



MASSACHUSETTS  
ACCESS TO JUSTICE COMMISSION

ANNUAL REPORT ON ACTIVITIES  
AUGUST 2023



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**INTRODUCTION**

Under the leadership of Co-Chairs Hon. Serge Georges, Jr., and Marijane Benner Browne, and Director Carolyn Goodwin, this has been a productive year for the Massachusetts Access to Justice Commission.

**Some of the Commission’s accomplishments during this past year include:**

- Engaging with the courts to provide feedback on issues ranging from rules of civil procedure to the accessibility of court forms, as well as advocating alongside the courts to increase the number of judges in the Probate and Family Court.
- Convening a broad range of stakeholders at Commission meetings in Boston, over Zoom and in Worcester to ensure greatest participation in conversations that included court processes post-pandemic, reducing defaults through text message reminder systems, fee-shifting in the Probate and Family Court, and access to justice issues specific to Central Massachusetts.
- Planning and executing, alongside many collaborators, a program titled “*Court Data on Race and Ethnicity in Civil Cases: Access to Justice Opportunities and Challenges*,” which convened a panel of court leaders and other experts to discuss the importance of, and challenges inherent in, collecting, maintaining, and reporting Massachusetts Trial Court data regarding race and ethnicity in civil cases, through the Commission’s Racial Equity and Justice Committee.
- Continuing engagement with the Massachusetts Legal Aid Funders Network, a group of private philanthropic organizations, operating independently of the Commission, that seeks to educate funders about ways they can collaboratively fund projects in civil legal aid, through the Commission’s Revenue Enhancement Committee.

None of these accomplishments would have been possible without the dedication of our Commissioners<sup>1</sup> and other volunteer committee members to advancing access to justice for those unable to afford an attorney to assist them with their essential civil legal needs.<sup>2</sup> The Commission also deeply appreciates the assistance it has received from the Massachusetts Legal

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<sup>1</sup> See list of Commissioners (Appendix 1).

<sup>2</sup> See generally Commission Mission Statement (Appendix 2).

Assistance Corporation (MLAC) and from the staff of the Supreme Judicial Court, including Deputy Legal Counsel Chip Phinney.

Finally, the Commission is grateful to the leaders of the Trial Court -- Chief Justice Jeffrey Locke and Court Administrator Thomas Ambrosino -- for their support of the Commission's efforts this year. The Commission looks forward to continued partnership with the Trial Court.

### **COMMISSION PRIORITIES 2022-2023**

The Commission maintained its **priorities** from the prior year into the 2022-2023 Commission year as they remain essential to its overall mission and to access to justice more generally. These priorities are racial justice, both within the Commission and across the legal system; data collection in the civil justice system; and increasing uniformity and simplification of court processes to make them easier to navigate for all court users, especially self-represented litigants (SRLs).

Much of the Commission's work is effectuated through its committees and through Commission leadership. In 2022-2023, the Commission committees were the: Consumer Debt Committee; Executive Committee; Family Law Committee; Housing Law Committee; Racial Equity and Justice Committee; and the Revenue Enhancement Committee. In addition, the Commission created two working groups this year, one focused on technology and its potential to be a tool for access to justice, and the other on better engaging on access to justice issues with community-based organizations and other community partners. Both working groups were charged with making recommendations to the Commission on these issues and the Commission looks forward to reviewing and incorporating recommendations next year.

### **COURT COMMUNICATIONS**

Over the past year, the Commission was fortunate to have **many opportunities to communicate with the Trial Court and its departments** and provide feedback as the courts revisited pandemic era policies and rules. As mentioned in our 2022 Annual Report, the Commission published a report titled "[\*Creating a More Equitable System: Lessons Learned During the COVID-19 Pandemic\*](#)," which it shared with the Trial Court last fall. This Report compiled feedback from a range of access to justice stakeholders and reflected on lessons learned during the pandemic and opportunities to take advantage of adaptations and innovations to improve access to justice for all court users. The Commission incorporated several of the recommendations from its Report in its work over the year and had the opportunity to discuss the Report's findings on many occasions, including in a conversation with the Trial Court Deputy Court Administrators.

