



City Bar Justice Center
Federal Pro Se Legal Assistance Project in
The United States District Court for the Eastern District of New York
One-Year Report: March 31, 2016

Introduction

The Federal Pro Se Legal Assistance Project (“the Project”) of the City Bar Justice Center (CBJC) opened its doors to litigants on March 26, 2015 and is pleased to submit this cumulative report to the Court on the first year of operations. The Project Attorney has now provided limited-scope legal assistance, advice, or consultation in 379 matters, to low-income litigants and prospective litigants on a range of federal civil issues. In addition to assisting low-income pro se plaintiffs and defendants litigating in the Eastern District, the Project Attorney has been successful in providing legal counseling and making referrals for a number of people who would benefit from addressing their issues in a forum other than the federal court. The City Bar Justice Center has expanded its pro bono attorney volunteer program to further leverage the resources committed to the Project. This report provides a summary of the services offered in the first year of the Project’s operation, and highlights new developments.

Office Hours and Staffing

The Project Attorney, an experienced federal and state court civil litigator, is on site at the courthouse during business hours, Mondays through Thursdays.

As of April 2016, a Project Coordinator is on site two days per week, responsible for handling telephone and in-person intake screening and scheduling, data entry and analysis, and non-legal research.

A group of Fordham University School of Law Stein seminar students specializing in public service has worked with the Project during the spring semester of 2016, assisting some individual clients but focusing primarily on creating informational materials about federal court jurisdiction and “the path of a federal case,” along with advice packets and forms for client use.

Litigants meet with the Project Attorney by appointment, and the Project also makes room for walk-ins whenever possible. There are three to four available appointment slots per day, and the Project is usually able to schedule appointments within a week, if not the same day. After the initial consultation, 70% of clients follow up with additional meetings in person or by phone or e-mail.

The U.S. District Court for the Eastern District of New York provides office space for the Project in the district courthouse in Brooklyn, along with two public access PACER terminals located in

the Project’s waiting area. The CBJC has a computer with limited-access internet capability in the waiting area, which affords clients access to the Court’s website, forms and information packets, and sites for legal services providers and other pertinent legal information. Clients who are able to do so can work on their documents on the PC and save files to flash drives which the CBJC gives these clients to use to work on their documents outside of the courthouse.

ASSISTANCE PROVIDED

In its first year of operation, 379 clients or prospective clients sought assistance from the Project.

CLIENTS SERVED/ APPOINTMENTS PER CLIENT

A large majority of clients have more than one consultation with the Project Attorney. The Project Attorney also counsels the many clients who call or e-mail with follow-up questions in addition to formal appointments.

Table 1

| Number of appointments per client | Number of Clients | Percentage of all Clients |
|--|--------------------------|----------------------------------|
| 1 | 114 | 30% |
| More than one visit | 265 | 70% |

DEMOGRAPHICS

Table 2

| Race | Number of Clients | Percentage of Clients |
|---------------------------|--------------------------|------------------------------|
| Asian or Pacific Islander | 28 | 7% |
| Black | 177 | 47% |
| Latino/Hispanic | 33 | 9% |
| White | 67 | 18% |
| Other/unknown | 74 | 19% |
| <i>Total</i> | <i>379</i> | <i>100</i> |
| | | |
| Gender | Number of Clients | Percentage of Clients |
| Female | 165 | 43.5% |
| Male | 213 | 56.5% |
| Unknown | 1 | 0% |
| <i>Total</i> | <i>379</i> | <i>100</i> |

LEGAL ISSUES

Of the litigants whom the Project has served, most have been pro se plaintiffs or prospective plaintiffs, although some have been pro se defendants. Their legal issues cover a wide range, with a heavy representation of employment-related and civil rights cases, a trend that reflects the Eastern District's non-prisoner civil docket generally and also may highlight the scarcity of free or low-cost legal services for these types of cases. Table 3 shows the legal issues presented by the Project's clients thus far.

Table 3

| Case Type | Number of Clients | Percentage of Clients |
|---------------------------|---|------------------------------|
| Civil Rights | 85 | 23% |
| Employment Discrimination | 102 | 27% |
| Other Employment | 29 | 8 % |
| State Law Matters | 44 | 12% |
| Foreclosure-related | 21 | 5% |
| Suing Federal Agency | 17 | 4% |
| Social Security Appeal | 20 | 5% |
| Consumer Issue | 14 | 4% |
| Other | 47 (student loan, torts, RICO, copyright, etc.) | 12% |
| <i>Total</i> | <i>379</i> | <i>100</i> |

REFERRAL SOURCE

The Project continues to have an excellent relationship with the Eastern District's Clerk's Office, including the pro se clerks, and the Courts' pro se staff attorneys. Most referrals to the Project originate in the Clerk's Office, and a substantial number come from Magistrate Judges and District Judges.

