

>> SUPREME COURT OF FLORIDA
IS NOW IN SESSION.
ALL WHO HAVE CAUSE TO PLEAD,
DRAW NEAR, GIVE ATTENTION.
YOU SHALL BE HEARD.
GOD SAFE THESE UNITED STATES,
THE GREAT STATE OF FLORIDA AND
THIS HONORABLE COURT.

[BACKGROUND SOUNDS]

>> LADIES AND GENTLEMEN, THE
SUPREME COURT OF FLORIDA.

PLEASE BE SEATED.

>> GOOD MORNING.

WELCOME TO THE FLORIDA SUPREME
COURT.

THE FIRST CASE ON THE DOCKET
THIS MORNING IS THE CASE OF
AMENDMENTS TO THE FLORIDA BAR
RULES.

MR. CANTERO, YOU'RE UP.

>> THANK YOU, YOUR HONOR.

MAY IT PLEASE THE COURT, RAU
WIEWL CANTERO ON BEHALF OF THE
PETITIONERS.

I WILL SPEAK FOR TEN MINUTES AND
SAVE FIVE MINUTES FOR REBUTTAL.

ALSO WITH ME IS JIM KAWALSKY
FROM JACKSONVILLE LEGAL
SERVICES, AND HE WILL SPEAK FOR
FIVE MINUTES AS WELL.

LAWYERS HAVE BEEN GRANTED A
SPECIAL BOON BY THE STATE
OF FLORIDA.

THEY, IN EFFECT, HAVE A MONOPOLY
ON THE PUBLIC JUSTICE SYSTEM.

IN RETURN, LAWYERS ARE ETHICALLY
BOUND TO HELP THE STATE'S POOR
GAIN ACCESS TO THAT SYSTEM,
END QUOTE.

DUE TO THE DETERIORATING
ECONOMIC CONDITIONS IN FLORIDA,
THE MORE AND MORE PEOPLE QUALIFY
AS POOR NEEDING LEGAL AID, AND
YET THERE ARE FEWER AND FEWER
RESOURCES TO HELP THEM.

THROUGH THIS PETITION 522
MEMBERS OF THE FLORIDA BAR SEEK
TO RECTIFY THAT IMBALANCE.

I WANT TO CLARIFY TWO THINGS IN
CASE IT WASN'T CLEAR ENOUGH FROM

OUR PETITION AND OUR RESPONSES.
NUMBER ONE, IF YOU GRANT THIS
PETITION, NO FEES WILL BE
INCREASED.

YOU WILL SIMPLY BE GIVING THE
BOARD OF GOVERNOR OF THE FLORIDA
BAR THE AUTHORITY TO INCREASE
FEES.

WE WILL THEN HAVE TO PLEAD WITH
THEM--

>> SO WHAT IS THE POINT?

I MEAN, WE HAVE THE FLORIDA BAR
HERE, AND THE FLORIDA BAR SEEMS
TO BE OPPOSED TO A FEE INCREASE
TO THE MEMBERSHIP.

SO WHY DO WE HAVE THIS PETITION?

>> WELL, WE DIDN'T KNOW THEY
WERE OPPOSED UNTIL WE FILED IT.

>> IF YOU'RE GOING TO GIVE THE
BAR THE AUTHORITY TO DO IT AND
THE BAR HAS SAID THEY DON'T WANT
TO DO IT OR WILL NOT DO IT, THEN
WHERE ARE WE?

WHERE DOES THAT LEAVE US?

>> THEN IT LEAVES US IN A
QUANDARY.

OF COURSE, WE COULDN'T KNOW THAT
THE BAR WAS OPPOSED TO IT UNTIL
WE FILED THIS PETITION.

THEY RECEIVED THIS PETITION
UNDER THE RULES BEFORE WE FILE
IT IN THIS COURT.

SO IF THE BAR DECIDES NOT TO
INCREASE IT, TWO THINGS CAN
HAPPEN.

WE CAN COME BACK TO THIS COURT
AND ASK YOU TO AMEND THE RULE TO
REQUIRE A FEE INCREASE, OR WE
CAN WORK WITH THE BAR TO DO
SOMETHING ELSE BESIDES A FEE.

>> NO, YOU KNOW, IT SEEMS LIKE
IT'S A GOOD IDEA THAT WE SHOULD
HELP TO FUND LEGAL SERVICES, AND
WE HAVE IN THE PAST ASKED
LAWYERS TO EITHER DO PRO BONO
WORK AND TELL US WHAT HOURS THEY
DO, OR WE'VE ASKED LAWYERS IN
THE PAST TO GIVE MONEY TO LEGAL
SERVICES AND TELL US WHAT, IF
THEY'RE GIVING MONEY TO LEGAL

SERVICES.

AND SO HOW DOES THIS ALL PLAY--
HOW WOULD THIS ALL PLAY INTO IT
IF THE BAR, IN FACT, DECIDED TO
INCREASE THE FEES FOR LAWYERS,
WHAT WOULD HAPPEN TO THIS OTHER
SOURCE OF MONEY AND ACTIVITY BY
BAR MEMBERS?

>> A COUPLE OF ANSWERS, YOUR
HONOR.

FIRST OF ALL, ONLY 52% OF
LAWYERS HAVE REPORTED DOING PRO
BONO WORK EACH YEAR, SO ONLY
HALF THE LAWYERS ARE INVOLVED IN
THAT.

NUMBER TWO, YOU STILL NEED THE
INFRASTRUCTURE--

>> WELL, WHAT PERCENTAGE IS
DOING THE \$300?

DO YOU HAVE THAT FIGURE?

>> UM, NO, BUT THEY'VE RAISED--
I DON'T KNOW THE EXACT FIGURE ON
THAT.

THE NOW PROGRAM A COUPLE OF
YEARS AGO RAISED \$92,000 WHICH
ISN'T VERY MUCH.

BUT TO CONTINUE THE ANSWER TO
YOUR QUESTION, YOU STILL NEED
THE INFRASTRUCTURE OF LEGAL AID,
ATTORNEYS WHO DO THIS FOR A
LIVING TO WORK WITH THE PRO BONO
LAWYERS.

THE PRO BONO ATTORNEYS WHEN THEY
TAKE ON CASES, THEY USUALLY DO
IT IN CONJUNCTION WITH THE LEGAL
AID ORGANIZATION THAT HAS THE
EXPERTISE, THE SUBSTANTIVE
KNOWLEDGE, THEY HAVE THE FORMS,
THEY HAVE CASE LAW, AND THEY
WORK TOGETHER.

