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Message from the President

Frank Flaherty, Esq., State Bar of Nevada President



A VISIT WITH NEVADA'S CONGRESSIONAL DELEGATION

Last month, State Bar of Nevada (SBN) President-Elect Alan Lefebvre and I travelled to Washington, D.C., for ABA Day, to meet with Nevada's congressional delegation. Upon our arrival, Alan and I were joined by SBN Past President and ABA delegate Rew Goodenow. In recent years, the Board of Governors has authorized SBN leadership to attend this event; the leadership of bars from all 50 states converges on Capitol Hill, in a coordinated lobbying effort for critical issues.

Because your membership in the State Bar of Nevada is mandatory, our activities on your behalf are governed by *Keller v. State Bar of California*, 496 U.S. 1 (1990). In simple terms, *Keller* limits our use of your license fees to regulating the legal profession and improving the quality of legal services. Your Board of Governors takes the mandate of *Keller* very seriously, and it is reflected in the mission statement of your bar, which is "to govern the legal profession, to serve our members and to protect the public interest," and in one of the bar's stated mission goals, "to aid ... in the improvement of the administration of justice." Thus, the Board of Governors closely scrutinizes the ABA's proposed lobbying agenda each and every year.

The three issues proposed by the ABA this year were: funding for the Legal Services Corporation (LSC) and, by extension, Nevada Legal Services (NLS); judicial resources at the federal level (funding and judicial vacancies); and access to counsel and due process in immigration. Funding for the LSC is a perennial staple of the ABA's agenda and has not been a difficult decision for the Board of Governors, because access to legal services for low-income Nevadans certainly fits within your bar's mission of protecting the public interest. Note that the LSC's mission is limited to representation of U.S. citizens in civil matters, excluding class actions.

Funding for legal services has declined steadily since 2010, while the need for services has continued to increase. The data from the last census and NLS is startling. Since the prior 2000 census, the number of Nevadans eligible for NLS assistance has increased by almost 100 percent, and the percentage of Nevadans in the poverty population has increased by 48 percent, an increase that is a full 20 percent higher than experienced by any other state.

Yet, adjusted for inflation, funding for the LSC, at \$340 million, is at an all-time low. The White House has proposed funding the LSC at \$430

million, and we have lobbied your congressional delegation to support that funding level. As might be expected, we received differing responses from the Nevada delegation, but we were encouraged that none of our House members (Mark Amodei, Joe Heck, Steven Horsford, Dina Titus) indicated any inclination to “de-fund” or “zero out” the LSC – an important point because this has been attempted in the past in the House of Representatives.

Obtaining adequate judicial resources and filling judicial vacancies plainly fits within our bar’s mission goal of improving the administration of justice. Federal court budgets were reduced by \$350 million in 2013, causing unsustainable cuts to services and resources. And those cuts are further exacerbated by judicial vacancies. As stated by the ABA on its website, “High numbers of vacancies and too few judges to handle ever-increasing caseloads adversely affect the ability of our federal courts to provide society with a just, efficient and timely mechanism for resolving important disputes.” As of April 16 – the day before our first congressional visit – there were 85 judicial vacancies on the federal bench, 67 of which are district court vacancies. Judge Andrew Gordon will soon be taking the bench, and the nomination of Jennifer Dorsey is pending, but that still leaves Nevada with one vacancy – Judge Philip Pro’s seat. I am pleased to convey that Senator Reid informed us that he and Senator Heller are discussing candidates for that seat.

We asked both senators to make the timely filling of judicial vacancies a priority for 2013. In the case of Senator Heller, he has already gone on record as stating that, although he is still vetting Dorsey, he will not prevent the “process [from going] forward.” And, during our meeting, Senator Reid indicated that he was actively considering a change to the rules in the Senate, significantly altering the current process and expediting confirmation votes.

The last element of the ABA’s lobbying agenda gave Your Bar some pause. To say that the immigration debate is ideologically charged is a gross understatement; however, the ABA has focused on a very narrow slice of the problem – appointed counsel for children and the mentally disabled in the deportation, process and expansion of the current Legal Orientation Program (LOP) for other detainees representing themselves. In the case of the former, the bar determined that due process for children and the mentally disabled was certainly in the public interest, and in the case of the latter, the expansion of the LOP would improve the administration of justice. The LOP provides detainees with basic information on immigration law and the immigration court’s processes, by way of classroom presentations. Data shows that, on average, the duration of immigration court cases of detainees who have completed the LOP are 11 days shorter. The daily cost of immigration detention is \$164, thus expansion of this program may yield significant savings.

It was our pleasure and our privilege to represent not only Your Bar, but also the legal profession as a whole, during our two days in Washington, D.C. The historic setting underscored for us the importance of the judiciary and our justice system and drove home the realization that the legal profession really can make a difference. ■

Questions? Comments?

Nevada Lawyer welcomes feedback from our readers! Contact us at nvlawyer@nvbar.org.