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DIGITAL PRO BONO: LEVERAGING TECHNOLOGY TO PROVIDE ACCESS TO JUSTICE

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INTRODUCTION

*I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, **with liberty and justice for all.***¹

All people do not have access to justice in the United States, yet that is what our pledge of allegiance envisions.² While individuals have the constitutional right to legal assistance in criminal cases,³ the same does not hold true for civil matters.⁴ Individuals must either pay for representation or represent themselves.⁵

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¹ 4 U.S.C. § 4 (2012) (emphasis added).

² *See id.* (emphasis added).

³ *See* U.S. CONST. amend. VI. Pursuant to the Sixth Amendment to the United States Constitution,

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Id.

⁴ *See* *Lassiter v. Dep't of Soc. Servs. of Durham Cty.*, 452 U.S. 18, 26–27 (1981); *see also* DEBORAH L. RHODE, ACCESS TO JUSTICE 7 (2004) (“Unlike most other industrialized nations, the United States recognizes no right to legal assistance for civil matters and courts have exercised their discretion to appoint counsel in only a narrow category of cases.”). The United States recognizes a constitutional right to counsel in civil cases only in a miniscule category of disputes. *See* Gene R. Nichol, Jr., *Judicial Abdication and Equal Access to the Civil Justice System*, 60 CASE W. RES. L. REV. 325, 327 (2010).

⁵ *See* Nichol, *supra* note 4, at 357. Legal representation can be quite costly. *See* David Goguen, *How, and How Much, Do Lawyers Charge?*, LAWYERS.COM,

Fortunately, legal aid organizations exist to help low-income Americans who cannot afford legal representation.⁶ Unfortunately, the resources available are insufficient to meet current civil legal needs.⁷ Studies repeatedly show that more than 80% of the legal needs of low-income Americans go unaddressed every year.⁸ Low-income Americans are unable to gain access to meaningful help for basic legal needs.⁹

In response to this access to justice problem, the American Bar Association (“ABA”) Commission on the Future of Legal Services, in its Report on the Future of Legal Services in the United States (“ABA Report”), recommended that the legal profession leverage technology to deliver legal services to more effectively meet the public’s needs.¹⁰ Heeding the call, in 2016, the ABA launched a “virtual legal advice clinic”¹¹ where attorneys could answer civil legal questions that low-income residents post on free, secure, and confidential state-specific websites.¹² In essence, attorneys provide digital pro bono services. Bar associations, legal aid agencies, and access to justice commissions

<https://www.lawyers.com/legal-info/research/how-and-how-much-do-lawyers-charge.html> (last visited Oct. 18, 2018) (noting hourly rates range in rural areas from \$100 to \$200 an hour, and in metropolitan areas from \$200 to \$400 an hour). See generally Ronald L. Burdge, *United States Consumer Law Attorney Fee Survey Report 2015-2016*, NAT’L CONSUMER L. CTR. (Mar. 2018), <https://www.nclc.org/images/pdf/litigation/tools/atty-fee-survey-2015-2016.pdf> (compiling national and state consumer law average hourly rates by experience, state, and practice area as well as cases regarding legal fees); Clio, *Legal Trends Report 2017*, 27–33 (2017), <https://files.goclio.com/marketo/ebooks/2017-Legal-Trends-Report.pdf> (comparing average rates by state, practice area, and lawyer versus non-lawyer). In cases where one or more of the parties cannot afford representation, there is an adverse impact on all parties involved. See Jon Laramore, *The Future of Access to Justice*, 51 IND. L. REV. 19, 22 (2018).

⁶ See *Civil Legal Aid 101*, U.S. DEP’T OF JUST. 2 (2014), <https://www.justice.gov/sites/default/files/atj/legacy/2014/04/16/civil-legal-aid-101.pdf> (last updated Oct. 21, 2014).

⁷ See *infra* Part I and accompanying text.

⁸ See Nichol, *supra* note 4, at 327. In 2017, 86% of the civil legal issues that low-income Americans faced received inadequate—or no—legal help. See *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVS. CORP. 30 (2017), <http://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf> [hereinafter *Justice Gap*].

⁹ See *infra* notes 48–50 and accompanying text.

¹⁰ See ABA Comm’n on the Future of Legal Servs., *Report on the Future of Legal Services in the United States*, A.B.A. 8 (2016), available at <http://abafuturesreport.com/> [hereinafter *ABA Report*].

¹¹ See Victor Li, *ABA Launches Free Virtual Legal Advice Clinic*, A.B.A. J. (Sept. 22, 2016), http://www.abajournal.com/news/article/aba_launches_free_virtual_legal_advice_clinic.

¹² See *infra* Part II.

in states across the country have partnered with the ABA to use their online platform to deliver legal services.¹³ Law schools can also play a role in increasing access to justice.

Part I of this Article explores the United States justice system's failure to adequately serve all people irrespective of wealth and position.¹⁴ Next, Part II discusses the ABA's call to leverage technology to increase access to justice. Part III explores ABA Free Legal Answers Online, the program that the ABA pioneered to help confront the justice gap in the United States.¹⁵ Subsequently, Part IV illustrates how law schools can leverage technology to increase access to justice for low-income communities while providing pro bono opportunities for attorneys and students in their state. This Part highlights Massachusetts as an example of a state that has adopted the ABA Free Legal Answers Online platform¹⁶ and how students and alumni at a Massachusetts law school partnered with a nonprofit organization to be part of a solution to the access to justice problem.¹⁷ Finally, Part V briefly concludes by emphasizing the role that law students—as future leaders of the legal profession—can play in closing the legal aid gap.¹⁸

I. THE JUSTICE GAP

*Ninety percent of our lawyers serve 10 percent of our people. We are over-lawyered and under-represented.*¹⁹

The United States is a nation that rests on the rule of law.²⁰ As such, access to legal assistance is essential.²¹ Yet, a “‘justice gap’—the difference between the civil legal needs of low-income Americans and the resources available to meet those needs”—

¹³ See *infra* note 67 (explaining that the ABA program is nationwide).