PRO BONO ATTORNEYS RARELY WORK
IN ISOLATION.

SO THEY STILL NEED THAT
EXPERTISE.

IT REALLY IS, YOU NEED BOTH.
WE'RE STILL GOING TO NEED PRO
BONO SERVICES.

THIS IS NOT GOING TO BE A
PANACEA THAT'S GOING TO CURE
EVERYTHING AND MAKE EVERYBODY

HAVE REPRESENTATION.
RIGHT NOW ONLY 20% OF THE PEOPLE
THAT NEED LEGAL AID ARE GETTING
LEGAL AID.

THIS IS NOT GOING TO BRING IT TO
100%, BUT IT'S GOING TO TAKE THE
LEAD IN DOING SOMETHING.

>> AND ONE OTHER QUESTION.
IF THE BAR DECIDES TO, IN FACT,
IF WE GIVE THEM THE AUTHORITY TO
INCREASE THE FEES AND THEY, IN
FACT, INCREASE THE FEES, HOW
MUCH MONEY ARE WE LOOKING AT,
AND IS THIS TO BE A PERMANENT
INCREASE, OR IS IT A INTERIM
INCREASE WHILE THE CRISIS IS
GOING ON, OR JUST WHAT DO YOU
ANTICIPATE?

>> WELL, THAT LEADS TO THE
SECOND INITIAL POINT I WANTED TO
MAKE, WHICH IS THAT THE BAR--
IF THEY DECIDE TO INCREASE
FEES-- THEY DON'T NEED TO
INCREASE FEES BY \$100.

THEY CAN INCREASE FEES ANYTHING
UP TO \$100.
THEY CAN MAKE IT TEMPORARY OR
PERMANENT IN THEIR DISCRETION.
AND THOSE ARE THE DEBATES THAT
WE CAN HAVE ONCE THIS COURT
GRANTS THE PETITION, BUT WE
CAN'T HAVE THAT DEBATE NOW
BECAUSE THEY DON'T EVEN HAVE THE
AUTHORITY.

>> YES, I-- LET ME PREFACE THE
QUESTION BY FIRST SAYING THAT I
COMMEND YOU AND THOSE OF YOU
INVOLVED IN DRAWING THIS ISSUE,
AT LEAST MAKING SOME ATTEMPT TO
RESOLVE A SIGNIFICANT PROBLEM
THAT GOES ON IN THE STATE DAY
AFTER DAY.

IT SEEMS AS THOUGH IF WE CAN, I
MEAN, I'M NOT SURE ANYBODY CAN
ARGUE AGAINST WHAT'S NEEDED.
THE QUESTION IS HOW.

>> EXACTLY.

>> AND THE BAR SEEMS TO MAKE THE
ARGUMENT THAT IT'S NOT
AUTHORIZED TO RAISE FEES FOR

THIS PURPOSE.

THEY POINT TO A SUPREME COURT CASE AND MAKE THE ARGUMENT THAT THE BAR SHOULD BE LIMITED TO REGULATORY MATTERS AND MONIES USED FOR THAT.

SO THEN, I MEAN, THE QUESTION COMES UP HOW FAR WOULD THIS CONCEPT GO?

I MEAN, WE COULD COME TO A SITUATION WHERE WE DON'T HAVE ENOUGH JUDGES IN A PARTICULAR CIRCUIT.

COULD WE THEN RAISE ADDITIONAL MONEY AND FUND ADDITIONAL POSITIONS?

WE KNOW WE ARE WITHOUT CASE MANAGERS AND CERTAIN PEOPLE ARE NEEDED IN THE COURT SYSTEM.

CAN WE USE THE BAR DUES FOR THOSE KINDS OF THINGS THAT ARE REALLY ON THE GROUND HAVE PROVEN THEMSELVES TO HAVE, GIVE MEANINGFUL ACCESS TO JUSTICE?

IS.

>> YOUR HONOR, THAT'S A GOOD POINT, AND I THINK WE'D HAVE TO TAKE THAT ON A CASE-BY-CASE BASIS.

BUT AS FAR AS THE LEGAL SERVICES TO THE POOR, THIS COURT HAS SAID THAT AS PART OF THE ADMINISTRATION OF JUSTICE IN THIS STATE, WHICH IS WITHIN THE COURT'S VIEW PURVIEW, IT HAS SAID THE ADMINISTRATIVE BRANCH HAS THE RESPONSIBILITY TO INSURE THAT ACCESS TO THE COURT IS PROVIDED FOR ALL SEGMENTS OF SOCIETY.

>> YOU AND I CAN'T DISPUTE ONE ANOTHER ON THAT, I MEAN, WE AGREE ON THAT.

BUT IS THERE A CUTOFF POINT, I GUESS, IS WHAT WE ARE SAYING. WHERE WOULD THAT LINE BE DRAWN?

>> WELL, THERE'S A CUTOFF, BUT I DON'T THINK THERE'S A BRIGHT LINE IN THIS.

WHAT COMES UNDER ADMINISTRATION

OF JUSTICE IS SOMETHING YOU HAVE TO DECIDE, I'M SURE.

EVENTUALLY THERE ARE THINGS THAT DON'T COME UNDER ADMINISTRATION OF JUSTICE.

BUT, CERTAINLY, IF YOU HAVE THE AUTHORITY TO HAVE A REPORTING REQUIREMENT FOR PRO BONO, YOU UNDERSTAND HOW IMPORTANT IT IS TO PROVIDE LEGAL AID OR REPORTING THAT YOU ARE PROVIDING \$350 A YEAR, THIS ISN'T VERY FAR FROM THAT.

AND SECONDLY, IF YOU ACCEPT THE BAR'S POSITION THAT THIS IS A TAX AND BEYOND REGULATION OF LAWYERS, THEN THERE'S A WHOLE HOST OF PROGRAMS THAT THE BAR CURRENTLY HAS THAT FALL LIKE A HOUSE OF CARDS.

BECAUSE THE BAR HAS PROGRAMS FOR A LOT OF THINGS THAT DON'T INVOLVE STRICT REGULATION OF THE PRACTICE OF LAW.

THEY HAVE APPROPRIATIONS OF \$4.5 MILLION FOR COMMUNICATIONS WITH THE PUBLIC.

