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Legal work is free, results are priceless

By Bill Nemitz | October 25, 2013

How many lawyers does it take to give lawyers a good name?

Sorry, this isn't a snarky lawyer joke. And the answer might surprise you.

"We have 142," said Hanna Sanders, access to justice coordinator for Maine's judicial system, after adding up the names on Thursday.

She was talking about the Katahdin Counsel Recognition Program's Class of 2013, made up entirely of Maine lawyers who in the past year have donated at least 50 hours of their valuable time - and in many cases a whole lot more - to people who need legal help but can't afford it.

According to Sanders, that translates into just under 16,000 hours of legal work. Which, had the clients been billed at an average of \$150 per hour, would have totaled \$2.4 million.

"It's a way to publicly recognize the good work these attorneys are doing for their communities," Sanders said of the program, now in its second year. "The range of services that are provided are really remarkable - from the single mother who's trying to start her own business to refugees and immigrants who are trying to obtain citizenship or asylum."

Jack Montgomery, an attorney with Bernstein Shur in Portland, knows a thing or two about the latter.

For the past six years, Montgomery has offered his services pro bono through the Portland-based Immigrant Legal Advocacy Project. And lest you think that's just a warm-and-fuzzy footnote to the cases that rake in the big bucks for him and his prestigious law firm, think again.

"If I screw up in a civil case, which I hope I don't, it's fixable," Montgomery said over Thursday's mid-morning din at an Old Port coffee shop. "I screw up on a case like this one and these people go back to hell."

It started three years ago, when a family recently arrived from Djibouti in northeastern Africa showed up at the Immigrant Legal Advocacy Project seeking asylum in the United States.

The father, mother, four daughters and two sons had good reason: They had fled their homeland rather than succumb to a custom that, by any measure, is nothing short of barbaric.

"The girls were 12, 11, 6 and 2 at the time," Montgomery said. "The leaders of the local clan kept coming by the home and asking 'When are we going to get the (oldest) girls done?' "

“Done,” in the tribal country of Djibouti, meant female genital mutilation – an age-old atrocity that is outlawed by Djibouti’s government and was unanimously condemned last year by the United Nations General Assembly as “irreparable, irreversible abuse of the human rights of women and girls, and ... a serious threat to their health.”

Yet, according to the World Health Organization, 93 percent of Djibouti’s young females still endure the ritualistic maiming, considered a rite of passage (not to mention male dominance) by those who practice it.

“The parents (of the four girls) adamantly opposed it – they kept delaying and delaying and delaying,” said Montgomery. “Then one day, a bunch of the cousins showed up and beat the father senseless. The genital mutilation wasn’t done, but they realized it was going to happen if they didn’t get out of there.”

So the family escaped and found their way to Maine. They now live in the Lewiston-Auburn area and will go unnamed here because Montgomery doesn’t want to jinx a complex case still pending before the Department of Justice’s Boston Immigration Court.

(Nor does he want to re-traumatize the girls by having their names in the newspaper.)

The Boston Immigration Court is, in Montgomery’s 36 years of legal practice, the “most challenging court I’ve ever been in.”

“Sixty days before trial, I have to submit all my documents, translations of all documents, statements from all my witnesses, statements from all my experts, and every piece of paper I can find that has anything to do with anything,” Montgomery said. “The obligation of the government is to do nothing. There’s no (pre-trial) discovery. It’s like three days of anticipating every curveball they could throw at you.”

Then there are the interviews with immigration officials, the appeals when things don’t go your way (which, at one point, they didn’t), the constant search for experts who are willing to donate their time ...

Long story short, Montgomery so far has succeeded in winning asylum for the children. But the mother and father, both of whom work full time while their kids thrive in school, remain in legal limbo pending yet another court appearance next summer.

“I lay awake some nights worrying about it,” Montgomery said.

What he doesn’t worry about are the fees he’d be pulling down – upward of \$200,000 and counting – if this were a fee-for-service case.

Unheard of, you say?

Not by a long shot.

“I wouldn’t want someone to read this and think, ‘Oh, Jack Montgomery’s the only person doing this,’ ” he said. “This is just one of scores – big firms, small firms. There are a lot of people on that list.”

Indeed. According to Sanders, the 142 attorneys being honored this month at ceremonies all over Maine include one “retired” lawyer who has racked up 1,500 hours of pro bono work over each of the past two years. Other annual logs, Montgomery’s included, run well into the hundreds of hours.

“There are some people for whom this is the most gratifying work they do,” Sanders said. “It’s so important for litigants to have the benefit of legal counsel as they move through the system. Everyone benefits when parties are represented.”

So go ahead and crack a lawyer joke if you must. But keep in mind, as Montgomery notes, that for every barrister out there who deserves to “live under that cloud of public perception,” there are many, many more who don’t.

Back when the Maine Supreme Judicial Court created the Katahdin Counsel Recognition Program in 2012, it included a list of frequently asked questions on the program’s website.

Asks one question: “Is participation in the Katahdin Recognition Program mandatory?”

“No,” reads the reply, “participation in the program is purely voluntary.”

The next question, this being a site for lawyers and all, asks, “What happens if I choose not to participate in the Katahdin Counsel Recognition Program?”

The reply: “Nothing.”

Precisely.

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