¹⁴ See *infra* Part I.

¹⁵ See Am. Bar Ass'n, *What is ABA Free Legal Answers?*, FREE LEGAL ANSWERS, <https://abafreelegalanswers.org> (last visited Oct. 18, 2018) [hereinafter *Free Legal Answers*]; see also *infra* Part III.

¹⁶ See *infra* Part III.

¹⁷ See *infra* Part IV.

¹⁸ See *infra* Part V.

¹⁹ See Jimmy Carter, President of the U.S., Remarks at the 100th Anniversary Luncheon of the Los Angeles County Bar Association (May 4, 1978) (transcript available at <https://www.presidency.ucsb.edu/documents/los-angeles-california-remarks-the-100th-anniversary-luncheon-the-los-angeles-county-bar>).

²⁰ See *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 836 (1992).

²¹ See *ABA Report*, *supra* note 10, at 8.

exists.²² In fact, in 2016, the World Justice Project ranked the United States “94th in the world for the accessibility and affordability of civil justice.”²³

In 2017, the Legal Services Corporation (“LSC”)²⁴ published a report that illuminated the justice gap among low-income Americans entitled to receive LSC funds.²⁵ Pursuant to the 2017 report, more than 60 million Americans fell into this category.²⁶ This group encompassed roughly 19 million children,²⁷ 35 million adults,²⁸ and 6.4 million seniors.²⁹

²² See *Justice Gap*, *supra* note 8, at 9. In fact, some have posited that it has expanded into a gulf. *Id.*

²³ See Annalies Winny, *State Goes High-Tech to Recruit Pro Bono Attorneys*, A.B.A. J. (Aug. 2017), www.abajournal.com/magazine/article/virtual_training_lawyers_maryland_pro_bono.

²⁴ Congress created the Legal Services Corporation (“LSC”) in 1974 to provide low-income Americans with access to the civil justice system. Legal Services Corporation Act of 1974, Pub. L. No. 93-355, 88 Stat. 378 (1974) (codified as amended at 42 U.S.C. § 2996 (1994)) (enacting statute to meet “a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances.”). When creating the LSC, Congress stated that “providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice” and help improve opportunities for low-income individuals. See *id.* The LSC—a nonprofit organization funded by the federal government—is the biggest funder of civil legal assistance to low-income people in the United States. *Who We Are*, LEGAL SERVS. CORP., <https://www.lsc.gov/about-lsc/who-we-are> (last visited Oct. 18, 2018). In fact, LSC distributes the majority of its funding to 133 independent nonprofit legal assistance organizations with over 800 offices. See *id.*

²⁵ See generally *Justice Gap*, *supra* note 8. The LSC report is based on information contained in the 2017 Justice Gap Measurement Survey, LSC’s 2017 Intake Census, the U.S. Census Bureau’s American Community Survey, and LSC’s 2016 Grantee Activity Reports. See *id.* at 11. The LSC report supports a report the ABA Commission on the Future of Legal Services in the United States issued in 2016. See generally *ABA Report*, *supra* note 10.

²⁶ See *Justice Gap*, *supra* note 8, at 16. In order to receive LSC funds, a person’s family income must be at or below 125% of the Federal Poverty Level, which is \$30,750 per year or less for a four-person family. 45 C.F.R. § 1611.3(c)(1) (2018); see *Justice Gap*, *supra* note 8, at 11, 16.

²⁷ *Justice Gap*, *supra* note 8, at 16. This group encompasses people zero to 17 years of age. *Id.*

²⁸ *Id.* Adult ages range from 18 to 64 years of age. *Id.*

²⁹ *Id.* Seniors are individuals 65 years of age and older. *Id.* Moreover, the report estimates that this group consists of 1.7 million veterans, over 11.1 million people with a disability, and about “18 million families with related children under 18.” *Id.* at 19.

A sizeable majority of these low-income Americans encountered a civil legal issue over the twelve-month period.³⁰ Remarkably, 71% of these low-income households faced at least one civil legal issue.³¹ Moreover, 54% experienced no less than two civil legal problems and approximately 24% faced six or more in the one-year period.³²

What is more telling is that these civil legal problems most often involve family matters, finances, employment, housing, safety, and health care.³³ These civil legal problems concern

³⁰ See *id.* at 7. This data comes from the 2017 Justice Gap Measurement Survey of low-income households, which identified the incidence of various kinds of problems that usually raise civil legal issues that individuals could use civil legal action to address. See *id.* at 21.

³¹ *Id.* at 21.

³² *Id.*

³³ See *id.* at 21–24. Specifically, the report categorizes the common civil legal problems into the following categories: Health, Consumer and Finance, Rental Housing, Children and Custody, Education, Disability, and Income Maintenance. See *id.* at 23 fig.2. Pursuant to the report, 41% of low-income households experienced at least one health-related issue during the year. *Id.* at 22. The most common issues related to access to healthcare: debt collection for health procedures, and incorrect billing for medical services. See *id.* More than one-third—or 37%—of low-income households faced consumer and finance problems. *Id.* Consumer and finance problems generally arose from an inability to make timely payments on debts or utilities; struggles with creditors or collection agencies; the disconnection of utilities for nonpayment or a billing disagreement; and trouble purchasing or paying for a car. *Id.* Twenty-nine percent of the low-income households reported having issues with rental housing. *Id.* at 23. The issues ranged from “landlord[s] fail[ure] to provide basic services or repairs” to disagreements with “landlord[s] or [the] public housing authority over rules or terms of a lease . . . and living in unsafe rental housing.” *Id.* In terms of children and custody issues, 27% of households with parents or guardians of children under the age of 18 reported experiencing “a civil legal problem related to children or custody.” See *id.* Problems included trouble “collecting child support payments or setting up a child support obligation . . . , being investigated by Child Protective Services . . . , and having trouble with custody or visitation agreements.” See *id.*