NOT WITH LAWYERS, WITH THE PUBLIC.

PR CAMPAIGNS.

THEY HAVE THE CLIENT SECURITY FUND WHICH PROVIDES MONETARY RELIEF TO PERSONS WHO HAVE BEEN TAKEN ADVANTAGE OF BY LAWYERS.

AND UNDER THAT FUND, THE RULE 7-3.1 SAYS THAT OUT OF EVERY ANNUAL FEE \$25 OF EVERY FEE GOES TO THE CLIENT SECURITY FUND.

SO WHAT WE'RE TRYING TO DO IS A TAX, CERTAINLY THAT'S A TAX. CHIEF JUSTICE.

>> A LOT OF INTEREST IN THIS AREA.

AND I'VE BEEN DOING A LOT OF READING AND TALKING TO A LOT OF PEOPLE FROM AROUND THE COUNTRY, OTHER CHIEF JUSTICES, HOW THEY DO IT IN THOSE STATES.

AND LET'S JUST LOOK STRICTLY AT NUMBERS FOR A SECOND.

WHAT IT IS THAT YOU CAN ACCOMPLISH.

AND, AGAIN, I COMMEND YOU FOR DOING THIS AND AT LEAST BRINGING IT TO A POINT OF DISCUSSION BECAUSE IT NEEDS TO BE DISCUSSED.

2008 WAS A TYPICAL YEAR FOR EVERYBODY INVOLVED.

THE JUDICIAL SYSTEM, THE ECONOMY JUST DROPPED.

THE FIVE YEARS PRECEDING 2008, LET'S TAKE A LOOK AT THOSE FIVE YEARS FOR A SECOND.

THE IOING TA WAS PROVIDING THE AFFORDABLE ART FOUNDATION WITH ABOUT \$43 MILLION A YEAR.

OF THOSE \$43 MILLION A YEAR ON AVERAGE-- I'M AVERAGING FIVE YEARS OUT-- OF THOSE \$43

MILLION, THE FLORIDA BAR FOUNDATION WAS PROVIDING BY WAY OF GRANTS ABOUT \$30 MILLION ON AVERAGE FOR THOSE FIVE YEARS TO LEGAL AID SOCIETIES AND THAT TYPE OF WORK.

2008 IT DROPPED TO NOTHING.

SO IF WE CAN USE \$30 MILLION AS THE SOURCE THAT THE LEGAL AID SOCIETIES WERE GETTING PRIOR TO 2008, ASSUMING FOR A SECOND THAT YOU PREVAIL AND THAT YOU'RE ABLE TO GET \$100 FOR EVERY LAWYER IN FLORIDA, 100,000 LAWYERS, THAT'S \$10 MILLION.

THAT'S STILL FAR SHORT OF THE \$30 MILLION THAT YOU WERE GETTING BEFORE THE ECONOMY.

SO, BASICALLY, SOME PEOPLE WILL BE PROVIDED-- WHICH IS A GOOD THING-- ABOUT 25, 30, 25, 30,000 PEOPLE WILL BE PROVIDED SERVICES WITH THOSE \$10 MILLION.

YOU'RE NOT GOING TO GET \$10 MILLION, OBVIOUSLY, BUT ASSUMING YOU DO, WE'RE NOW FIXING IT.

AND THERE'S NO STRATEGY FROM WHAT I SEE AS TO HOW WE'RE GOING TO FIX THIS IN THE FUTURE.

I'M LOOKING FOR A PERMANENT FIX.

I'M LOOKING FOR A WAY THAT WE DON'T HAVE TO DO THIS EVERY YEAR.

LET'S ASSUME FOR A SECOND THAT YOU GET \$100 FROM EVERY LAWYER. YOU'RE NOT GOING TO BE ABLE TO COME BACK TO THE BAR AGAIN NEXT YEAR AND SAY WE REALLY NEED 200, AND THE YEAR AFTER THAT, WE NEED 300.

YOU CAN ONLY GO TO THE BAR SO MANY TIMES.

THIS IS NOT FIXING IT.

AND WHY NOT LET PEOPLE STUDY THIS SUBJECT, BECAUSE I THINK FOR IT TO BE A FIX, IT REQUIRES NOT JUST THE BAR, IT REQUIRES THE LEGISLATURE, IT WOULD REQUIRE THE BUSINESS COMMUNITY. IT HAS TO BE A SOCIETAL TYPE OF FIX.

A LOT OF PEOPLE HAVE TO COME IN AND HELP WITH THIS.

OTHERWISE WE'RE JUST PUTTING A BAND-AID AND KICKING THE CAN DOWN THE ROAD.

>> YOUR HONOR, THAT'S A LONG QUESTION.

I THINK THERE'S A QUESTION--

[LAUGHTER]

I'LL TRY TO GIVE A SHORT ANSWER.

>> THERE IS A QUESTION IN THERE.

>> I'LL TRY TO FIND IT.

[INAUDIBLE]

>> YES.

>> IF ALL WE'RE DOING IS JUST KICKING THE CAN DOWN THE ROAD.

>> IT'S NOT BECAUSE \$10 MILLION FOR LEGAL SERVICES, THAT'S PEOPLE THAT ARE-- WITHOUT IT, THAT'S MORE PEOPLE THAT ARE LOSING THEIR HOMES THAT SHOULDN'T LOSE THEIR HOMES, MORE PEOPLE THAT AREN'T GETTING SOCIAL SECURITY BENEFITS THAT NEED AND DESERVE THOSE BENEFITS, MORE PEOPLE THAT AREN'T GETTING VETERANS BENEFITS WHO DESERVE THOSE BENEFITS AND NEED THOSE BENEFITS.

>> WHAT ABOUT THE ONES WHO ARE NOT?

>> THERE'S ALWAYS GOING TO BE-- WE'RE NOT GOING TO FIX EVERYTHING, BUT AS LAWYERS, AS THE JUDICIAL SYSTEM, AS THE SUPREME COURT OF FLORIDA, WE NEED TO TAKE THE LEAD.

IF WE DON'T CARE ABOUT THOSE PEOPLE AND WE'RE IN THE JUSTICE SYSTEM, NOBODY ELSE IS GOING TO CARE ABOUT THEM.

SO WE NEED TO TELL THE PUBLIC WE CARE, THIS IS WHAT WE'RE DOING, WE NEED TO DO MORE.

