrative infrastructure necessary to screen clients, to match those who need legal assistance with volunteer attorneys who can provide it, and to ensure that lawyers taking cases receive needed training, support services and materials. Petitioner recognizes, and by separate resolution has reiterated, the need to provide adequate and stable funding for the volunteer attorney programs.

This proposal is also not offered as a substitute for Rule 6.1. The proposal recognizes that lawyers, as officers of the courts and members of the legal profession, are in a unique

position to contribute to meeting the legal needs of low-income and disadvantaged persons. Also, by granting this Petition, this Court will communicate to the bar, as well as to law students, that with the privilege of being permitted to practice law in Minnesota come many responsibilities, including the responsibility to help ensure equal access to the courts for low-income and disadvantaged Minnesotans. See In re Petition for Integration of Bar of Minnesota, 216 Minn. 195, 12 N.W.2d 515, 518 (1943) (the practice of law is not a property right, but a "privilege conferred on the individual by the court to further the administration of justice").

C. The Court May Increase Attorney Registration Fees Pursuant to its Inherent Power to Administer Justice and Regulate the Legal Profession.

This Court has the authority to increase the attorney registration fee pursuant to its inherent power to administer justice. Indeed, in 1982, the Minnesota Supreme Court was a leader, exercising its inherent authority to regulate the practice of law to increase access to legal services by creating a mandatory IOLTA (Interest on Lawyers' Trust Accounts) program. The majority of states have since followed suit. The power to regulate the practice of law and the conduct of Minnesota attorneys is inherent in the judicial power conferred on the courts pursuant to Article VI, Section 1 and Article III, Section 1 of the Minnesota Constitution.⁵ Thus, the

⁵/Article III, § 1 of the Minnesota Constitution provides:

The powers of government shall be divided into three distinct departments: legislative, executive and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.

Article VI, § 1 provides:

The judicial power of the state is vested in a supreme court, a court of appeals, if established by the legislature, a district court and such other courts, judicial officers and

power to determine the conditions upon which a person may practice before the courts in Minnesota is vested solely with the judiciary. See, e.g., Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753, 755 (Minn. 1992); Minneapolis Star & Tribune Co. v. Housing & Redevelopment Auth., 310 Minn. 313, 318, 251 N.W.2d 620, 623 (1976); see also, In re Daly, 189 N.W.2d at 179 ("The ultimate determination governing admission, supervision, and discipline of attorneys in this state . . . is vested in this court.").

This Court clearly articulated its fundamental functions in In Re Petition for Integration of Bar of Minnesota, 216 Minn. 195, 12 N.W.2d 515 (1943):

The fundamental functions of the court are the administration of justice and the protection of the rights guaranteed by the constitution. To effectively perform such functions, as well as its other ordinary duties, it is essential that the court have the assistance and cooperation of an able, vigorous, and honorable bar. It follows that the court has not only the power, but the responsibility as well, to make any reasonable orders, rules, or regulations which will aid in bringing this about, and that the making of regulations and rules governing the legal profession falls squarely within the judicial power thus exclusively reserved to the court.

12 N.W.2d at 518. It is beyond dispute that regulating the practice of law and ensuring that the courts of Minnesota operate fairly for all include ensuring access to the legal system. Indeed, ensuring access to the legal system requires reasonable and necessary regulations, including the assessment of attorney registration fees, for the purpose of supporting access to justice for all low-income and disadvantaged individuals in Minnesota, thereby protecting the rights guaranteed

commissioners with jurisdiction inferior to the district court as the legislature may establish.