At least one education issue was reported by 26% of the households that included an individual in school or an individual with a child in school. See *id.* The issues reported included denial of access to special education services, difficulty attaining access to learning accommodations, attendance at a school that was not safe, and suspension from school. *Id.* One civil legal issue related to disability was reported by 23% of the low-income households that included an individual with a disability. *Id.* at 24. The issues reported included denial, reduction, or termination of state or federal disability benefits or services and denial of or limited access to public programs, activities, or services because reasonable accommodations were not made. See *id.* Finally, 22% of low-income households reported an income maintenance issue. *Id.* These problems included denial, reduction, or termination of state government assistance; denial or termination of Social Security Disability income or Special Security Survivors benefits; and denial or termination of Supplemental Security income. *Id.* Other areas where low-income households reported problems

basic human needs and have a large impact on low-income Americans' lives.³⁴ For example, 70% of low-income Americans who reported that they had experienced a civil legal problem during the year stated that at a minimum, "one of the problems . . . affected them 'very much' or 'severely.'"³⁵

This impact can be attributed to multiple factors. First, the problems involve essential life issues such as becoming homeless, handling a debt, or addressing a health issue.³⁶ Second, dealing with legal issues can be stressful, and stress can cause mental health issues such as anxiety and depression.³⁷ Finally, many of the problems present a threat to physical health in terms of dangerous housing and the loss of benefits to purchase food.³⁸

Despite the number of low-income Americans who encounter civil legal issues and the significant impact they have on their lives, few seek assistance from a legal professional.³⁹ In fact, low-income Americans seek legal help for only 20% of their legal problems.⁴⁰ Some low-income Americans report that they do not pursue legal help because they are able to deal with the problems on their own.⁴¹ Others report that they simply do not know what resources are available or where to go for assistance.⁴² Additionally, many low-income Americans do not try to find legal assistance because they are unable to identify the issue as a legal one.⁴³ Other reasons for not seeking legal help include apprehension about cost,⁴⁴ insufficient time to seek assistance,⁴⁵ and fear of pursuing a legal course of action.⁴⁶

Even though low-income Americans approached an LSC-funded organization with a small percentage of civil legal problems, there are still insufficient resources available to meet these needs. The LSC report estimated that low-income

included employment, family, homeownership, veterans' issues, and wills and estates. *See id.*

³⁴ *See id.* at 25.

³⁵ *See id.* This means that over half of the problems low-income Americans experienced "severely" impacted them. *See id.*

³⁶ *See id.*

³⁷ *See id.*

³⁸ *See id.*

³⁹ *See id.* at 29.

⁴⁰ *See id.*

⁴¹ *See id.* at 33.

⁴² *See id.*

⁴³ *See id.*

⁴⁴ *See id.* at 34 fig.6.

⁴⁵ *See id.*

⁴⁶ *See id.*

Americans would seek assistance from a LSC grantee for more than 1.7 million civil legal problems in 2017.⁴⁷ Of these 1.7 million problems eligible for assistance, the report projected that approximately 700,000—or 41%—would not receive any legal assistance in 2017.⁴⁸ Another approximately 360,000 civil legal problems—or 21%—would not be fully served.⁴⁹ Accordingly, in 2017, low-income Americans received inadequate or no legal assistance for approximately 1.1 million eligible problems.⁵⁰ Unfortunately, there is no indication that funding for LSC and other legal aid providers will be adequate in the future.⁵¹

II. THE CALL TO LEVERAGE TECHNOLOGY TO PROVIDE ACCESS TO JUSTICE

“[T]echnology . . . continue[s] to transform how, why, and by whom legal services are accessed and delivered.”⁵² Although technology offers opportunities to transform and expand the delivery of legal services and access to them, the legal profession lags behind other industries in utilizing technology.⁵³ The Commission on the Future of Legal Services sought ways to improve the delivery of, and access to, legal services and issued the findings and recommendations of their two-year undertaking in the ABA Report.⁵⁴ The value of the legal profession to serve the public’s interests and ensure “justice for all”⁵⁵ guided the Commission.⁵⁶

⁴⁷ *Id.* at 39.

⁴⁸ *See id.* at 43. According to the report, low-income Americans obtain some sort of legal assistance for 59% of the eligible civil legal issues with which they approach an LSC-funded organization. *Id.* at 42.

⁴⁹ *Id.* at 42–43. Pursuant to the report, 28% were fully served. *Id.* at 42.

⁵⁰ *See id.* at 44. The justice gap is not just a reality for low-income individuals. *See ABA Report, supra* note 10, at 12. In fact, a majority of moderate-income individuals lack basic civil legal assistance. *Id.* Significantly, this population has even fewer options to receive civil legal assistance as they do not meet the requirements to get legal aid. *Id.*

⁵¹ *See ABA Report, supra* note 10, at 13; Rebecca Buckwalter-Poza, *New Sheriff, Old Problems: Advancing Access to Justice Under the Trump Administration*, 127 YALE L.J. F. 254, 256–58, 262–64 (2017); John M.A. DiPippa, *Reginald Heber Smith and Justice and the Poor in the 21st Century*, 40 CAMPBELL L. REV. 73, 105 (2018).

⁵² *ABA Report, supra* note 10, at 8.

⁵³ *Id.* at 18–19.

⁵⁴ *Id.* at 4.

⁵⁵ 4 U.S.C. § 4 (2012).

⁵⁶ *See ABA Report, supra* note 10, at 1.

The ABA Report called on the legal profession to leverage technology to deliver legal services to the underserved.⁵⁷ If implemented, the Commission believes its recommendations will improve the universal delivery of and access to legal services, “advancing the cause of justice and the rule of law.”⁵⁸ With bold innovation, the justice system could serve everyone.⁵⁹

The ABA Report acknowledged the many different ways technology has been leveraged, with civil legal aid organizations leading the way.⁶⁰ These organizations are leveraging technology tools to provide legal services to the masses. Similarly, some law schools are also using technology in innovative ways to assist the public in meeting its legal services needs.⁶¹

III. ABA FREE LEGAL ANSWERS

*We must open our minds to innovative approaches and to leveraging technology in order to identify new models to deliver legal services. . . . It is our duty to serve the public, and it is our duty to deliver justice, not just to some, but to all.*⁶²

In response to the widening justice gap and the ABA Commission on the Future of Legal Services’ call to leverage technology to meet the legal needs of the underserved,⁶³ the American Bar Association’s Standing Committee on Pro Bono and Public Service rolled out a new Web program—ABA Free Legal Answers Online—in 2016.⁶⁴ In essence, ABA Free Legal

⁵⁷ See *id.* at 8–9.