I KNOW I'M IN MY REBUTTAL TIME. I WANT MR. CA WALL SKY TO ADDRESS THE COURT AS WELL.

>> I'LL GIVE YOU A COUPLE MORE MINUTES SINCE MY QUESTION WAS SO LONG.

[LAUGHTER]

>> THANK YOU, YOUR HONOR.

>> PLEASE THE COURT, GOOD MORNING.

JIM KOWALSKI ON--

[INAUDIBLE]

WHICH INCLUDES THE EXECUTIVE DIRECTORS OF THE LEGAL AID PROGRAMS IN FLORIDA.

>> COULD YOU KEEP YOUR VOICE UP?

>> THIS IS NOT A PERMANENT FIX, BUT IT IS ALSO NOT KICKING THE CAN DOWN THE ROAD.

THIS IS PROVIDING A TEMPORARY TOOL TO THE COMMISSION, TO THE BAR TO KEEP THE DOORS OPEN WHILE WE DEVELOP A PERMANENT FIX.

LET ME START, IF I COULD, WITH THE BUILDING THAT I SPEND MOST OF MY TIME IN.

IT'S A SEVEN-STORY BROWNSTONE IN THE CENTER OF JACKSONVILLE.

IT'S 100 YEARS OLD THIS YEAR.

IT'S IN THE MIDDLE OF THE URBAN CORE, A CITY OF ALMOST A MILLION PEOPLE, A BUDGET OF ALMOST A BILLION DOLLARS, AN NFL CITY.

WE HAVE THE SECOND HIGHEST RESIDENTIAL VACANCY RATE IN THE

COUNTRY.

WE ARE ONE OF ONLY FIVE METROPOLITAN AREAS IN THE NATION WHERE 45% OR MORE OF THE POPULATION IS IN ACTIVE DEBT COLLECTION.

TWO OF THOSE ARE IN FLORIDA. EVERY OTHER FRIDAY WE HAVE A SIGN ON THE FRONT DOOR OF THE MAJOR HARDING CENTER FOR JUSTICE THAT READS WE ARE CLOSED THIS FRIDAY DUE TO LACK OF FUNDING. THIS PICTURE IS REPEATED THROUGHOUT FLORIDA.

ONE PROGRAM IS LOSING FIVE LAWYERS IN 2015, FORECASTING A \$700,000 BUDGET DEFICIT. ANOTHER IS DOWN SEVEN LAWYERS IN FOUR YEARS.

THE MIAMI PROGRAM SOLD ITS HEADQUARTERS BUILDING LAST WEEK. WE HAVE FEWER THAN 400 LEGAL AID LAWYERS TO SERVE THIS ENTIRE STATE.

BY CONTRAST, WE HAVE A 1,900 ASSISTANT STATE ATTORNEYS. WE HAVE 1,600 ASSISTANT PUBLIC DEFENDERS.

MORE CAPITAL COUNSEL, MORE CONFLICT COUNSEL, MORE PAID THROUGH THE JACs.

WE ARE HUGELY THANKFUL TO THE PRO BONO LAWYERS WHO CONTINUE TO INCREASE THE GIVING OF THEIR TIME AND TALENT YEAR AFTER YEAR THROUGH THIS RECESSION.

BUT THE WORK DONE BY THE LEGAL AID LAWYERS, THE CORE WORK WE DO TO KEEP PEOPLE'S ROOFS OVER THEIR HEADS IS BECOMING MORE TECHNICAL AND MORE DIFFICULT. THE CASES I NOW HANDLE AS A LEGAL AID LAWYER ARE EVERY BIT AS DIFFICULT AND BYZANTINE AS THE DEATH PENALTY CASES I HANDLED AS A HOMICIDE PROSECUTOR, AS THE DRAM SHOP AND FEDERAL TORT CLAIMS ACT CASES THAT I TRIED IN THE CIVIL SIDE OF MY PRACTICE, AS THE MOTOR

VEHICLE DEALERSHIP ACQUISITION
THAT I MANAGED IN THE COMMERCIAL
SIDE OF MY PRACTICE.

THE LEADING LAWYERS ON PUBLIC
BENEFITS WORK FOR LEGAL AID.

THE LEADING LAWYERS REPRESENTING
LANDLORD, REPRESENTING TENANTS
IN PUBLIC HOUSING CASES WORK FOR
LEGAL AID.

THE LEADING LAWYERS DEFENDING
INDIVIDUALS IN FORECLOSURE,
PARTICULARLY THE ELDERLY IN
REVERSE MORTGAGES WORK FOR LEGAL
AID.

FINALLY, YOU REFERENCED THE
ACCESS TO JUSTICE COMMISSION.
THANK YOU AND THANK YOU FOR
PLACING THE SPOTLIGHT ON THIS
ISSUE AND FOR MOVING FORWARD TO
FIND THAT PERMANENT SOLUTION.
BUT RESPECTFULLY, THIS IS NOT
KICKING THE CAN DOWN THE ROAD,
THIS IS TAKING THE CLOSED SIGN
OFF THE DOOR WHILE WE FIND THAT
PERMANENT FIX.

>> BUT THE PROBLEM REALLY IS,
AND I'M HEARING YOU, AND IT'S
A-- I THINK IT SHOULD BE AN
EMBARRASSMENT TO OUR ENTIRE
STATE.

AND I LOOK TO OUR 1990 OPINION
WHERE WE SAID THAT THIS COURT
THAT WOULD HAVE THE ABILITY TO
REQUIRE EVERY LAWYER TO PROVIDE
LEGAL AID TO INDIGENTS, NOW,
THAT WAS 1990.

WE LED THE COUNTRY IN INTEREST
ON TRUST ACCOUNTS.

BUT WHAT I'M CONCERNED, BUT I'M
THINKING, OKAY, WE APPROVE THIS,
THERE'S AT LEAST GOING TO BE \$10
MILLION IN THE COFFERS FOR YOU
TO REHIRE THOSE LAWYERS.

BUT YOU'VE GOT THE BAR AT THIS
POINT ESSENTIALLY UNANIMOUSLY
SAYING THEY WON'T DO IT.

SO MY QUESTION TO YOU IS, AND
IT'S REALLY FOLLOWING UP WITH
JUSTICE LABARGA, IS WHY NOT
LEAVE THIS OPEN, THIS PETITION,

AND START SOME SERIOUS
ADDITIONAL NEGOTIATIONS WITH THE
BAR AS TO WHAT ELSE IN THE FORM
OF IMMEDIATE RELIEF?