In addition, the legislature recognizes the Supreme Court's authority to prescribe, amend and modify rules governing the conduct of lawyers in the practice of their profession. Minn. Stat. § 480.05 (1996).

by the Constitution. Granting this petition would therefore be fully appropriate to its role as a co-equal branch of government.⁶

As this Court held in Sharood v. Hatfield, 296 Minn. 416, 210 N.W.2d 275 (1973), “[T]he power to make the necessary rules and regulations governing the bar was intended to be vested exclusively in the supreme court, free from the dangers of encroachment either by the legislative or executive branches” Id. at 280 (quoting In Re Petition for Integration for the Bar of Minnesota, 216 Minn. 195, 12 N.W.2d 515, 516 (1943)). In Sharood, this Court treated the power to assess and control attorney registration fees for proper purposes as a necessary element of the general power to regulate the practice of law. Significantly, this Court explained that “[t]his money is not tax money. It is held in trust by the supreme court for the purposes for which it has been contributed by attorneys.” 210 N.W.2d at 277. Consistent with Sharood, the proposed attorney registration fee increase falls squarely within this Court’s power to regulate the practice of law.

Facilitating the provision of legal services to low-income individuals clearly constitutes the administration of justice. In In Re Petition for Integration for the Bar of Minnesota, the petitioner argued that the proposed rule would “afford protection and recourse to those who might otherwise by reason of destitute circumstances be unable to protect their legal or constitutional rights,” to which this Court responded, “[i]f such results would follow, then

^{6/} If the Court chooses not to exercise this inherent power to administer justice, the legislature may deem it appropriate to take action through its power to tax. See, e.g., Minn. Stat. § 147.01, subd. 6 (requiring Board of Medical Practice to assess annual license surcharge of \$400 against each physician licensed and residing in Minnesota and contiguous states, for the purpose of helping to provide low-income Minnesotans access to medical care).

unquestionably the order prayed for would result in the furtherance of the administration of justice, and be well within the province of the court.” 12 N.W.2d at 518. Because the proposed increase of the attorney registration fee will serve to protect and will offer recourse to individuals who are otherwise unable to protect adequately their legal rights, it will result in furthering the administration of justice, and is accordingly “well within the province of the court.” Id.

Not only is it within this Court’s power to authorize an increase in the attorney registration fee, but this Petition is entirely consistent with the Supreme Court’s supervisory authority over all lawyers admitted to practice in this State. See Order Creating the Minnesota Client Security Fund, No. CO-85-2205 (Minn., Apr. 15, 1986). Indeed, facilitating access to justice through an increase in attorney registration fees complements the Court’s exercise of its authority to administer justice as manifested in the establishment of the Lawyer’s Professional Responsibility Board, the State Board of Continuing Legal Education, the State Board of Law Examiners, IOLTA, and, more recently, the Client Security Fund.

Finally, there are distinct advantages for the judicial system in the Court’s exercise of its inherent power to administer justice in this regard. Not only do legal services to the disadvantaged stabilize families, maintain communities, and make society safer, but they help to resolve legal problems which would otherwise further clog the court system, increasing its costs. Matters involving sophisticated issues of law and complex regulations can be handled in an effective and efficient manner because legal aid staff and volunteer attorneys have expertise in poverty law. Involvement of staff or volunteer attorneys also facilitates settlement. Indeed, only 10 percent of Coalition program cases in Minnesota are resolved through litigation. Exh. A at 9. By adopting this petition, therefore, this Court will reduce clogged courts, facilitate the efficient

handling of complex legal problems, facilitate settlement, and increase overall access to the court system.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests this Court to provide public notice of the filing of this petition and to establish a period during which comments may be submitted to this Court concerning this petition. Following the comment period, Petitioner requests this Court to amend the Rules Relating to Registration of Attorneys to increase the attorney registration fee for the benefit of low-income and disadvantaged Minnesotans who need legal services to secure their rights, but who cannot afford counsel.