In addition, highlighting recommendations from the Report, and other suggestions, the Commission provided comments to the Supreme Judicial Court's Standing Advisory Committee on the Rules of Civil Procedure regarding proposed amendments to Mass. R. Civ. P. 5(b), concerning email service, and Mass. R. Civ. P. 11, regarding e-signatures.

In furtherance of one of its priorities, the Commission was pleased to provide feedback on the accessibility of Trial Courts forms for SRLs as part of the Trial Court's Forms Strategy Initiative (FSI).

The Commission also wrote Chief Justice Locke a letter about the importance of considering access to justice principles when selecting a new Chief Justice of the Housing Court. Following the appointment of Hon. Diana Horan as the new Chief Justice, Commission leadership and the Housing Committee Co-Chairs were pleased to have the opportunity to meet with her to discuss future collaboration.

Finally, the Commission Co-Chairs wrote a letter to Senate and House leaders in support of bills to provide statutory authorization to appoint additional judges to the Probate and Family Court to address this critical access to justice and fairness issue.

### COMMISSION MEETINGS AND CONVENINGS

The Commission held three public meetings and two smaller public convenings this year. Through these events, the **Commission fostered collaboration and coordination of efforts to improve processes and outcomes for those unable to afford an attorney.**

In October, the Commission held its first in-person meeting since January 2020 at the John Adams Courthouse, where Commissioners and the public shared perspectives on the Commission's September 2022 Report mentioned above: "[Creating a More Equitable System: Lessons Learned During the COVID-19 Pandemic.](#)"

At the February Commission meeting, Pamerson Ifill, Deputy Commissioner for Pre-Trial Services at the Massachusetts Probation Service (MPS) presented the successful MPS text messaging reminder system. After the presentation, meeting participants discussed the potential for text messaging systems to reduce defaults in other contexts.

At the May meeting, Commissioners and members of the public gathered in Worcester for a panel discussion, moderated by Hon. Serge Georges, Jr., on access to justice issues in Central Massachusetts. Holding the meeting in Worcester provided an opportunity to bring together a panel comprised of attorneys and non-attorney leaders from the public, non-profit, and private sectors in Central Massachusetts to discuss strategies to improve access to justice. In addition, Thomas Ambrosino, Court Administrator of the Massachusetts Trial Court provided us with updates on access to justice initiatives in the Trial Court.

In addition to these larger meetings, the Commission held two smaller convenings. First, the Commission held a Zoom presentation and discussion of the Access to Attorneys Committee's [Report on Fee Shifting in Family Law Litigation.](#) During the presentation about the report, which summarized and commented on results from two surveys on fee-shifting practices, one issued to Judges in the Probate and Family Court and the other to family law practitioners, there was opportunity to engage in an informal discussion. Second, the Commission held a training

focused on diversity, equity, and inclusion for Commissioners and Commission Committee members.

### **ADDRESSING THE NEEDS OF LITIGANTS IN FAMILY LAW, CONSUMER DEBT, AND HOUSING MATTERS**

The Commission's Family Law, Consumer Debt, and Housing Committees<sup>3</sup> continued to focus on systemic reforms that impact SRLs in these **crucial areas of law where litigants often proceed without attorneys.**

**Family Law Committee:** The Family Law Committee reconvened for its first year of meetings since the pandemic with a focus on the needs of SRLs in the court system's "new normal." As a carry-over of its prior efforts, it focused on fee shifting and right to counsel in guardianships of minors. This year, the Committee also began exploring ways to improve communication with SRLs in a variety of contexts such as sending texts to remind litigants of court dates and adding QR codes to letters and notices for a fuller explanation of rights and processes.