THERE WAS A \$6 MILLION BRIDGE
LOAN, BUT IT'S NOT ENOUGH.
WE'VE GOT TO GET LEGAL AID
ATTORNEYS HIRED BACK, AND WE'VE
GOT IT.

WE SHOULD, YOU KNOW, THIS IS
MAYBE SIX YEARS THAT THIS HAS
BEEN COMING.

SO THAT'S REALLY, YOU'VE REALLY
EXPRESSED IT ELOQUENTLY.

MY FRUSTRATION IS NOT THAT WE'RE
KICKING THE CAN DOWN THE ROAD,
BUT EVEN IF WE APPROVE YOUR
POSITION, IT WON'T APPARENTLY DO
ANYTHING IMMEDIATELY.

AND THAT'S ANOTHER LONG
QUESTION, BUT IT'S MY CONCERN
THAT REALLY WHERE THIS WE
DECISION ISN'T GOING TO DO WHAT
WE ALL UNDERSTAND WHAT LEGAL AID
IS, IS THE BACKBONE TO INDIGENT
REPRESENTATION IS GOING TO HELP
THE SITUATION.

>> WELL, AND THANK YOU FOR THE
QUESTION, AND I HOPE MR. CANTERO
WILL GET ADDITIONAL TIME AS
WELL.

IT WILL PROVIDE THE BAR EVEN
GIVEN ITS, EVEN GIVEN TODAY'S
POSITION-- AND WE'RE ALL AWARE
OF THE IRONY OF TODAY, ARGUING
AGAINST THE BAR ON THIS ISSUE--
BUT IT WILL GIVE THE BAR WITH
THE STATEMENT OF THIS COURT A
ADDITIONAL TOOL THAT IT CAN THEN
USE TOGETHER WITH THE COMMISSION
TO DEVELOP A LONG-TERM FIX.

AND RESPECTFULLY, THAT DURABLE
TOOL RIGHT NOW IS A CRITICAL
NEED FOR LEGAL AID IN FLORIDA.
WE ASK THAT YOU GRANT THE
PETITION.

THANK YOU.

>> MAY IT PLEASE THE COURT, I'M
BARRY RICHARD REPRESENTING THE
FLORIDA BAR.

IT'S RARE THAT I HAVE BEEN BEFORE THIS COURT WHERE THERE WAS AS MUCH CONSENSUS BETWEEN THE TWO SIDES ON THE ISSUE THAT YOU HAVE BEFORE YOU.

THE BAR ABSOLUTELY AGREES THAT ACCESS TO ESSENTIAL LEGAL SERVICES IS A CRITICAL ELEMENT OF A DEMOCRATIC AND JUST SOCIETY.

WE AGREE THAT THERE IS A GREAT NEED TO BE FILLED IN THIS INSTANCE, AND WE HAVE A HIGH RESPECT FOR THE SELFLESS MOTIVES OF THE PETITIONERS.

THE ONLY PLACE THAT WE DISAGREE IS THE APPROPRIATE METHOD FOR FILLING THE NEED.

WE'VE RAISED THE ISSUE OF WHETHER THIS COURT HAS THE AUTHORITY TO INCREASE BAR DUES BY \$100 EARMARKED FOR LEGAL AID TO THE NEEDY.

WHEN THIS COURT INITIALLY DETERMINED THAT IT HAD THE AUTHORITY TO IMPOSE BAR DUES AT THE TIME OF \$5 PER YEAR-- WHICH INDICATES HOW FAR WE'VE COME IN TERMS OF INFLATION-- IT TOOK PAGES TO NOTE THAT IF THAT WERE-- PAINS TO NOTE THAT IF THAT WERE TO BE CONSIDERED A REVENUE-RAISING MEASURE, IT WOULD BE A TAX AND BEYOND THE AUTHORITY OF THE COURT.

IT JUSTIFIED THE IMPOSITION UPON THE FACT THAT IT WAS, IT WAS A MEASURE THAT ENABLED THE BAR TO ENGAGE IN ITS REGULATORY FUNCTION.

AND IF I CAN PAUSE THERE FOR A MINUTE, I DON'T-- I SUSPECT THAT THE COURT WAS, I WAS 6 YEARS OLD AT THE TIME, SO I DON'T KNOW THIS, BUT I SUSPECT THAT THE COURT DIDN'T INTEND THAT WORD "REGULATORY" TO BE LIMITED TO THE DISCIPLINARY FUNCTION OF THE BAR.

I SUSPECT THEY MEANT THE COSTS

OF OPERATION OF THE BAR TO PERFORM ITS FUNCTION AS AN INTEGRATED PART OF THE JUDICIAL BRANCH WITHIN THE SCOPE OF THOSE THINGS THAT THIS COURT DELEGATES TO THE BAR.

>> BUT LET ME-- AND I'VE GOT THE 1949 OPINION.

I WAS A YEAR OLD, SO WE'RE NOT-- BUT I DON'T REALLY SEE, YOU KNOW, YOU COULD PICK OUT ONE LINE, YOU KNOW, THEY WERE ON THE FOREFRONT OF SAYING WE WANT AN INTEGRATED BAR IN FLORIDA, AND BECAUSE OF THAT THIS BAR HAS BEEN AUTOMOBILE TO DO AMAZINGLY, AMAZING THINGS FOR-- NOT JUST FOR TORN, BUT FOR THE CITIZENS. WE SAID THAT THE LAW PRACTICE SO INTIMATELY CONNECTED WITH THE EXERCISE OF JUDICIAL POWER AND THE ADMINISTRATION OF JUSTICE THAT THE RIGHT TO DEFINE AND REGULATE THE PRACTICE NATURALLY AND LOGICALLY BELONG TO THE JUDICIAL DEPARTMENT.

NOW, AS MR. CANTERO POINTED OUT, MANY OF THE PROGRAMS OF THE BAR ARE NOT PER SE REGULATING LAWYERS.

BUT IT'S REGULATING THE PRACTICE.

AND IF WE'VE GOT THE AUTHORITY TO REQUIRE EVERY ONE OF THE 100,000 LAWYERS TO TAKE ON A LEGAL AID CASE WHICH UNDER THIS 1990 OPINION SEEMS THAT WE HAVE, HOW IN THE WORLD WOULDN'T WE HAVE THE AUTHORITY TO HELP TO PROVIDE LEGAL SERVICES TO THE POOR THROUGH DIRECTLY FUNDING LEGAL AID ATTORNEYS?