⁵⁸ *Id.* at 1.

⁵⁹ See *id.* at 8–9.

⁶⁰ See *id.* at 19.

⁶¹ See *id.* at 19, 25–26.

⁶² See *id.* at 1 (quoting William C. Hubbard, ABA President 2014–15, Remarks in Introduction to ABA Comm’n on the Future of Legal Servs., *Report on the Future of Legal Services in the United States* (2016), available at <http://abafuturesreport.com>).

⁶³ See *id.* at 6.

⁶⁴ See *Free Legal Answers*, *supra* note 15. The ABA Standing Committee on Pro Bono and Public Service based this project on a Tennessee pilot program that provided help to 12,500 people in five years. Gary Blankenship, *ABA’s Free Legal Answers Provides Information to Low-Income Consumers*, FLA. BAR NEWS (Jan. 1, 2017), <https://www.floridabar.org/news/tfb-news/?durl=/DIVCOM/JN/jnnews01.nsf/cb53c80c8fabd49d85256b5900678f6c/BF78DDB9DDB43FA5852580900069AF82!openDocument>; see also *In the Spotlight: ABA Free Legal Answers*, A.B.A. CTR. FOR INNOVATION (Jan. 12, 2017), <http://abacenterforinnovation.org/in-the-spotlight-aba-free-legal-answers> [hereinafter *In the Spotlight*]. The ABA Standing Committee on

Answers is a “virtual legal advice clinic.”⁶⁵ It affords low-income Americans an avenue to request legal advice and counsel on civil legal issues from a volunteer attorney in their state.⁶⁶

In participating states,⁶⁷ the ABA partners with bar associations, legal assistance organizations, or access to justice commissions to create an online platform where eligible users can gain access to legal advice and services.⁶⁸ Eligible⁶⁹ users create free accounts and post civil legal questions.⁷⁰ Not surprisingly, based upon the information above,⁷¹ question topics include family law issues, such as divorce, child support, and adoption, as well as name changes; consumer issues; bankruptcy; education; housing; domestic violence; and employment.

Once a volunteer attorney registers with the state-specific site,⁷² he or she can log on and select questions within his or her area of expertise to answer.⁷³ The volunteer attorney then posts

Pro Bono’s report noted that most low-income Americans have access to the Internet and that number is only likely to increase. *See ABA Report, supra* note 10, at 19.

⁶⁵ *See Li, supra* note 11.

⁶⁶ *See Free Legal Answers, supra* note 15; *see also* Samantha A. Moppett & Kathleen Elliott Vinson, *Closing the Legal Aid Gap One Research Question at a Time*, 8 HLRE: OFF REC. 15, 16 (2017), <https://houstonlawreview.org/article/4446-closing-the-legal-aid-gap-one-research-question-at-a-time>.

⁶⁷ This program is now nationwide. *See Free Legal Answers, supra* note 15. Currently, approximately thirty-two states use the Free Legal Answers program through the ABA and another four states are in the process of adopting the same platform. *See id.* Additionally, approximately three states provide similar programs but do not use the ABA platform. *See id.*

⁶⁸ *See In the Spotlight, supra* note 64.

⁶⁹ Each state has eligibility guidelines that a user must meet before using the service. For example, in Massachusetts, a resident is eligible to request legal advice if the resident’s household income is less than 250% of the federal poverty level; the resident’s liquid assets do not exceed \$5,000; the resident is not imprisoned; the legal matter is civil not criminal; the resident is over the age of 18; the resident does not already have a lawyer assisting him or her with the legal matter; and the resident provides his or her name, county, and zip code. *Frequently Asked Questions for Volunteer Attorneys*, MASS. FREE LEGAL ANSWERS, <https://mass.freelegalanswers.org/attorneyfaq> (last visited Oct. 18, 2018) [hereinafter *Frequently Asked Questions*].

⁷⁰ *See id.*

⁷¹ *See supra* notes 33–35 and accompanying text.

⁷² For example, to register in Massachusetts, an attorney creates a username and password, sets forth his or her contact information, signs the online lawyer user agreement, and asks for approval from the administrator of the website. *Frequently Asked Questions, supra* note 69. To receive approval, the attorney must be licensed to practice law in Massachusetts and be in good standing. *Id.* The website administrator notifies the attorney about his or her approval via email. *Id.*

⁷³ Volunteer attorneys do not commit to any specific number of questions to answer or any specific time commitment. *Id.*

a reply that includes legal information and advice.⁷⁴ Accordingly, volunteer attorneys can provide pro bono at any time and in any location where Internet is available. By partnering with states, this project increases “access to legal services to low-income communities . . . [and] also provides significant pro bono opportunities for lawyers.”⁷⁵ While pro bono alone cannot provide the poor with adequate legal services to address their unmet legal needs,⁷⁶ it is a step in the right direction.

IV. LAW SCHOOLS' ROLE IN INCREASING ACCESS TO JUSTICE

Law schools alone cannot solve the access to justice problem. They can, however, play an important role and have a direct impact on low-income individuals struggling to resolve their legal problems. As the legal profession has a special obligation to provide access to legal services for all Americans, law schools also have a responsibility to help close the justice gap.⁷⁷

An increasing number of law schools are making efforts to include legal technology in their curricula such as offering courses on document automation, process management, e-discovery, and others; creating incubators; and offering students experiential learning in clinics.⁷⁸ These law schools' efforts are consistent with the recommendation of the ABA Report that law schools “offer more technology training, experiential learning,

⁷⁴ The volunteer attorney's representation of the client is limited to replying to the legal question posed through the website and does not entail any ongoing representation of the client. *Id.* Moreover, the ABA maintains professional liability insurance to cover all volunteer attorneys who provide legal advice and counsel to clients via the website. ABA Comm'n on the Future of Legal Servs., *Report on the Future of Legal Services in the United States*, A.B.A. (2016), <http://abafuturesreport.com/>.