The Committee also embarked on two new projects that will continue into the next Commission year. The Committee submitted a project proposal to the Law Firm Antiracism Alliance (LFAA) and secured its support to research permissible means of alternative service of process under Massachusetts law. This research will consider what is constitutionally required to accommodate low-income litigants who cannot afford the cost of service, and how other states have approached this set of issues. In addition, the Committee will be working with first-year law students at Northeastern University School of Law on an access to justice project. Through this project students will explore access to the Probate and Family Court for SRLs, which will provide insight into the court user experience, the presence or lack of uniformity across courts, and perhaps insight into best practices.

**Consumer Debt Committee:** The Consumer Debt Committee continues to engage in various projects to promote access to justice for consumers facing debt collection. This year the Committee submitted a draft standing order and a memorandum in support of establishing lawyer-for-the-day programs (LFDs) in the Boston Municipal Court and District Court for small claims debt collection cases.

In addition, Committee members have provided input to the Office of the Attorney General on language for inclusion in the letters it sends to small claims defendants encouraging them to attend their court date. These letters are sent to litigants with cases in the Central, Roxbury, and

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<sup>3</sup> The Family Law, Consumer Debt, and Housing Committees were formed as a result of the Commission's [2017 Strategic Action Plan](#) ("SAP"). The SAP focused on the needs of self-represented litigants in these three areas of law plus a fourth category covering issues impacting the justice ecosystem. It described the current resources and challenges in each of the four focus areas; proposed a vision of a legal system capable of providing meaningful access to justice in each domain; and identified strategies for achieving that vision.

East Boston Divisions of the Boston Municipal Court.

The Committee also engaged in active discussions about using text messaging to further decrease default rates among small claims defendants and plans to continue this conversation.

Finally, through its monthly meetings, the Committee provides an open forum for convening among consumer debt attorneys to discuss systemic issues in the practice of consumer debt law.

**Housing Law Committee:** The Housing Committee has supported a multi-year project led by the Massachusetts Law Reform Institute (MLRI), AmeriCorps Legal Advocates of Massachusetts, and the Justice Center of Southeast Massachusetts (JCSEM) to explore the reasons that tenants defaulted in Summary Process actions. This effort culminated in the publication by MLRI and JCSEM in December of 2022 of *[“The Default Project: A Survey of the Reasons for Tenant Defaults in Housing Court Eviction Cases.”](#)* Undertaken at the request of the Housing Committee and with key support from its members, this project involved research and analysis into the circumstances resulting in default, outcomes of cases where tenants defaulted, and barriers tenants face when sued for eviction. The report offers policy recommendations aimed specifically at lowering the rate of tenant defaults, including reducing barriers to court information and procedures, and increasing flexibility in court proceedings.

The Housing Committee also participated in overall Commission activities and provided input on housing related matters. In addition, this year the Housing Committee leadership, ably led by Co-Chairs through the pandemic, transitioned to new Co-Chairs and we look forward to the continued efforts of the Housing Committee.

## **RACIAL EQUITY AND JUSTICE**

This year the Racial Equity and Justice Committee successfully **planned and executed a program titled *“Court Data on Race and Ethnicity in Civil Cases: Access to Justice Opportunities and Challenges.”*** This program, hosted by Massachusetts Continuing Legal Education and co-sponsored by numerous bar associations and judicial entities, drew hundreds of registrants on-line and in-person. The program convened a panel of court leaders and other experts to discuss the importance of, and challenges inherent in, collecting, maintaining, and reporting Massachusetts Trial Court data regarding race and ethnicity—particularly in civil cases—to identify and remedy racial disparities and improve access to justice. The panel dialogue aimed to facilitate communication, coordination, and collaboration among justice partners engaged in this type of data collection and analysis. The Committee plans to continue this conversation next year and work to identify potential next steps.