SO I DON'T KNOW THE BAR WANTS TO TAKE THAT POSITION BECAUSE THE NEXT TIME HENRY TRAWICK IS GOING TO BE FILING A LAWSUIT TO TAKE AWAY HALF OF YOUR PROGRAMS.

SO, AGAIN, ANOTHER LONG QUESTION BUT I DON'T-- DO YOU REALLY SEE IN PICKING ON THAT 1949 OPINION

THAT THE IDEA WAS THAT MEMBERSHIP FEES COULD ONLY BE USED FOR THE DIRECT REGULATION OF LAWYERS AS OPPOSED TO THE VARIOUS ASPECTS OF THE ADMINISTRATION OF JUSTICE, AND DOESN'T THAT-- IF WE WERE TO HOLD THAT-- REALLY PUT IN JEOPARDY MANY OF THE BAR'S GREAT PROGRAMS THAT THEY'VE BEEN INVOLVED WITH OVER THE LAST 60, HOWEVER MANY YEARS, 67, 8 YEARS?

>> WELL, FIRST, LET ME SAY THAT I DON'T MIND LONG QUESTIONS, SO I DON'T WANT THE JUSTICES TO HESITATE TO ASK QUESTIONS AS LONG AS YOU CARE TO.

RATHER THAN TALKING ABOUT THAT OPINION, BECAUSE I AGREE THAT WE CAN'T READ TOO MUCH INTO THAT--

>> BUT YOU MADE THAT, BUT YOU STARTED OUT, THAT WAS YOUR ARGUMENT THAT WE CAN'T DO THIS BECAUSE IT WOULD BE A TAX.

>> RIGHT.

AND THAT'S STILL MY ARGUMENT. AND THAT CASE ACKNOWLEDGED IT. BUT HERE'S THE DISTINCTION. THERE ARE TWO THINGS I NEED TO ADDRESS HERE.

THE FIRST ONE IS AS FAR AS REQUIRING PRO BONO, LAW HAS ALWAYS DISTINGUISHED BETWEEN REQUIRING CONDUCT ON THE ONE HAND AND EXACTING MONEY ON THE OTHER HAND.

REQUIRING CONDUCT IS NOT A TAX, AND IT DOES NOT VIOLATE ANY TAX RESTRICTIONS IN THE CONSTITUTION.

>> OKAY.

SO WE COULD REQUIRE EVERY LAWYER TO EITHER PROVIDE LEGAL AID OR PROVIDE, YOU KNOW, WHATEVER THEIR EQUIVALENT, ONE HOUR OF THEIR HOURLY BILLING WHETHER IT'S \$100 AN HOUR OR \$750. THAT WOULD NOT BE MANDATORY, THAT WOULD BE THEIR OPT-OUT. BUT WE COULD REQUIRE EVERY

LAWYER TO DO IT.

>> YOU COULD DO IT, I THINK,
WITHOUT VIOLATING THE SEPARATION
OF POWERS REGARDING TAXATION.
IT MIGHT VIOLATE SOMETHING ELSE
IF, FOR INSTANCE, IT WAS SO
BURDENSOME AS TO BECOME
CONFISCATORY, BUT IT'S NOT A
TAX.

SO IT DOESN'T FALL INTO THE SAME
CATEGORY.

THIS COURT HAS DEFINED NUMEROUS
TIMES THE DIFFERENCE BETWEEN A
TAX AND A FEE, AND WE KNOW WHAT
THAT IS.

A FEE IS DIRECTLY RELATED TO THE
USE OR THE REGULATION OF
WHATEVER IT IS AND HAS GOT TO BE
COMMENSURATE WITH THE VALUE OF
THE COST OF THE USE OF THE
REGULATION.

A TAX IS JUST A REVENUE-RAISING
MEASURE.

EVERYTHING THAT-- AND BY THE
WAY, WE'VE GOT TO DISTINGUISH
BETWEEN VOLUNTARY BAR MONEY AND
MANDATORY DUES WHICH I'LL DO IN
JUST A MOMENT BECAUSE I THINK IT
SHEDS SOME LIGHT ON SOME THINGS.
BUT EVERY TIME THAT WE HAVE USED
MANDATORY BAR DUES TO PAY FOR
PROGRAMS, THEY HAVE BEEN
DIRECTLY RELATED TO THE CONDUCT
OF LAWYERS.

THIS IS NOT, THIS IS A
REVENUE-RAISING MEASURE TO
PROVIDE MONEY FOR THOSE PERSONS
WHO ARE TOO POOR TO AFFORD LEGAL
SERVICES.

IF THAT'S NOT A TAX, IT'S
DIFFICULT FOR US TO EXPLAIN WHAT
A TAX IS.

AND THAT BELONGS IN THE
LEGISLATURE.

IF I CAN FOR JUST A MOMENT, I'D
LIKE TO TALK ABOUT WHAT THE
BUDGET REALLY DOES.

WHAT THE PETITIONER HAS DONE IS
THEY HAVE SUBTRACTED THE LINE
ITEM IN THE BAR BUDGET FOR

REGULATION OF LAWYERS FROM THE
LINE ITEM FOR BAR DUES.

AND THAT'S WHERE THEY COME UP
WITH THE SEVEN PLUS SOMETHING
MILLION DOLLARS.

THAT'S NOT ACTUALLY THE COMPLETE
PICTURE FOR A COUPLE OF REASONS.
ONE OF THEM IS THAT THE BAR HAS
A SUBSTANTIAL AMOUNT OF REVENUE
INCOME THAT IS NOT FROM
MANDATORY DUES.

APPROXIMATELY IN THIS COMING
YEAR WE'RE BUDGETING A LITTLE
OVER \$15 MILLION IN INCOME FROM
OTHER PROGRAMS THAT ARE NOT
MANDATORY DUES THAT IS AVAILABLE
FOR THE PARTY DUES WHERE IT'S
NOT AN ISSUE OF TAXATION.

IF YOU DELETE FROM THAT ALL OF
THE TRULY REGULATORY, WHAT I
CONSIDER REGULATORY, WHAT I
CONSIDER REGULATORY, WHAT YOU'RE
LEFT WITH IS A LITTLE OVER \$10
MILLION IN MONEY.