RESPECTFULLY SUBMITTED,

Dated: October ____, 1996

JOINT LEGAL SERVICES ACCESS
AND FUNDING COMMITTEE

By _____
Barbara F.L. Penn, Co-Chair (# 85042)

By _____
Roger V. Stageberg, Co-Chair
(# 0104292)

Petitioner

Dated: October ____, 1996

Christopher W. Putnam (# 246475)

Julie Anne Rich (# 246487)

Pillsbury Center South
220 South Sixth Street, Suite 1300
Minneapolis, MN 55402-1498
Telephone: (612) 340-2600

Attorneys for Petitioner

DePaul Willette
6438 5th Avenue South
Richfield, Minnesota 55423

OFFICE OF
APPELLATE COURTS

DEC 9 1996

FILED

December 4, 1996

Honorable Justice
Minnesota Supreme Court
424 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

RE: Amendment to Rules relating to registration of attorneys, C1-81-1206

Dear Justices:

As a practicing attorney for 35 years in Central Minnesota, I can attest to the great need of legal services for the poor and disadvantage. I and members of my former firm, including Paul Nelson, a Board Member of Central Minnesota Legal Services, provided volunteer legal services for many years. The need far exceeds the services available.

As Executive Secretary of the Board on Judicial Standards, in the last five years, I have listened to hundreds of telephone calls from persons involved in family law matters who desperately need legal advise but have neither the money nor access to a legal aid program. Again, the need is great.

I support the increase in the lawyers' registration fee of \$50. for Minnesota lawyers as a necessary and important response to the need of providing legal services to the poor and disadvantage of our State. I urge the approval of the Petition.

Sincerely,



DePaul Willette

cc: Joint Legal Services Access
& Funding Committee
Pillsbury Center So.
220 So. 6th Street, #1300
Minneapolis, MN 55402-1498

Barbara F.L. Penn
101 E. 5th St., #2220
St. Paul, MN 55101

MSBA



OFFICE OF
APPELLATE COURTS

JAN 10 1997

FILED

January 8, 1997

**Minnesota
State Bar
Association**

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*Executive Committee
At-Large Members*
James W. Brehl
St. Paul
Jarvis C. Jones
Minneapolis
Kenneth R. White
Mankato

Tim Groshens
Executive Director

Mary Jo Ruff
Associate Executive Director

Frederick Grittner
Clerk of the Appellate Courts
245 Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

RE: Joint Legal Services Access & Funding Committee Petition

Dear Fred:

By letter dated October 28, 1996, MSBA President John Nys communicated the MSBA's support for the petition filed on October 22, 1996, by the Joint Legal Services Access & Funding Committee requesting an increase in the attorney registration fee to support civil legal services for low-income Minnesotans.

We would appreciate the opportunity to make an oral presentation of no more than five minutes at the hearing on January 21. That presentation will be made by MSBA Past President Michael Galvin, Jr.

Please let me know if you have any questions. A copy of our October 28 letter is attached.

Sincerely,

Tim Groshens
Executive Director

cc: Michael Galvin, Jr.
Roger Stageberg
Barbara Penn

MSBA



October 28, 1996

OFFICE OF
APPELLATE COURTS

The Justices of the Minnesota Supreme Court
25 Constitution Avenue
St. Paul, MN 55101

NOV - 1 1996

FILED

Minnesota
State Bar
Association

Dear Justices:

514 Nicollet Mall
Suite 300
Minneapolis, MN 55402-1021

Telephone
612-333-1183
National
1-800-882-MSBA
Fax
612-333-4927

I write to communicate the Minnesota State Bar Association's support for the petition filed on October 22, 1996, by the Joint Legal Services Access and Funding Committee requesting an increase in the attorney registration fee to support civil legal services for low-income Minnesotans.

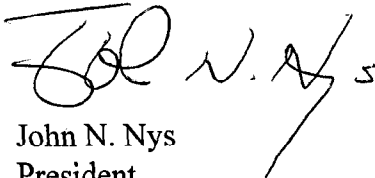
The MSBA has long recognized the need for representation of low-income persons in civil matters affecting critical legal needs such as access to food, shelter, safety, and medical care. We believe strongly that access to justice is best achieved through a working partnership of the organized bar, individual lawyers, the courts, legal services providers and their clients, the Legislature, and others in the community.