The Committee also revised and circulated a commissioner demographic survey and held a diversity, equity, and inclusion training for Commissioners and Committee members. The Committee also had the opportunity to hear a presentation by Cynthia A. Robinson-Markey,

Senior Program Manager for Strategic Plan in the Trial Court Office of Court Management, about Trial Court strategic priorities.

### FUNDING FOR CIVIL LEGAL AID

The Commission continued to focus on increasing funding for legal aid organizations, primarily through its **Revenue Enhancement Committee (“REC”)**. As part of its ongoing work to bolster **private sector sources** of funding, the REC continued to work with others on the Massachusetts Legal Aid Funders Network (MLAFN).<sup>4</sup> This year, MLAFN convened foundations and others to examine how philanthropy can support civil legal aid, encouraging financial support for legal aid and collaborative funding for existing access to justice projects.

The REC also continued to develop an online directory of organizations that provide free civil legal aid, or legal information, in Massachusetts. Funding from the Boston Bar Foundation was obtained to underwrite the costs of designing the website for the directory. A website has been designed, staged, and is currently under review. In addition, a committee member continues to lead a team of volunteer lawyers and summer associates from Ropes & Gray in summarizing publicly available articles and data analyzing the impact of civil legal aid on client outcomes which can be used by all in the civil legal services community.

The REC continues to look for opportunities concerning **non-traditional public funding sources** for civil legal aid. For example, the Commission’s prior efforts in working with a coalition of state agencies and legal and social service providers to develop the Civil Legal Aid for Victims of Crime (“CLAVC”) program continues to bear fruit. Since 2018 CLAVC has channeled nearly \$25 million in federal funds to legal services organizations to support attorneys who work directly with crime victims. This funding is the result, in part, of the Commission convening stakeholders and collaborating with them to pursue this funding.<sup>5</sup> The CLAVC program is administered by MLAC with program management services provided by MLRI.

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<sup>4</sup> Inspired by the Legal Services Funders Network in San Francisco, in 2021 the REC Committee reached out to leaders in the Massachusetts philanthropic community to determine their interest in a funders network and ultimately played a role in developing MLAFN. The network receives administrative support from Philanthropy Massachusetts, a membership association of philanthropic organizations. Continuing with this work, in 2022 MLAFN saw robust activity and successful funder convenings.

<sup>5</sup> As discussed in the Commission’s [2019 Annual Report](#), the Commission was one of two state access to justice commissions nationally to lead an effort analyzing opportunities to tap federal funds, other than those allocated for the Legal Services Corporation, to meet the ongoing funding gap for civil legal aid. A large increase in federal funds – from less than \$10 million to more than \$40 million – flowing to Massachusetts from the Victims of Crime Act (VOCA) was identified as a potential source and, through an extensive community outreach and collaboration campaign, data on the need for increased legal services to assist victims was collected and the case was made to allocate new resources for a statewide legal assistance program. As a result of these efforts, in 2017 the Massachusetts Office for Victim Assistance Office (MOVA) announced allocation of these funds to support civil legal services for victims of crime and the state-wide CLAVC program was launched.

Each year, the Commission **supports an increase in the state budget** to fund civil legal aid through MLAC. This year, the Commission promoted attendance at the annual “Talk to the Hill,” where hundreds of attorneys, law students, and advocates urged lawmakers to fund legal aid. In response to these appeals, and others, the Legislature appropriated, and the Governor approved an appropriation of \$49 million in FY2024, \$8 million higher than in FY2023.

Finally, as highlighted in previous annual reports, the Commission has **historically helped establish other new funding sources for civil legal aid**. The Commission was instrumental in the Supreme Judicial Court's approval of three new sources of revenue to support legal services: expanded eligibility of IOLTA and legal aid programs for receipt of *cy pres* awards of class action residuals under a 2008 amendment to Mass. R. Civ. P. 23, which has generated approximately \$9.2 million; a voluntary annual \$51 "access to justice" attorney registration fee, which has generated approximately \$14.9 million since it was created in 2010; and a *pro hac vice* registration fee, which has generated approximately \$2.5 million since it was established through SJC Rule 3:15 in 2012. Effective January 1, 2019, the *pro hac vice* registration fee was increased by the SJC from \$301 to \$355 for the Superior Court, Land Court, and appellate courts.