⁷⁵ See Li, *supra* note 11.

⁷⁶ See ABA Report, *supra* note 10, at 13–14. Pursuant to the ABA Report, “U.S. lawyers would have to increase their *pro bono* efforts . . . to over nine hundred hours each to provide some measure of assistance to all households with legal needs.” *Id.* at 14 (quoting Gillian K. Hadfield, *Innovating to Improve Access: Changing the Way Courts Regulate Legal Markets*, *Daedalus* 5 (2014)).

⁷⁷ See Kathryn Fanlund, *Law Schools' Role in Increasing Access to Justice*, ASS'N OF AM. L. SCHS. (Aug. 2015), available at <https://www.aals.org/about/publications/newsletters/aals-news-august-2015/increasing-access-to-justice/> (emphasizing that law schools have an important role to play).

⁷⁸ See ABA Report, *supra* note 10, at 25–26. For more examples of law schools leveraging legal technology innovations, see the Inventory of Innovations found on the Commission's website. *Id.* at 26.

and the development of practice-related competencies”; and its recommendation for law students to be aware of a lawyer’s professional obligation for competence in technology.⁷⁹

While these efforts are indeed laudable, there are other possibilities for additional law school innovation to address the access to justice problem that could be implemented quickly and at low cost, without having to undergo curriculum reform.⁸⁰ The Research Blitz sponsored by Suffolk University Law School (“Suffolk”) in Boston, Massachusetts is an example of how a law school can play a role in advancing the goal of access to “justice for all” by leveraging technology.⁸¹ Other law schools can learn from this experience and participate in similar or other innovative ways. Even if a law school’s role in increasing access to justice to low-income Americans across the country is modest, it can still have a positive impact.

A. *Research Blitz*

Massachusetts is an example of a state that, like most, lacks resources to provide legal services to all. The 2017 Massachusetts poverty rate was 10.4% or 686,597 residents.⁸² In 2013, civil legal aid programs in Massachusetts turned away 64% of eligible low-income residents.⁸³ This translates into the denial of representation in life-essential matters such as eviction, foreclosure, child abuse, and domestic violence to almost 33,000

⁷⁹ *Id.* at 25; see also MODEL RULES OF PROF’L CONDUCT r. 1.1 cmt. 8 (AM. BAR ASS’N 2016).

⁸⁰ Cf. Peter Gaughan, *Facilitating Meaningful Change Within U.S. Law Schools*, 16 U.N.H. L. REV. 243, 244–48 (2018) (discussing the perceived decreased value of legal education and law schools’ resistance to change); Deborah L. Rhode, *Access to Justice: An Agenda for Legal Education and Research*, 62 J. LEGAL EDUC. 531, 548–50 (2013) (arguing for more integration of access to justice in legal education).

⁸¹ Samantha Moppett, *Research Blitz*, LEGAL WRITING MATTERS (June 22, 2018), <https://sites.suffolk.edu/legalwritingmatters/2018/06/22/research-blitz/>; see Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 GEO. J. OF LEGAL ETHICS 485, 499–500 (2017); Fanlund, *supra* note 77 (summarizing Peter Edelman’s remarks addressing attendees at the 2015 AALS Conference on Clinical Legal Education, discussing how law schools can positively affect major societal issues). Peter Edelman “would like to see people consciously taking up the challenge of how to include issues relating to American poverty and access to justice everywhere in the curriculum,” such as offering a course on access to justice as part of the orientation. *Id.*

⁸² *Massachusetts Report-Talk Poverty*, CTR. FOR AM. PROGRESS (2017), <https://talkpoverty.org/state-year-report/massachusetts-2017-report/> (last visited Oct. 18, 2018).

⁸³ *Fiscal Year 2018 Budget Request*, LEGAL SERVS. CORP. 3 (May 2017), <https://www.lsc.gov/sites/default/files/LSC-FY2018-BudgetRequest-Digital.pdf>.

low-income residents.⁸⁴ Finally, a telling figure is the number of civil legal aid attorneys per 10,000 residents that are under 200% of the Federal Poverty Line—.88.⁸⁵

To address the justice gap in Massachusetts, the Massachusetts Law Reform Institute (“MLRI”), a statewide nonprofit legal services organization, partnered with the ABA to use ABA Free Legal Answers Online to provide a “virtual legal advice clinic.”⁸⁶ MLRI launched its legal advice website—Mass Legal Answers Online (“MLAO”)—in November of 2016.⁸⁷ Within a year, over 180 volunteer attorneys registered with the site and more than 1,200 responses to the legal queries were provided.⁸⁸ MLAO affords low-income individuals in Massachusetts an opportunity to seek legal advice and counsel on civil legal matters from a volunteer attorney in their state on a free, secure, and confidential website.⁸⁹

Suffolk helped expand access to free legal advice for low-income residents in Massachusetts by partnering with MLRI. Along with MLRI, Suffolk’s Legal Practice Skills Program and its Moakley Law Library co-sponsored an innovative Research Blitz

⁸⁴ See ABA Report, *supra* note 10, at 12 (citing Bos. Bar Ass’n Statewide Task Force to Expand Civil Legal Aid in Mass., *Investing in Justice, A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts* 1, 2 (Oct. 2014), available at <http://www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma--investing-in-justice.pdf>).

⁸⁵ See Nat’l Ctr. for Access to Justice, *Attorney Access: Number of Attorneys for People in Poverty*, JUST. INDEX (2016), <https://justiceindex.org/2016-findings/attorney-access/#site-navigation> (last visited Oct. 18, 2018) (interactive chart showing state averages of attorneys to people in poverty).

⁸⁶ See *Welcome to the Massachusetts Law Reform Institute*, MASS. LAW REFORM INST., <http://www.mlri.org/> (last visited Oct. 18, 2018). In essence, MLRI is a “statewide [nonprofit] poverty law and policy center[.]” *Id.* The organization’s mission is to advance economic, racial and social justice through legal action, policy advocacy, coalition building, and community outreach. *Id.*; see Li, *supra* note 11.