To that end, at the MSBA Convention in June, 1996, the Board of Governors and the General Assembly approved the following resolution:

That the MSBA support the petition to the Minnesota Supreme Court expected to be filed by the Joint Committee on Legal Services Access and Funding to amend the Rules of the Minnesota Supreme Court for the Registration of Attorneys to increase the annual attorney registration fee by \$50 for lawyers practicing more than three (3) years, and \$25 for lawyers practicing three (3) years or less, with the increase going to the Legal Services Advisory Committee for allocation to legal services providers, including volunteer attorney programs. It is recommended that in implementing this increase, the Minnesota Supreme Court look at developing a low-income classification similar to that used by the MSBA and allow for a reduced fee for attorneys meeting those guidelines.

We urge the Court to adopt the Joint Committee's petition and implement the proposed increase at the earliest possible date. We request that this letter be included in the Court's file on the petition. Thank you for your consideration.

Sincerely,



John N. Nys
President

ROBERT S. BRILL
4190 Vinewood Lane
Suite 111 - 415
Minneapolis, MN. 55442

December 19, 1996

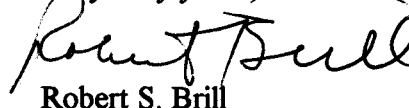
Mr. Frederick Grittner
Clerk of the Appellate Courts
245 Judicial Center
25 Constitution Avenue
St. Paul, MN. 55155

Re: Written response to Penn-Stageberg Petition

Dear Mr. Grittner:

Enclosed herein, please find twelve copies of my written response to the Penn-Stageberg Petition.

Very truly yours,

A handwritten signature in cursive script that reads "Robert S. Brill". The signature is written in black ink and is positioned above the printed name.

Robert S. Brill

C9-81-1206

ROBERT S. BRILL
4190 Vinewood Lane
Suite 111 - 415
Minneapolis, MN. 55442

OFFICE OF
APPELLATE COURTS

DEC 20 1996

December 19, 1996

FILED

Re: Written response to Penn-Stageberg Petition

To the Honorable Justices of the Minnesota Supreme Court:

I am writing to express my strong opposition to the Penn-Stageberg Petition (the "Petition".) My opposition does not arise from a disregard for the disadvantaged; nor is it based on the amount of the proposed increase. It is grounded in the belief that no one has the right to demand how, how much and to whom I must give my charity.

There are only two ways to characterize the Petition: it is either a tax and spend program or it is charity.

If the Petition is a tax, I am not responsible for funding a solution to a general societal problem. If governmental spending has been reduced for a program, it is because the elected representatives of the people have decided that it is a good idea to do so. For the Petition to require me to fund a portion of the difference is not only done without my electoral consent, it actually deprives me, and no others in the general population, of the benefits of my elected government (assuming government passes laws which benefit me.)

The reasoning of the Petition is frivolous - that lawyers are "gatekeepers" of the judicial system. So are plumbers the gatekeepers of the pipes and auto mechanics the gatekeepers of the automobile. Lawyers are no more "uniquely situated" than are other workers in other lines of work. Is every "gatekeeper" required to provide free services that the government does not provide? If so, why only require \$50? Why not have a sliding scale, based on income, up to \$10,000, because after all, this is simply an imposed plan for redistributing wealth.

If the Petition is not a tax, then it demands and redistributes my charity. While legal restrictions apply to the above discussion, taking my charity is a moral and ethical issue. What right does the Petition have to tell me to whom I must donate my charity? My definition of "disadvantaged" might be radically different from another person's. Personally, I believe that the middle class, which others would define by income, has a bigger problem affording needed legal services than do other groups. I want my charity to go to this group and I donate in different ways. In the last year, I have without charge represented a widow who was trying to get her husband's union to pay her his full pension, as well as representing an individual who was trying to start his own small business in the face of threats from his previous employer's non-compete agreement. To me, those people should be able to receive affordable legal services, which they need, without going broke in the process. I choose to represent them for nothing. That is my choice. I may or may not want to contribute to a legal aid fund, but that decision is mine. Maybe the Petition also wants me to contribute to United Way or to the American Cancer

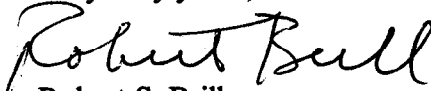
Society. Charity is charity and the petition has no right to tell me when and to whom I must give.

