

How Litigators Can Help Advance Economic Justice Through Pro Bono Service

By DAN A. BRODY AND MALLORI THOMPSON

Pro bono practice is essential to increasing access to justice in underserved populations and communities. Our legal system should function equally for everyone, yet those without the means to pay for attorneys are left unassisted, unseen, and underserved in some of the most basic and crucial aspects of daily life. Income inequality should not dictate access to justice. Income inequality is defined by the Census Bureau as the extent to which income is distributed unevenly among a population. In Connecticut, income inequality has created one of the largest racial wealth gaps in the nation.

There are many factors at play in the widening racial wealth gap, including barriers to homeownership, access to education, disparities in familial support, and mass-incarceration. Economic justice advocates engage in work to diminish the racial wealth gap created by these causes and promote wealth in low-income, minoritized communities.

Law firms often support this cause by dedicating pro bono hours to transactional work for organizations promoting wealth growth in low-income and minoritized communities. While economic empowerment is prime for transactional work, litigators also have a place in economic justice—addressing the root causes of income inequality. From eviction court to immigration removal proceedings, litigators can serve an important role in various efforts for income equality. Through pro bono work, attorneys can ensure that some of the most vulnerable of the population can receive the access to justice

everyone deserves. Below are a few initiatives where attorneys, especially litigators, can make a difference.

Pardon Initiatives

The staggering disparity in unemployment rates is one of the greatest contributors to income inequality.¹ Thus, removing barriers to employment serves as one of the greatest tools to closing the racial wealth gap. Efforts to do so have included increasing access to education, conducting implicit bias trainings within hiring departments, and advancing ban the box policies.² In that vein, addressing the impact that mass incarceration has had on employment rates in minoritized communities is a step toward reducing income inequality.

According to the Prison Policy Initiative, the unemployment rate for formerly incarcerated people is nearly five times higher than the general population. And because Black Americans are incarcerated at more than five times the rate of White Americans, efforts to improve access to employment for formerly incarcerated people directly impacts the racial wealth gap.

There are various ways to increase access to employment for formerly incarcerated people, including pre-release programs that support re-entry, reducing the stigma of criminal records, and supporting pro bono pardon initiatives. A pardon restores the rights typically lost following a conviction, including access to employment. And due to the work of non-profits and legal aid organizations, there are ample opportunities to assist in pro bono pardon initiatives.

To name a few, legal aid organizations in Connecticut host pardon clinics that provide a platform for attorneys to provide pro bono assistance to people seeking pardons. Connecticut Legal Services hosts a pardon clinic every month for low-income residents in Fairfield County. Greater Hartford Legal Aid (GHLA) hosted a pardon clinic that brought together 80 lawyers, law students, and staff from local firms and corporations to give 56 residents in the Hartford area a chance at a fresh start. Following the clinic, GHLA launched the Pardon Equity Project to “increase community outreach and pro bono engagement to expand access to pardons.”

Litigators trained in building cases are primed to give formerly incarcerated people the best chance at making their case for receiving a pardon, increasing their ability to obtain employment, and combatting a widening wealth gap.

Housing Discrimination

Another contributor to income inequality is the barrier to homeownership for minoritized groups. According to the U.S. Department of Housing and Urban Development (HUD), the issue is cyclical. Lack of capital and access to credit stand as barriers to homeownership, and non-homeownership stands as a barrier to gaining capital and credit. However, there’s another barrier to home ownership for which litigators can focus pro bono efforts—housing discrimination. Despite the enactment of the Fair Housing Act, housing discrimination persists.³

Also persisting are the challenges to successfully litigating housing discrimination cases. Despite HUD restoring the disparate impact rule earlier this year, establishing discrimination remains a tall order. Although there are many eviction clinics and programs for those who have been discriminated against due to a rental subsidy, a focus on preventing discrimination in homeownership is lacking. Addressing the root cause of discriminatory barriers to homeownership requires identifying partnerships with fair housing organizations that pursue efforts to create affordable housing opportunities and representation of residents barred from homeownership by discriminatory practices.

The cycle of low homeownership preventing wealth and the lack of wealth preventing homeownership does not have to continue endlessly. Litigators can help break the cycle by taking cases that do not allow housing discrimination to continue as a barrier to homeownership.

Disciplinary Hearings

As discussed, mass incarceration is a barrier to employment and thus a contributor to income inequality. Another aspect of mass incarceration where litigators can concentrate pro bono efforts is in the school-to-prison pipeline. Black students are more likely to be disciplined in school, are more likely to face harsher discipline, and are most impacted later in life by discipline in school. That discipline in high school goes on to have a causal link to post-high school involvement with the criminal legal system. For instance, a recent UCI study found that students who were suspended or expelled in high school were twice as likely to be charged with a crime, convicted of a crime, and incarcerated by age 22.⁴

Representing students in disciplinary hearings can prevent suspension or expulsion and reduce the chances that students will later be involved in the criminal legal system. Statewide Legal Services of Connecticut is one organization that coordinates pro bono representation for students facing expulsion. These hearings are opportu-



nities to increase access to justice in school discipline cases and thus contribute to ultimately advancing economic justice.

Conclusions

Whether it be putting together pardon applications, taking housing discrimination cases, or representing students in disciplinary hearings, many of these pro bono initiatives already exist in Connecticut and beyond, and they stand ready for litigators to support their missions addressing the root causes of the racial wealth gap. It takes only a small investment of an attorney's time to make a real difference in the lives of others in our community.

Contact Jenn Shukla, Director of Access to Justice Initiatives at the Connecticut Bar Association, at probonoclinic@ctbar.org or visit ctbar.org/probono for more information on how to volunteer. ■

Dan A. Brody is an association at Robinson & Cole LLP. He is a member of the firm's Litiga-

tion Section and focuses his practice on complex business litigation matters, government and internal investigations, corporate compliance, and criminal defense. Mallori Thompson is judicial law clerk for Judge Bolden of the U.S. District Court, District of Connecticut.

NOTES

- 1 According to the United States Bureau of Labor Statistics, Black and African American people have the highest unemployment rates at 8.6 percent. The average unemployment rate in 2021 was 5.3 percent.
- 2 Ban the box policies arose as a response to over-policing in minoritized communities and the impact that reporting arrests on job applications had on access to employment.
- 3 "In 2019, the Black homeownership rate was about as low as in the 1960s, when private race-based discrimination was legal." Ailsa Chang, Christopher Intagliata & Jonaki Mehta, *Black Americans and the Racist Architecture of Homeownership*, NPR (May 8, 2021).
- 4 Miles Davison, et al., *School Discipline and Racial Disparities in Early Adulthood*, 51 Educ. Researcher 231 (2022) ("For Black students, the link between school discipline and criminal justice contact is stronger than any other group.")