### **PRO BONO INITIATIVES**

Massachusetts has a strong tradition of providing pro bono legal services and has a large network of pro bono referral organizations. The Commission continues to work closely with the **Supreme Judicial Court's Standing Committee on Pro Bono Legal Services** (“Pro Bono Committee”) to increase pro bono engagement in the Commonwealth. To facilitate coordination of the work of the Commission and the Pro Bono Committee, the Pro Bono Committee's Chair continues to serve as an *ex officio* member of the Commission, and the Commission's Director serves as an *ex officio* member of the Pro Bono Committee.

Additionally, the **Access to Justice Fellows Program**, established in collaboration with the Commission in 2012 and now run by the Lawyers Clearinghouse, continues to flourish. The Fellows program partners retired or retiring lawyers and judges with legal services organizations and other nonprofits to engage in pro bono work. Fellows spend an academic year volunteering an average of 10 hours per week on a significant pro bono project in furtherance of access to justice. Since inception the program has supported 185 Fellows. Current and former Fellows have provided over 200,000 hours of pro bono service to 91 entities. In June 2023, Hon. Serge Georges and other Commission representatives joined the Lawyers Clearinghouse and current and former Access to Justice Fellows to celebrate the Program's completion of more than a decade of service. Justice Georges also presented certificates of appreciation from the Supreme Judicial Court to Martha Koster, former Commission Co-Chair Sue Finegan, and Lawyers Clearinghouse in recognition of their roles in founding and supporting the Program.



This year the Commission was also pleased to co-sponsor, along with the Lawyers Clearinghouse, an **Access to Justice Fellow** to pilot a program with the Massachusetts Land Court where the Fellow and volunteer attorneys from partner law firms would screen and triage cases and provide limited assistance representation or fully represent property owners appearing in the tax title session. While the Commission did not sponsor the pilot program itself, it provided support toward the overall mission of developing resources for SRLs in the tax title session.

Further, the Commission is proud to have incubated the **statewide civil appellate pro bono program**. This program, initiated by the Commission in 2014, is now overseen by the Volunteer Lawyer's Project (VLP). The program has three elements: a weekly civil pro bono appeals clinic at the Appeals Court Clerk's Office, a merits review panel, and full representation. It involves collaboration between area law firms, the VLP, numerous other legal services organizations, and the Clerk's Offices of the Appeals Court and the Supreme Judicial Court. Since its inception the Appeals Clinic has assisted 764 people, including 423 pro bono cases and 261 unique volunteers. This year the clinic handled 39 cases, including 17 pro bono cases, with 28 pro bono advocates participating. The total number of pro bono hours spent by volunteers was 1,457, with a total of 8 firms participating.

## **CONCLUSION**

This has been a year of significant progress as we transitioned from the pandemic crisis and moved toward supporting positive pandemic era adaptations and encouraging the development of new processes to ensure the civil justice system is accessible to all. Through all the Commission's activities, we are guided by our priorities, which emphasize that racial justice is access to justice; that data is necessary to identify gaps in access; and that court processes must be simplified to truly make progress toward access for all.