⁸⁷ See *Free Legal Answers*, MASS. FREE LEGAL ANSWERS, <http://mass.freelegalanswers.org/> (last visited Oct. 18, 2018); see Press Release, Mass Legal Answers Online Celebrates One Year of Providing Free Legal Advice to Massachusetts Residents, MASS. LEGAL SERVS. (Nov. 15, 2017), https://www.masslegalservices.org/system/files/announcement/MLAO_Press_Release_11_15_17.pdf; see also Pat Murphy, *New Website Provides Convenient Option for Pro Bono Service*, MASS. LAWS. WKLY. (Feb. 9, 2017), <http://masslawyersweekly.com/2017/02/09/new-website-provides-convenient-option-for-pro-bono-service/>.

⁸⁸ See Press Release, Mass Legal Answers, *supra* note 87. Many jurisdictions have created videos that explain how the project works. See, e.g., Mass. Legal Answers Online, *Mass Legal Answers Online*, YOUTUBE (June 5, 2017), <https://www.youtube.com/watch?v=AGStrfMc3dg>.

⁸⁹ See *Free Legal Answers*, *supra* note 15. For a discussion of the eligibility requirements in Massachusetts, see *supra* note 69.

that leveraged technology to provide digital pro bono services. The Research Blitz operated like a virtual walk-in legal advice clinic and was an experiential learning opportunity for students to work with alumni to answer civil legal questions posted by low-income Massachusetts residents on MLAO.⁹⁰ All Suffolk students and alumni were invited to participate in the Research Blitz.⁹¹

At the outset, Rochelle Hahn, co-director of the Massachusetts Legal Aid Website Project at MLRI, provided a brief overview of MLAO, some logistics about navigating the website, and tips for answering questions posted. The tips she gave echoed instructions students had previously heard in their legal writing classes, which helped students see the connection between academia and practice. The tips included: Think about your audience, use plain language instead of legalese, use short sentences and short paragraphs, include bulleted points, and write in the active voice.

Rochelle Hahn also showed the participants how they could include links to additional helpful resources.⁹² She cautioned the participants to keep their advice basic and ask the client clarifying questions if needed. Also, if students assumed anything, they were told to tell the client what their assumptions were.

MLRI also provided sample answers for questions involving eviction, divorce, and child custody. Students and alumni could review them for examples of how to show empathy, give concise legal advice, suggest options for how to proceed, provide links to other free resources such as forms, and close with an encouraging message to the client.

Collaborative groups were created so that one alumnus worked with one to two students. After the alumnus logged into the site, students and alumni used their laptops to view the

⁹⁰ See Moppett, *supra* note 81.

⁹¹ It was not required or linked to a specific class but rather was an extracurricular program. Students' interest in volunteering for the Research Blitz was high; they had to sign up online and it was limited to twenty students with a waiting list. Because students are not licensed to practice law yet, they could not access the legal questions posted on MLAO. Thus, the key to the success of the Research Blitz was the participation of the alumni. Prior to the Research Blitz, alumni registered with MLAO.

⁹² MLAO has a "Legal Resource Finder" that students and alumni could use to access contact information for other helpful organizations. See *Frequently Asked Questions*, *supra* note 69.

queue of questions on MLA0. Alumni and students then brainstormed to decide which questions to answer.⁹³ Students and alumni worked together to research and post answers or to ask the client for more information in response to approximately fifty questions.⁹⁴ All communication with the client had to go through the MLA0 website for the ABA to provide malpractice coverage for attorneys.⁹⁵

B. *Benefits and Challenges*

At a time when legal education faces widespread criticism and numerous challenges, law schools' efforts to play a role in increasing access to justice have many benefits which outweigh the challenges.⁹⁶ Although a Research Blitz alone will not solve the crisis, it is one way to help provide access to civil legal services that are "out of reach for too many Americans," while also educating tomorrow's leaders in the legal profession.⁹⁷ Below highlights some of the positive aspects and obstacles.

1. Benefits

During the Research Blitz, law students played a meaningful role in closing the justice gap. The Research Blitz benefited the law school, students, alumni, MLRI, Massachusetts, and low-income residents. Below are a few examples of the numerous benefits.

⁹³ They could see the client's name, opposing party, legal category, summary of the issue, and date a question was posed. *Id.* Attorneys could also "sort these questions by legal category (e.g. Housing, Family Law, [etc.])." *Id.* By clicking on "I want to answer the question," the question was moved out of the open queue to the alumni/attorney queue of questions and was no longer visible in the open queue for other participating attorneys. *Id.*

⁹⁴ If the alumnus discovered a conflict of interest or that it was outside his or her expertise, he or she could return the question to the general queue. *Id.* Once a question is taken, if there is no response in three days, it automatically goes back to the general queue. *Id.*

⁹⁵ Clients see the attorney's name in their response on the website, but none of the attorney's contact information. *Id.*

⁹⁶ See Gaughan, *supra* note 80, at 245-48.

⁹⁷ See ABA Report, *supra* note 10, at 1.

a. *Service to Others*

The Research Blitz heightened students' awareness and understanding of the access to justice crisis and their ability to address it.⁹⁸ It dispelled any assumptions students may have had about residents' access to justice, as students developed an awareness of the justice gap and how many do not have access to counsel.⁹⁹ Students gained an appreciation for lawyers' roles as public residents and their responsibility in the mission for "justice for all."¹⁰⁰

In embracing the legal profession's value of service to others, the Research Blitz helped students understand the importance of pro bono work. It may have even inspired public service aspirations and involvement in pro bono work throughout their legal careers. Students saw first-hand that, but for their involvement and that of the alumni, an underrepresented resident of Massachusetts may have not received the help he or she needed.¹⁰¹ As a practical benefit, students and alumni earned pro bono hours for participating in the Research Blitz.¹⁰²

⁹⁸ ABA *Standards and Rules of Procedure for Approval of Law Schools 2017–2018*, A.B.A. 16–17 (2017), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2017-2018ABASStandardsforApprovalofLawSchools/2017_2018_standards_chapter3.authcheckdam.pdf [hereinafter *ABA Standards and Rules of Procedure*]; see also Rebecca Nieman, *Down But Not Out! How Law School Clinics Can Help Bridge the Small Claims Court Access to Justice Gap*, 35 BUFF. PUB. INT. L.J. 119, 119 (2017); Linda F. Smith, *Community Based Research: Introducing Students to the Lawyer's Public Citizen Role*, 9 ELON L. REV. 67, 71 & n.20 (2017); Deborah Weimer, *Deepening Lawyer Role Education to Serve Students and Society*, 40 HASTINGS INT'L & COMP. L. REV. 255, 257 (2017).