You cannot legislate goodwill. There are only two ways to fund a program: either the government does it or individuals voluntarily do it. You cannot force individuals to be charitable.

No doubt opposition to the Petition will be considered "mean-spirited" and politically incorrect. Labels aside, this Petition is wrong.

Thank you.

Very truly yours,


Robert S. Brill

JAN 15 1997

FILED

FILE NO. C2 - 81 - 1206

STATE OF MINNESOTA

IN SUPREME COURT

In Re the Petition of the Joint Legal
Services Access and Funding Committee
for an order Amending the Rules of the
Minnesota Supreme Court for
Registration of Attorneys

**STATEMENT OF THE
MINNESOTA JUSTICE
FOUNDATION**

To: The Supreme Court of the State of Minnesota.

The Minnesota Justice Foundation (MJF) submits this statement in support of the Petition of the Joint Legal Services Access and Funding Committee (hereinafter Committee) to the Supreme Court to increase attorney registration fees to provide additional funding for legal services to low income Minnesotans. MJF does not wish to make an oral presentation at the hearing.

I. Background

MJF is a nonpartisan, nonprofit organization of law students and attorneys that educates and encourages its members to apply their skills and knowledge on behalf of the low-income, disadvantaged and unrepresented. MJF links committed law students with attorneys to provide quality pro bono legal services, to encourage public service, to help shape public policy, and to promote social justice.

For the past 15 years, MJF has introduced thousands of law students to public service. MJF provides full-time summer clerkships in legal aid, criminal defense, environmental, and other public sector law offices. Through the Pro Bono Projects program, MJF arranges for students to contribute their time throughout the year to disadvantaged groups. For the past three years, MJF's Public Interest Law Consortium (PILC) has combined classroom instruction and field experience into a comprehensive service program that was not previously achieved by either full-time clerkships or existing clinical courses. Many of MJF's "graduates" have gone on to careers in public sector legal practice or to incorporate pro bono legal services as an integral part of their private law practices.

MJF's role in the legal community gives MJF a unique prospective on the issue of stable and consistent funding for direct legal services.

II. The Repercussions of Funding Cuts

As reflected in the Committee's petition, each year Minnesota lawyers make great contributions of both their time and money to pro bono civil legal services. Indeed, MJF is part of the "administrative infrastructure" that provides resources (volunteer law clerks, intake screeners, investigators) to attorneys who provide free legal services.¹

The core of free legal service delivery, however, has always been and should continue to be those agencies dedicated exclusively to that cause. These legal services agencies, previously funded in large part or exclusively by the Legal Services Corporation, provide not only representation to disadvantaged groups, but also provide the training, the expertise, and the insight upon which private practitioners and law students rely. The shrinkage of direct legal services, previewed by recent cuts in Federal funding, including the closing of legal aid offices and attrition of attorneys, translates into fewer opportunities for law students to learn how to provide service to the poor. In the past few years, several agencies have informed MJF that they could not accept a full time summer clerk, paid for by MJF, because the agency no longer had sufficient staff to train and to supervise that student. In all, the contraction of dedicated legal services providers directly impacts on, and will eventually impair, MJF's ability to carry out its goal of orienting future attorneys toward public service and pro bono private practice.

MJF is further concerned that a lack of funding for legal services will disproportionately effect historically disadvantaged groups, such as people of color, women, and seniors. These groups are over-represented only in within the ranks of those in poverty and have frequent contact with the legal system. The findings of the Task Force on Racial Bias in the Judicial System (May 1993) and the Minnesota Supreme Court Task Force for Gender Bias in the Courts (September 1989) suggest that more funding, not less, is needed to combat racial inequality and gender bias in the justice system.