SO MY POINT IS THAT EVERYTHING
THAT WE'RE TALKING ABOUT HERE IS
NOT-- YOU CAN'T SAY IS
NECESSARILY USED FOR BAR DUES.
THE ONE THING THAT IS EARMARKED
OUT OF THE MANDATORY BAR DUES IS
THE CLIENT SECURITY FUND.

>> ARE YOU MAKING A DISTINCTION
THEN THE MONIES, FOR EXAMPLE,
THAT THEY MAY PAY, A LAWYER MAY
PAY FOR A CLE PROGRAM?

IS THAT THE KIND OF OTHER MONEY
YOU'RE TALKING ABOUT?

>> YES.

CLE IS SELF-SUPPORTING.

IT BRINGS IN MONEY--

>> AND THAT IS THE OTHER MONEY
THAT YOU'RE TALKING ABOUT THAT'S
NOT BAR DUES?

>> WELL, THERE'S A LOT OF OTHER
MONEY, THERE'S MONEY FROM
ADVERTISING--

>> THAT'S NOT--

>> EXACTLY.

>> BUT ISN'T THAT STILL THE
MONEY FROM LAWYERS, HOWEVER, AND

CLE PROGRAMS ARE REQUIRED BECAUSE EVERY LAWYER HAS TO HAVE CONTINUING LEGAL EDUCATION, AND SO I'M NOT SURE THAT THAT KIND OF MONEY IS MUCH DIFFERENT THERE THEM PAYING THEIR BAR DUES.

>> WELL, IT'S NOT A MANDATORY EXACTION, SO IT WOULDN'T BE A TAX, IS ALL I'M SAYING.

THE FACT THAT THE BAR INVESTS MONEY, WHICH WE DO, WE INVEST MONEY.

WE GET SUBSTANTIAL INCOME FROM THE INVESTMENT.

THE FACT THAT WE SELL ADVERTISING, THAT'S NOT A TAXATION BECAUSE THE MONEY THAT COMES IN FROM THE SECTIONS WHICH IS VOLUNTARY WOULDN'T BE TAXES. THAT'S THE ONLY POINT I MAKE HERE, AND I THINK THIS COURT NEEDS TO SERIOUSLY WEIGH THE QUESTION OF WHETHER IT HAS THE AUTHORITY TO IMPOSE THIS FOR THIS PURPOSE.

>> SO YOU HAVE, JUST SO I UNDERSTAND, I DON'T KNOW WHERE THOSE DOLLARS ARE. IF THERE IS A SURPLUS BECAUSE OF OTHER--

[INAUDIBLE]

INCLUDING ADVERTISING, CLE, INVESTMENT, I KNOW THAT THE FLORIDA BAR GAVE THIS BRIDGE LOAN.

WOULD THEY NOT HAVE THE ABILITY TO CONTINUE TO GIVE THE \$10 MILLION THROUGH THEIR OTHER FUNDS AND REALLY AVOID THIS ISSUE, BUT DO IT IN A IMMEDIATE WAY SO THAT THIS OTHER MECHANISM WHICH MAY NOT, MAY HAVE SOME CONSTITUTIONAL CONCERNS OR IT MAY NOT DOESN'T HAVE TO BE UTILIZED?

I GUESS THAT'S THE QUESTION. THIS IS, HAS THE BAR TAKEN A POSITION AS TO WHY THEY'RE NOT WILLING TO STEP UP TO THE PLATE AND PROVIDE SOME OF THESE

POSITIONS THAT HAVE BEEN LOST
BACK TO LEGAL AID THROUGH THEIR
OTHER FUNDS?

>> WELL, I BELIEVE IN ANSWER, IN
DIRECT ANSWER TO THE QUESTION, I
THINK THAT THE BAR CAN-- THE
QUESTION IS THE EXTENT TO WHICH
THE BAR CAN USE MANDATORY BAR
DUES TO SUPPORT PROGRAMS--

>> BUT YOU SAID THERE'S ANOTHER
SOURCE.

>> RIGHT.

>> HOW MUCH IS THAT A YEAR?

>> APPROXIMATELY \$15 MILLION.

>> SO WHY-- AND IF THAT'S
EXCESS, I MEAN, THERE'S MONEY
THAT IS IN THE BAR COFFERS,
RIGHT, THAT'S CARRIED OVERRER
YEAR.

SO HAS THAT BEEN LOOKED AT, IS
MY QUESTION.

WE LOOK AT YOUR BUDGET EVERY
YEAR, AND WE APPROVE IT BECAUSE
WE DEFER TO THE BAR AND THEIR
GOOD JUDGMENT ON IT.

BUT THAT'S THE QUESTION, HAS
THAT BEEN LOOKED AT, AND IS
THIS, YOU KNOW, YOU'VE BROUGHT
IT UP, SO THAT'S MY, MY QUESTION
NOW.

>> WELL, I DON'T KNOW THAT, I
DON'T KNOW SPECIFICALLY, BUT I
DO KNOW THAT THIS IS AN ISSUE
THAT HAS RECEIVED CONSIDERABLE
ATTENTION FROM THE BAR, AND IT
HAS LOOKED FOR EVERY WAY THAT IT
BELIEVES IT HAS THE AUTHORITY TO
SUPPORT PRO BONO FINANCIALLY AND
OTHERWISE INCLUDING A
SUBSTANTIAL LOAN WHICH, BY THE
WAY, I THINK IS PERMISSIBLE EVEN
IF IT'S PARTIALLY BAR DUES
BECAUSE IT'S AN INVESTMENT.
IT IS AN INTEREST BEARING LOAN
JUST AS MANY OTHER INVESTMENTS
THAT THE BAR MAKES.

I WANTED TO RAISE THIS ISSUE OF
TAXATION AND AUTHORIZATION
BECAUSE I THINK IT'S AN ISSUE
THAT THE COURT REALLY NEEDS TO

CONSIDER.

BUT IT'S CERTAINLY NOT THE ONLY REASON THAT THE BAR OPPOSES THIS.

THE SECOND REASON IS A SOCIETAL PRINCIPLE THAT WE BELIEVE IS IMPORTANT.

THE DUTY TO MAKE LEGAL SERVICES ACCESSIBLE TO ALL OF OUR CITIZENS, ESSENTIAL LEGAL SERVICES, IS A DUTY OF ALL CITIZENS.

>> SHOULDN'T THE BAR TAKE THE LEAD IN THIS?