## APPENDIX 1

### Members of the Massachusetts Access to Justice Commission, 2022-2023

Honorable Serge Georges, Jr., Co-Chair	Rochelle Hahn, Esq.
Marijane Benner Browne, Esq., Co-Chair	Colin Harnsgate, Esq.
Adrian Angus, Esq.	Honorable Richard McMahon
Honorable Julie Bernard	Leticia Medina-Richman, Esq.
Rachel Biscardi, Esq.	Leemarie Mosca
Krietta Bowens Jones, Esq.	Susan Nagl, Esq.
Esme Caramello, Esq.	Clerk-Magistrate Anthony Owens
Elizabeth Cerda, Esq. ( <i>ex officio</i> - 9/22)	Lisa Owens
Ariel Clemmer, Esq. ( <i>ex officio</i> )	Lynne M. Parker, Esq.
Justine Dunlap, Esq.	Sheriece Perry, Esq.
Honorable Dina E. Fein (Ret.)	Mary K. Ryan, Esq.
Joel H. Feldman, Esq.	James D. Smeallie, Esq.
Honorable Robert Fields	Mychii Snape, Esq.
Laura Gal, Esq.	Elizabeth Soule, Esq.
Ben Golden, Esq.	Danielle Johnson, Esq.
Lisa Goodheart, Esq.	Honorable Valerie Yarashus

*Director*  
Carolyn Goodwin, Esq.

*Deputy Legal Counsel, Supreme Judicial Court*  
Chip Phinney, Esq.

## APPENDIX 2

### Massachusetts Access to Justice Commission Mission Statement August 12, 2020<sup>6</sup>

The goal of the Massachusetts Access to Justice Commission is to achieve equal justice for all persons in the Commonwealth. It strives to accomplish this goal by providing leadership and vision to, and coordination with, the many organizations and interested persons involved in providing and improving access to justice for those unable to afford counsel.

The Commission will pursue its mission by various means including the following:

1. Strengthening the civil legal services community in providing legal services for those unable to afford counsel.
2. Enlarging the number of attorneys trained, willing, and able to provide pro bono civil legal services.
3. Enlarging the number of attorneys in the private bar trained, willing and able to provide civil legal services through limited assistance representation or other means to low- and moderate- income individuals who are unable to afford legal representation and unable to obtain legal aid representation.
4. Enlarging the number of non-lawyers trained, willing and able to provide appropriate assistance to improving access to justice.
5. Improving the ability of those without counsel to identify, articulate and present their legal claims and defenses in civil judicial and administrative proceedings.
6. Advocating for and prioritizing racial equality and justice in our civil legal system to ensure that equality under the law is an enduring reality for all. This includes combatting both explicit and implicit bias and systemic racism and identifying and eliminating barriers that might prevent people of color from obtaining appropriate relief within the civil justice and administrative justice systems.
7. Ensuring equal access to the civil justice and administrative justice systems for those without lawyers in remote/virtual court proceedings including people with barriers to participation, such as limited access to legal advice, guidance, and information, limited access to computers and the internet, limited English language proficiency, and physical and cognitive disabilities.
8. Coordinating the efforts of the broad network of legal, social service and administrative organizations and interested persons who seek to improve access to justice by (a)

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<sup>6</sup> Mission Statement approved in March 2021.

sharing information regarding successful programs, approaches, and strategies in delivering civil legal services to those unable to afford counsel, (b) identifying best practices and technologies for delivering such legal services, (c) determining the changing legal needs of those unable to afford counsel, as well as enduring unaddressed and under-addressed legal needs and (d) developing goals and strategies for meeting those legal needs.

9. Reviewing the state of access to justice in Massachusetts, educating the public about access to justice and providing a neutral forum in which important issues affecting access to civil justice can be discussed among the branches of government and the civil legal services community, including a broad cross-section of providers, funders, clients, bar leaders and other interested parties.
10. Working closely with the Chief Justices of the Supreme Judicial Court and the Trial Court, the Trial Court Administrator and the Senior Manager for Access to Justice Initiatives within the Trial Court to broaden access to justice within the court system.
11. Reporting annually to the Supreme Judicial Court on the status of access to justice in the Commonwealth, including recommendations for reforms and Commission goals and activities.

The success of the Commission will be measured by the extent to which persons can more effectively present their claims and defenses in our courts and administrative agencies, regardless of income or language ability.