⁹⁹ See Weimer, *supra* note 98, at 257.

¹⁰⁰ See Smith, *supra* note 98, at 67–68, 70. The Preamble to the American Bar Association Model Rules of Professional Conduct states a lawyer's job includes being "a public citizen having special responsibility for the quality of justice" and "seek[ing] improvement of . . . access to the legal system, the administration of justice and the quality of service rendered by the legal profession." MODEL RULES OF PROF'L CONDUCT pmb1. 1, 6 (AM. BAR ASS'N 2016).

¹⁰¹ See Weimer, *supra* note 98, at 259.

¹⁰² New York has a fifty hour pro bono requirement for bar applicants. N.Y. COMP. CODES R. & REGS. tit. 22, § 520.16 (2017). The ABA Model Rules of Professional Conduct include an aspirational standard that lawyers should complete fifty hours or more of pro bono legal services per year. MODEL RULES OF PROF'L CONDUCT r. 6.1 (AM. BAR ASS'N 2016). "[O]nly about a third of the lawyers reported meeting [this] aspirational standard. . . . A fifth of the survey respondents reported doing no pro bono work at all." Rhode & Cummings, *supra* note 81, at 493, 493 nn.56–57. MIAO prompts lawyers to log in their hours before exiting the website. *Frequently Asked Questions*, *supra* note 69.

b. *Professional Identity*

The Research Blitz assisted students in developing their professional identity beyond the typical professional responsibility class.¹⁰³ We hope it inspired or maintained students' altruistic professional identities to serve the underrepresented.¹⁰⁴ Ethical issues came to life when working on a real client's problem, as opposed to reading rules of professional responsibility or a case in a casebook. Beyond the doctrine and skills students typically focus on in law schools, students could reflect on how the experience helped form their professional identity as they engaged with clients and alumni.¹⁰⁵

c. *Practical Skills Development*

Students appreciated the opportunity to develop and apply their practical skills during the Research Blitz, while engaging in pro bono work in law school.¹⁰⁶ Educating students about the justice gap, and having them play a role in closing it, provided students with context for the doctrine and skills they were learning. They were able to apply skills they learned in law school—such as writing, research, and analysis—to new contexts, which had a direct impact on clients. The Research Blitz provided a real time demonstration of the impact of a lawyer-client relationship, as opposed to reading from a casebook or a hypothetical posed by a professor.¹⁰⁷ Additionally, students developed an appreciation for the difficult legal situations low-income clients face and the importance of client confidentiality.¹⁰⁸

¹⁰³ See Nieman, *supra* note 98, at 141 (discussing Carnegie Report finding of a need for students' development of their professional identity); see also E. Scott Fruehwald, *Developing Law Students' Professional Identities*, 37 U. LA VERNE L. REV. 1, 4–5 (2015); Martin J. Katz, *Teaching Professional Identity in Law School*, 42 COLO. LAW. 45, 46 (2013).

¹⁰⁴ See JoNel Newman & Donald Nicolson, *A Tale of Two Clinics: Similarities and Differences in Evidence of the "Clinic Effect" on the Development of Law Students' Ethical and Altruistic Professional Identity*, 35 BUFF. PUB. INT. L.J. 1, 1 (2017).

¹⁰⁵ See also Fruehwald, *supra* note 103, at 4–5.

¹⁰⁶ See John P. Gross, *Dispelling the Myth that Law Students Can Close the Justice Gap*, 58 B.C. L. REV. 26, 31 (2017). ABA Standard 303(a)(3) also requires that every law school offers "one or more experiential course(s) totaling at least six credit hours." *ABA Standards and Rules of Procedure*, *supra* note 98, at 16.

¹⁰⁷ See Weimer, *supra* note 98, at 259.

¹⁰⁸ See *supra* Part I.

Students experienced the importance of having excellent practical skills, such as communication, counseling, research, and writing. They realized these were all skills needed when working with alumni to help answer client questions.¹⁰⁹ Students honed their problem solving and legal reasoning skills and focused on a client-centered approach to ensure solutions were consistent with the clients' goals. They also realized the importance of practical considerations, such as time and cost, when brainstorming, researching, and writing a response to a client's question. In addition, students discovered many free legal resources that are more cost effective than fee-based platforms like Westlaw and LexisNexis.¹¹⁰ The students felt the pressure of time constraints that are more realistic to those in practice than what they had experienced in academia, when they may have weeks to answer an academic question, as opposed to the Research Blitz that only lasted two hours.¹¹¹

Finally, the students helped alumni develop and investigate facts to solve their client's problem. They discovered how, despite law school's emphasis on legal research, fact investigation can be challenging and is just as important.¹¹²

d. Collaboration

During the Research Blitz, students engaged in a collaborative enterprise, in contrast to their usual work in law school, where they typically work in isolation on hypotheticals or focus on the outcome at the end of a case. During the Research Blitz, they collaborated with alumni, faculty, administrators, librarians, staff from MLRI, and an Access to Justice Fellow. They experienced how collaborative work can lead to a better result compared to working alone. Collaborating with alumni and MLRI staff also provided students with beneficial networking opportunities. In addition, students had the opportunity to work with other students, librarians, and faculty

¹⁰⁹ See Nieman, *supra* note 98, at 146–47.

