

Justice

By CECIL J. THOMAS

This is my second presidential column, in which I hope to expand further on the theme I have selected for this bar year, "Together for Justice, Together for Equity, Together in Service." Here, I will begin to address the expression of "justice" in that theme.

What is justice? Process? Experience? Outcome? All of the above? These are questions that have many possible answers. What is certain is that our profession upholds and serves a system by which justice is determined, often an adversarial one that anticipates two or more litigants on equal footing, presenting their arguments before an impartial arbiter. Justice to one may be perceived as injustice by another, but a just process, on a level playing field, is our fallible attempt at omniscience. What happens when that process is imbalanced, because one litigant may afford an attorney, and the other may not? When I speak of justice, you will not be surprised to learn that I speak of access to justice, and the pressing need for our profession to address an ever-increasing access to justice gap in areas of critical civil legal needs, such as housing and family law. Before I address this further, allow me to digress and share more of my own story.

My parents immigrated to this country from Kerala, India, in the late 1970s. They came to this country individually to pursue higher education, initially residing with older siblings who had immigrated here before them. They were introduced to each other and married shortly thereafter, and settled in Massachusetts. I was born a year later, and our first home as

a new family was a small apartment in Cambridge, MA. I do not remember that home, but as my parents tell it, the apartment had several serious issues, which their landlord refused to repair. They soon moved into another apartment on the third floor of a three-family home in the Winter Hill neighborhood of Somerville, MA. We were not always welcomed by our neighbors, but the apartment itself was decent, safe, and sanitary, and that was the place that we called home for the first 13 years of my life.

My parents started out life in this country with relatively little, and their story, as new immigrants, is a quintessentially American one. My parents are the hardest-working people I know, and I am grateful to them for the values, culture, and faith that they instilled in me from birth. My mother always worked during the day, and my father in the evening, so that they could ensure that one of them was with my younger brother and I as we were growing up. My father worked long hours, starting in the evening and then often working a successive shift until the next morning, arriving home in time to

get us off to school. He would then sleep for a few hours and run errands during the day, pick us up from school and wait for my mother to get home, and then head off to work again. My mother would transition from her work to home responsibilities immediately, helping us with homework, ensuring we participated in extracurricular activities, and somehow also preparing amazing traditional South Indian meals. Weekends were for church and community activities, which my parents devoted themselves to completely, helping to build communities that continue to thrive and grow today. These are just a small sampling of their many sacrifices for the future of their family, for which I remain deeply grateful.

During those 13 years in that third-floor apartment, my parents worked hard, saved, and eventually built their first home in the suburb of Lincoln, MA. Moving to this new community was a culture shock, to say the least, but also liberating, with new opportunities that opened new doors. I joined my high school speech and debate team, and developed my writing and speaking skills with the special sup-



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"My work with the poor and the incarcerated has persuaded me that the opposite of poverty is not wealth; the opposite of poverty is justice...I've come to believe that the true measure of our commitment to justice, the character of our society, our commitment to the rule of law, fairness, and equality cannot be measured by how we treat the rich, the powerful, the privileged, and the respected among us. The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated, and the condemned."

–Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption* (2015)

port of three very influential teachers, Mr. Conti, Mr. Danko, and Ms. Weisse. I played recreational soccer, and my brother and I enjoyed the newfound freedom to play basketball and ride our bikes on long summer days. When it was time for college, a friend from our new hometown put in a good word for me at Brandeis University, which opened the door for my admission there, and furthered my path towards the law.

This story was made possible, in part, by the law. My parents' immigration to this country was a direct result of the civil rights movement of the 1960s, which brought about the Hart-Cellar Act of 1965. This legal change opened the door to new immigration from large segments of the world that had previously been excluded from the United States, including India.¹ My parents were allowed to immigrate to this country because of the end of express racial discrimination in our immigration laws, and because U.S. immigration policy favored their education and family ties to this country.² My parents were able to rent the apartment that was our home for 13 years because their landlord, who was of Portuguese descent, was willing to rent to and welcome a family of color, even if others around us were not. Fair housing laws supported our former landlord's right to purchase that apartment building, and my parents' right to rent an apartment within it, and eventually their ability to obtain a loan and purchase their first home. My parents' careers, which were stable and provided fair compensation and benefits for their hard work, were protected by professional unions, and by extension a host of labor and employment

laws. In our family, we attribute our journey to grace, providence, and mercy. But the law also supported that path. The law, in its expression and application, opened doors, created and supported opportunity, and led to this moment, where I may share these observations with you as the 98th CBA president.

The law can also devastate. During their journey, my parents faced legal challenges, experiences that helped cement my own future career in the law. These legal challenges could have crushed their long-held dreams of homeownership, but thankfully did not. I have spent my legal career representing the indigent in the Greater Hartford area, often those at risk of homelessness. That work frequently causes me to reflect on my own journey, the sacrifices made by my parents, and the many ways in which our path might have easily turned out so differently. In my work with my clients, I have always recognized in them the same central motivations: the search for stability and safety; the fear, sacrifice, and dreams that parents bear for their children; a desire for opportunity and a drive to succeed; care for their communities and the needs of their families; and, most of all, a desire for justice, fairness, and equity.