Table 4

| Referral Source, Where Known | Percentage |
|-------------------------------------|-------------------|
| Magistrate Judge | 13% |
| District Judge | 4% |
| Clerk's Office EDNY | 51% |
| Court (unspecified) | 7% |
| Friend or family | 2% |
| Internet | 1% |
| CBJC Legal Hotline | 2% |
| Previously Served | 19% |
| NYC 311 | 1% |
| <i>Total</i> | <i>100</i> |

PROCEDURAL STATUS AT INTAKE

A large number of people have taken advantage of the Project's services before filing civil cases in the Eastern District. As Table 5 illustrates and the Project's experience bears out, pro se litigants face particular challenges which cause many to consult with the Project at the amended complaint, motion to dismiss, and discovery phases of litigation as well.

Table 5

| Procedural Status at Intake | Number of Clients | Percentage of Clients |
|--|--------------------------|------------------------------|
| Pre-filing | 112 | 29.5% |
| Post-filing, initial steps (includes amending complaint) | 117 | 31% |
| Post-disposition | 47 | 12% |
| ADR | 5 | 1% |
| Motion to dismiss pending | 39 | 10.5% |
| Discovery | 40 | 11% |
| Motion for summary judgment pending | 14 | 4% |
| Pre-trial | 5 | 1% |
| <i>Total</i> | <i>379</i> | <i>100</i> |

TYPES OF SERVICES PROVIDED

The Project has provided brief services – including review of papers, research, drafting assistance, strategy discussion, and other advice and counsel – to 200 clients, and advice-only to 58. We have advised and referred 59 litigants to nonprofit legal services providers, the City Bar's Legal Referral Service and/or pro bono counsel.

PROSPECTIVE LITIGANTS WHO LACK FEDERAL JURISDICTION

At the end of the first year of operations, the Project reviewed the outcome of all of our matters in which the Project Attorney met with prospective litigants and explained to them pre-filing that the federal court did not have either federal question or diversity jurisdiction over their claims. Analyzing our data, we sorted for people who came to the Project before filing, and who in our judgment had no plausible basis for federal court jurisdiction. Twenty-five matters met those criteria. The Project excluded one case in which the counseling session was too recent, then checked PACER to learn how many of the clients had in fact filed in the Eastern District. We found that 23 of the 24, or 96%, were diverted to other resources and did not file a case in the Eastern District. For each of these clients, the Project provided information and referrals appropriate to the situation, including to the state courts, legal services offices that provide free legal services to low-income people, and social services organizations.

PRO BONO PARTNERSHIPS

During the past quarter, the Project has expanded on the experience offered through our structured and carefully-supervised pro bono attorney component. Working with the pro bono coordinators from Cleary Gottlieb, Davis Polk, and Sullivan & Cromwell, the CBJC has the “of counsel” assistance of an expanding group of attorney volunteers from those firms and from small-firm members of the Federal Bar Council. Volunteer lawyers are on-site every Tuesday and Thursday morning. After an orientation and training session, the volunteers – many of whom have returned multiple times – assist the Project Attorney with litigant interviews, drafting, and legal research. Supervision occurs on-site by the Project Attorney and off-site by a partner or other senior lawyer at each volunteer’s firm. Our clients and the Court have benefited tremendously from the experience, level of interest, and commitment of the pro bono lawyer volunteers.

LAW SCHOOL INVOLVEMENT

The CBJC has created experiential learning opportunities for law students working under faculty supervision with the federal pro se project. We have semester-long internship opportunities available, and are currently working with Fordham Law students from the Stein Scholars academic and service program on the full semester seminar project described above.

RESULTS: Examples

- The Project helped a client prepare for taking a deposition pro se. With the approval of the Magistrate Judge, this litigant was able to depose the defendant in his case at the courthouse, with the Clerk’s office swearing in the witness and digital audio recording provided by the Court. While we are not encouraging many pro se clients to take live depositions, it was appropriate in this case and was very significant to this client to be able to ask questions directly of the defendant (who has counsel) in a formal setting and to hear that person’s responses.
- With the Project’s help, a low-income client being sued for copyright infringement moved to dismiss the claims against him. The CBJC enlisted a pro bono copyright lawyer as of-counsel to CBJC, and learned that the plaintiff’s case suffered from a fatal legal flaw. After the defendant submitted the motion and memorandum of law, drafted largely by our team, the plaintiff sought permission from the Court to withdraw the case.
- The Project first met one of our employment discrimination clients after the client’s cursory Complaint had been dismissed for failure to state a claim on which relief may be granted and the Court had allowed him time to amend. This litigant has a compelling claim of disability discrimination and had been unable to state his claim properly because of his lack of legal knowledge and difficulty organizing his information in an understandable and sufficiently detailed way. We successfully worked with the client to outline and draft an Amended Complaint.

CONCLUSION

The Federal Pro Se Legal Assistance Project is pleased to be able to continue providing legal services to needy pro se litigants in the coming year. We are making important strides toward addressing the justice gap faced by pro se litigants who cannot afford to hire lawyers. The Project has successfully diverted people whose cases do not belong in the federal court, and has provided a range of legal services to over 300 people who bring legitimate claims or who find themselves being sued in the Eastern District of New York. The City Bar Justice Center continues to look for ways to expand the pro bono attorney component of the Project, and looks forward to working with additional law schools and law students in the coming year to assist more pro se litigants.