¹¹⁰ See *supra* Part III.

¹¹¹ Dyane O'Leary, *Legal Writing Matters: Hurry Up & Write*, LEGAL WRITING MATTERS (May 24, 2017), <https://sites.suffolk.edu/legalwritingmatters/2017/05/24/legal-writing-matters-hurry-up-write/>.

¹¹² See Nieman, *supra* note 98, at 145–46 (discussing the importance of fact investigation as a practical skill in a small claims clinic).

they may not have worked with before the Research Blitz. Overall, the collaborative efforts helped establish a sense of community at the law school.

e. Alumni Engagement

The Research Blitz engaged alumni without requiring a significant amount of time or long-term commitment from them. Alumni are usually eager to get involved with assisting law schools, but often want more direct engagement with students rather than just making a monetary donation. Also, other than alumni weekend, some alumni may not physically enter their law school after graduating, but would welcome the chance to come back and work with students. The Research Blitz was an evening event hosted at the law school that provided an opportunity for alumni engagement. The event only lasted two hours, and the law school provided pizza and refreshments. Alumni enjoyed their experience so much that many were reluctant to leave. They also commented on how impressed they were with the students' levels of interest, participation, and skills. Additionally, several students were interested in the legal issues presented at the event and sought more information from their professors on the particular subjects.

f. Technology

The Research Blitz helps law schools meet their obligation to educate tomorrow's lawyers and gain the skills they need upon graduation in a "changing legal market," including technology and innovation.¹¹³ Rule 1.1, Comment 8 of the ABA Model Rules of Professional Conduct provides that, in order for lawyers to maintain professional competence, they must "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology."¹¹⁴ The ABA Report recommends that "[w]hen developing competence in this area, lawyers should pay particular attention to technology that improves access to the delivery of legal services and makes those services more affordable to the public."¹¹⁵ Instead of viewing technology in a negative light, such as how technology can outsource legal jobs, law students gained experience leveraging

¹¹³ See *ABA Report*, *supra* note 10, at 49.

¹¹⁴ MODEL RULES OF PROF'L CONDUCT r. 1.1 cmt. 8 (AM. BAR ASS'N 2015).

¹¹⁵ See *ABA Report*, *supra* note 10, at 43.

technology to provide legal aid, making them more prepared for the changing market for legal services and more marketable to future employers.¹¹⁶

The Research Blitz also gave students and alumni an appreciation for how technology can expand the opportunities for pro bono. Beyond the Research Blitz, alumni could virtually provide assistance by continuing to answer questions posed on MLAO, at any time, from anywhere Internet is available, as they were now registered with MLAO.¹¹⁷

g. Cost

The cost was minimal. The only costs were the time of the faculty, administrators, staff, and librarians in hosting the two-hour Research Blitz and the cost of pizza for the students and alumni. Regarding practical considerations, there was little preparation involved for students, alumni, or faculty. The Research Blitz did not take up class time. The event was held in the evening and open to all law students who were interested in volunteering.¹¹⁸ Hosting the Research Blitz did not involve advocating for curricular reform or requesting significant resources.

2. Challenges

The challenges of hosting a Research Blitz were minimal. They included mainly logistical details and limiting the number of participants to make it manageable. Finally, the impact the Research Blitz had on closing the legal aid gap may be modest.

a. Logistics

The logistical challenges were minimal. Time and effort were required to reserve a space to hold the Research Blitz, promote the Research Blitz, create a sign-up for students and alumni, and coordinate with MLRI. Also, reminders and

¹¹⁶ See Raymond H. Brescia, *When Interests Converge: An Access-to-Justice Mission for Law Schools*, 24 GEO. J. POVERTY L. & POL'Y 205, 232 (2017). The Research Blitz is an example of one way to answer the ABA Commission on the Future of Legal Services' call to leverage technology to meet the legal needs of all. See ABA Report, *supra* note 10, at 49.

¹¹⁷ See *supra* notes 90–94.

¹¹⁸ See *supra* note 91.

encouraging emails to alumni were needed to have them register with MLA0 prior to the Research Blitz so they could have access to the questions at the outset.

b. Scalability

Some additional challenges were making sure the alumnus-to-student ratio was low to keep everyone engaged. To meet this challenge, there was a limit set on the number of students and alumni who could participate. Scaling the event so every law student had this opportunity would be challenging. Imagine, however, if all of the law students and law school alumni could have a Research Blitz opportunity to contribute to closing the legal aid gap while gaining experiential learning and pro bono hours. Perhaps organizing the event around alumni weekend would draw even more alumni volunteers and make the scalability possibility more feasible.

c. Impact

Law students alone may not close the justice gap, as the number of low-income Americans in need of civil legal services outnumbers the number of students in law schools around the country.¹¹⁹ During the two-hour Research Blitz students worked with alumni to answer approximately fifty questions posed on MLA0 by low-income Massachusetts residents. These questions may have been unanswered without the event. Thus, law students can help address the justice gap, even if it is one research question at a time.¹²⁰

CONCLUSION

Providing access to justice is “an individual and collective moral responsibility” of lawyers.¹²¹ Therefore, law students, law schools, the legal profession, legal service agencies, and low-income individuals who need assistance, all have a shared interest—access to justice—and thus should work together to reach the elusive goal in the Pledge of Allegiance of “justice for all.”¹²² Leveraging technology in innovative ways like digital pro bono services is one way to provide access to justice.

¹¹⁹ See Gross, *supra* note 106, at 27.

¹²⁰ See *id.* at 31.

¹²¹ See DiPippa, *supra* note 51, at 110.

¹²² 4 U.S.C. § 4 (2012); see Brescia, *supra* note 116, at 224.

Law students are the future leaders of the legal profession and will continue to face the access to justice problem. Providing law students with this experiential learning opportunity in law school—where they participate in pro bono representation—may motivate them to have a greater impact in the future on closing the legal aid gap. This, in turn, may help to “ensur[e] that the next generation of legal services more effectively meets the public’s needs.”¹²³

¹²³ See *ABA Report*, *supra* note 10, at 1.