III. The Duty of Public Service

MJF, as a student founded organization, has always recognized the weighty responsibilities that come with a license to practice law. MJF supports the registration

¹ The Court should note that for many years MJF has received a substantial grant from the Legal Services Advisory Committee (LSAC), and that under the Committee's petition, funds collected from the attorney registration fee could be granted to MJF. Under the present LSAC guidelines, 85% of LSAC funds are distributed to direct civil legal services providers; the remaining 15% is distributed to a wide variety of groups providing different forms of legal services, such as the Volunteer Lawyers Network, the Volunteer Attorney Program for Northeastern Minnesota (VAP), Minnesota Advocates for Human Rights, and MJF. Nevertheless, MJF believes the impact of the Committee's petition goes far beyond grants to individual organizations and warrants MJF's support regardless of past funding formulas.

fee proposal because it reaffirms the connection between the privilege of practicing law and the duty of public service, which MJF strives to instill in law students.

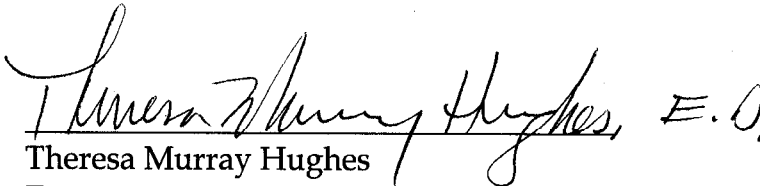
The Supreme Court places several requirements on new attorneys. Graduating law students know they will be required to take and pass the bar examination, including a separate exam on professional responsibility. They are required to take continuing legal education courses, including courses on diversity and ethics. They are required to pay for their licenses, which funds presently support the Lawyers Professional Responsibility Board, the Client Security Fund, the Board of Continuing Legal Education, and the Board of Law Examiners.

These expectations impress upon new lawyers the importance of legal ethics, legal education, protection of client funds, and diligent representation of clients. The duty of public service, however, is limited to the aspirational standard set by Rule 6.1 of the Minnesota Rules of Professional Conduct. Adding a legal services component to the attorney registration fee would establish an unbreakable link between the privilege of practicing law and the duty of public service and would reinforce the values that MJF tries to instill in law students.

IV. Conclusion

MJF urges the Minnesota Supreme Court to adopt the fee increase proposed by the Committee and provide stable and consistent funding for direct legal services.

Respectfully Submitted,
MINNESOTA JUSTICE FOUNDATION

 Theresa Murray Hughes, E.O.

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APPELLATE COURTS

R. Travis Brunson

January 14, 1997

JAN 17 1997

FILED

ATTN: Frederick Grittner
Clerk of the Appellate Courts
245 Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

**Re: C1-81-1206 - Hearing to Consider Proposed
Amendments to the Rules Relating to Registration of
Attorneys.**

Dear Mr. Grittner and the Honorable Supreme Court of Minnesota:


Enclosed for filing please find twelve copies of my statement concerning the hearing on the above matter to be held on January 21, 1997. Because my statement is brief and the limitations on my time have prevented me from researching the proper format for this statement, I have included the statement within the body of this correspondence.

"My name is Travis Brunson and I have been licensed to practice in Minnesota since October 1995. In August 1996, I opened up a solo law firm under the name, 'R. Travis Brunson, Ltd.' One of the reasons I opened a solo law firm was so that I could provide my small business and individual clients quality legal services at an affordable cost. My focus is primarily on small business start-ups and estate planning. My standard billing rate is \$60 an hour although I often perform certain legal services for these clients at a rate much lower than standard and some services are performed for no charge at all. It is my opinion that helping these businesses and individuals set up their businesses properly goes a long way towards helping them succeed. It is without question that their success is the bedrock upon which our society is built."