In my 15 years of representing low-income individuals, and in my observations of the work performed by my legal aid colleagues, I have come to recognize that poverty is incredibly complex, and its impact far-reaching and devastating. I have seen the legal problems facing the poor frustrate the best of lawyers, who strive mightily to reach a just outcome. Some of

these complexities are structural: the over-regulation of poverty and the difficult legal landscapes we create for those seeking to access and maintain basic subsistence. These complexities combine with other systemic challenges to create personal legal crisis points: an eviction, a foreclosure, family breakup, employment or government assistance instability, immigration status disputes. Our profession's response to these crisis points is too often inadequate, or non-existent. Some members of the public are able to hire a lawyer, or qualify for legal aid. Others rely on brief advice, clinics, and self-help materials, including the many pro bono programs offered by the CBA. Many, however, receive no assistance at all.

Why should the CBA work to address the access to justice gap? Some might respond that it is "the right thing to do." We might also refer to our CBA Constitution, which includes "to facilitate the delivery of competent legal services to the public and particularly to those in greatest need" among our organizational purposes.³ We might view our organizational efforts to address the access to justice gap as an extension of our individual ethical responsibility, expressed in Rule of Professional Conduct 6.1.⁴ We could also understand this work as in the best interest of our membership, as reflecting our professional commitment to equal access to justice for all, an obligation that arises from the privileges we hold as lawyers. Here, to draw on the themes from my first column, our efforts to address access to justice issues are "interest, rightly understood." Our collective efforts to engage in pro bono

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President's Message

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and shrink the access to justice gap then become more, the type of “daily small acts of self-denial” that accumulate for the collective good. Our profession, and the profound potential of our work, cannot be seen as limited only to the wealthy, and the elite. We must be seen as accessible and available to all, because this influences the public perception of our profession, and by extension the public perception of the rule of law.

Solutions abound, some existing, and some under discussion now. Expansion of pro bono programs,⁵ advocacy for legal services funding on the state and federal level,⁶ and efforts to advance a civil right to counsel⁷ are all areas of progress in recent years. Some also look to new technology, non-lawyer ownership of law firms, and new law firm business structures, seeking a market solution to the access to justice gap.⁸ However these

efforts advance in the coming years, one thing is certain: our profession is called to address the access to justice gap, and is uniquely situated to do so. Whether we do so effectively will rely upon our individual and collective will and efforts, for the greater benefit of society, and for our profession. ■

NOTES

1. Villazor, Rose Cuison, “The Immigration Act of 1965 and the Creation of a Modern, Diverse America,” *Huffington Post Contributor Blog*, (Fall 2015) https://www.huffpost.com/entry/the-immigration-act-of-19_b_8394570
2. “An Introduction to South Asian American History,” *South Asian American Digital Archive*, <https://www.saada.org/resources/introduction> (last retrieved on October 13, 2021)
3. The Constitution of the Connecticut Bar Association, Article II. https://www.ctbar.org/docs/default-source/resources/cba-constitution-bylaws-and-procedures_7-31-18.pdf
4. “A lawyer should render public interest legal service. A lawyer may discharge this

responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.” *Connecticut Rule of Professional Conduct* 6.1

5. See generally, *CT Lawyer*, September/October 2021.
6. See e.g., “ABA Day Features Member-Advocates for LSC, Judicial Security” (April 19, 2021), <https://www.americanbar.org/news/abanews/aba-news-archives/2021/04/aba-day-2021/#:~:text=ABA%20Day%20features%20member-advocates%20for%20LSC%2C%20judicial%20security,issues%20important%20to%20lawyers%20and%20the%20justice%20system>.
7. See Thomas, Cecil J., “Advancing Access to Justice in Unprecedented Times,” *CT Lawyer* (July/August 2021)
8. See e.g., “Utah became first state to change ethics regulations to allow for alternative business structures.” *ABA Journal*, February 1, 2021.

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Time Mastery

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REFERENCES

- Fisic, I. (2021, January 13). “Personal productivity guide: Maximize productivity with these methods and apps.” Clockify. <https://clockify.me/blog/productivity/personal-productivity-guide/>
- Rubinstein, J.S., Meyer, D.E., & Evans, J.E. (2001). “Executive control of cognitive process in task switching.” *Journal of Experimental Psychology: Home Perception and Performance* (27)4 pp. 763-797.
- Schwartz, B. (2004). “The paradox of choice: Why more is less.” *Harper Perennial*

- Hunter, M. & Wu, C. (2016). “Give me a better break: Choosing workday break activities to maximize resource recovery,” *Journal of Applied Psychology*, 101(2), 302–311. <https://doi.org/10.1037/apl0000045>
- Jyothi, N.S. & Parkavi, A (2016). “A study on task management system.” 2016 International Conference on Research Advances in Integrated Navigation Systems (RAINS) pp. 1-6, doi: 10.1109/RAINS.2016.7764421.
- Duffy, J. (2020, November 2) “20 Tips for working from home.” *PC Magazine*. www.pcmag.com/news/get-organized-20-tips-for-working-from-home

Supreme Deliberations

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stands for the general rule that medical records prepared in the course of treatment are admissible under § 52-174(b), while medical records prepared for litigation are inadmissible because they were not made in the ordinary course of business. As for *Rhode's* apparent conclusion that an opportunity for cross-examination is an “absolute prerequisite” for the admission of a medical record, the *Rhode* Court had simply misunderstood *Struckman*.

DeMaria, then, replaces one rule with another. Following *Rhode*, the admission of a medical report under § 53-174(b) turned on whether the defendant had the opportunity to cross-examine its author; under *DeMaria*, the question is whether the report was prepared for use in treatment as opposed to litigation. One can only hope that the new civil test will prove easier to apply than *Crawford* has proven in the criminal context. ■