"Although fee increases such as the current proposal in front of the court are often seen as nominal, and perhaps objectively are, when added to the myriad of other fees, taxes and administrative costs of running a law office (or any other small business for that matter), such nominal increases quickly add up. The bottom line is such increases, when added to other inevitable costs and fee increases, prevent small firms like mine from achieving their goals (i.e. affordable legal services to small businesses). Increases in my costs result in higher fees to my clients. Higher fees inevitably results in some clients foregoing, to their detriment, much needed legal services and advice. Without question, we can all agree that a small business without legal advice is worse off than one who has such a benefit. At the end of this progression, we have then achieved a society worse off than when we started."

"Although small business failures are not going to triple by passing an amendment to the registration fee, it cannot be said that such increases do not have a detrimental effect on small businesses, small law firms and lower to middle income citizens. I therefore respectfully request that the Court take these issues into consideration when passing on the proposed fee increases."

Sincerely,



R. Travis Brunson

**HAMLIN
UNIVERSITY
SCHOOL OF LAW**

Office of the Dean

January 17, 1997

**OFFICE OF
APPELLATE COURTS**

JAN 21 1997

FILED

The Honorable A.M. Keith
Minnesota Supreme Court
25 Constitution Avenue
Saint Paul, Minnesota 55155

Dear Justice Keith:

As the deans of Minnesota's three law schools, we are writing to urge the Minnesota Supreme Court to grant the Petition of Joint Legal Services Access and Funding Committee seeking an increase in attorney registration fees to help fund legal services for low income and disadvantaged individuals and families throughout the state. This proposal presents a unique opportunity for the Court and the profession to address a profound need created by recent government cutbacks in the Legal Services Corporation funding.

Increasing the attorney registration fee is an appropriate exercise of the Court's power to oversee the administration of justice in the State of Minnesota. There may be no greater threat to justice in the state than the shortage of representation available for individuals of limited means. Despite the public discussion of the glut of lawyers nationally and statewide, the shortage of lawyers for low income individuals is well documented.

The proposal of the Joint Legal Services Access and Funding Committee also has the advantage of involving the entire profession in the solution of problem of the unmet need for legal services. Even before the recent cutbacks, the burden of serving the legal needs of the poor were borne by a disproportionate few. As the need grows, broadening the base of those who shoulder the load is overdue. The proposal is an example of innovative public policy that distinguishes Minnesota.

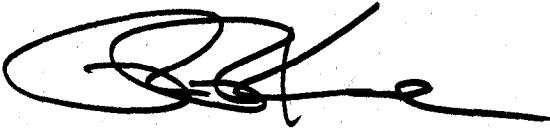
By any measure, the proposed increase is small, representing one hour or less of an attorney's time. Although such logic could lead to incremental increases that would eventually impose a significant burden on attorneys, the justification for additional increases would be unlikely to be as compelling as the need to provide basic legal services to all citizens, regardless of means.

1536 Hewitt Avenue, Saint Paul, MN 55104-1284 • 612-641-2968 • FAX: 612-641-2435

Minnesota's First University • Founded in 1854

As the leaders of the three providers of legal education in the state of Minnesota, we preach the notion of justice for all as a goal for society and for our students. The first step in assuring justice for all is providing access to justice for all. Although that goal is a lofty one, Minnesota has the opportunity to take an important step toward attaining it. The profession, through the votes of the MSBA Board of Governors and House of Delegates, has signaled its willingness to do its part to reach the goal. We urge the Supreme Court to help make the goal a reality by granting the Petition of the Joint Legal Services and Funding Committee.

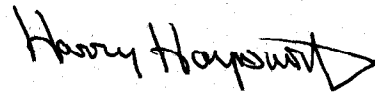
Sincerely,



Raymond R. Krause
Hamline University
School of Law
Dean



E. Thomas Sullivan
University of Minnesota
Law School
Dean



Harry Haynsworth
William Mitchell
College of Law
Dean

RRK/smh