>> WELL, YOUR HONOR, THE BAR DOES TAKE THE LEAD.

LAST YEAR IN ANSWER TO ONE OF THE QUESTIONS THAT WAS RAISED, THERE WERE 1.7 MILLION HOURS OF PRO BONO WHICH IF YOU CALCULATE AT--

>> I READ ALL THAT, AND I APPRECIATE THAT.

OF-- AND WE'RE, THE BAR'S TO BE COMMENDED FOR THAT.

WHAT THEY'RE TALKING ABOUT IS THE INFRASTRUCTURE OF THE LEGAL AID PROGRAM.

IF THAT IS ALLOWED TO CRUMBLE, NO MATTER WHAT HAPPENS WITH THE CHIEF JUSTICE'S PROJECT, YOU KNOW, THAT VOID WOULD BE THERE AND WOULD BE VERY DIFFICULT TO RESURRECT.

>> WELL, I'M NOT DISAGREEING, AND I DON'T THINK THE BAR DISAGREES WITH THE FACT THAT THE BAR HAS TO TAKE THE LEAD IN FINDING SOLUTIONS TO THIS PROBLEM.

ALL I'M SAYING AND ALL THE BAR'S SAYING IS THAT LEAD COMES IN DIFFERENT METHODS.

ONE OF THEM, OF COURSE, IS PRO BONO.

ONE OF THEM IS THE MONEY.

>> I KNOW, BUT YOU ALREADY HAVE THAT.

THAT'S IN PLACE.

BUT YET THE INFRASTRUCTURE'S

CRUMBLING.

YOU SAID THE REASON THAT YOU AGREED ON MOST THINGS, THE MAIN THING YOU DIDN'T AGREE ON IS HOW.

IF YOU TELL ME WHAT YOUR VIEW ON HOW THAT SHOULD BE AS OPPOSED TO PETITION? -- COULD YOU TELL ME?

>> THE ONLY VIEW I COULD POSSIBLY HAVE, AND MAYBE SOMEBODY HAS MORE CREATIVE IDEAS THAN I HAVE, IS THAT THE LEGISLATURE OF THE STATE OF FLORIDA SHOULD FUND THIS ESSENTIAL SERVICE AND THAT THE BAR SHOULD UTILIZE THE SKILL OF ITS LAWYERS TO PERSUADE THE LEGISLATURE AND THE GOVERNOR TO DO THAT AND THAT PERHAPS WE SHOULD PERSUADE LAWYERS TO STEP UP AND PROVIDE MORE PRO BONO WORK.

THE REASON IN ADDITION TO THE TAXATION QUESTION THAT WE OPPOSE DOING IT THIS WAY IS THAT IT WOULD BE NO DIFFERENT THAN SAYING THAT DOCTORS NEED TO PROVIDE FOR THE COST OF PROVIDING MEDICAL CARE TO THE INDIGENT BY COMPULSORY MONEY OR THAT FARMERS NEED TO BE COMPELLED TO PROVIDE FOOD FOR THE NEEDY AND SO ON.

>> THE GOVERNMENT HAS UNDERTALKIN' TO DO THAT, BUT APPARENTLY IN MEDICAID AND OTHER FOOD PROGRAMS.

BUT APPARENTLY, IT HASN'T SEEN FIT TO DO IT IN THIS STATE FOR THE POOR.

COULD THAT POSSIBLY BE BECAUSE THEY MIGHT NOT VOTE?

>> I THINK IT'S A-- THAT MAY BE.

AND I THINK--

>> I MEAN--

>> I CERTAINLY AGREE WITH YOU, THE STATE HAS FAILED IN ITS OBLIGATION WHICH IS JUST AS IMPORTANT AS ALL OF THE OTHER

PROVISIONS WE'RE TALKING ABOUT.
THE QUESTION IS, ARE WE GOING TO
SPLINTER OUR SOCIETY UP SO THAT
WE'RE GOING TO SAY THAT EACH
GROUP OF PROFESSIONALS OR
OCCUPATIONS-- AND BY THE WAY,
THE BAR PROVIDES MORE PRO BONO,
BOTH MONETARY AND PERSONAL, THAN
ANY OTHER PROFESSION AND
OCCUPATION IN THE COUNTRY.

>> BUT WE'RE AN--

>> DON'T GIVE AS MUCH AS
EXPECTED.

>> WELL, YOU KNOW, WE DON'T
DISAGREE.

BUT I'M SAYING AS A SOCIETY ARE
WE GOING TO SPLINTER OURSELVES
UP AND SAY THAT THE PEOPLE
RESPONSIBLE FOR TAKING CARE OF
THE INDIGENT ARE THE PEOPLE
WHOSE SERVICES--

>> WE'RE JUST TALKING ABOUT THE
LEGAL SERVICES.

NOT THE FOOD, NOT THE MEDICAL.

>> RIGHT.

>> WE'RE TALKING ABOUT THE LEGAL
SERVICES.

>> EVERY PERSON IN THIS STATE
WHO HAS THE CAPACITY TO AFFORD
IT SHOULD BE PAYING THE COST TO
PROVIDE THOSE LEGAL SERVICES.
NOT ONLY IS IT INAPPROPRIATE TO
IMPOSE IT UPON ONE GROUP AND NOT
ONLY DO I THINK IT SENDS A BAD
SOCIETAL MESSAGE, BUT AS WAS
POINTED OUT ALREADY BY THE
COURT, IT WOULDN'T CREATE A DENT
IN THE PROBLEM THAT WE HAVE.
THERE IS ONLY ONE WAY TO DO IT,
AND THAT'S IF EVERY CITIZEN,
THROUGH THE LEGISLATIVE PROCESS
WHICH DOES HAVE THE POWER TO
TAX, DOES THEIR FAIR SHARE.

>> WELL, BUT WE'RE-- I GUESS
MAYBE WE SHOULD HAVE HAD THIS
CONVERSATION 2008 WHEN THE
ECONOMY TANKED.

BUT \$2 MILLION OR \$1 MILLION WAS
ALLOCATED BY THE LEGISLATURE TWO
YEARS IN A ROW.

WE HONORED ALL THOSE LEGISLATORS THAT DID THAT, THAT AMOUNT, ONE OR TWO MILLION.

WE WERE CELEBRATING THAT.

AND THEN THAT WAS VETOED.

SO THIS IDEA THAT WE'RE GOING TO GET THE LEGISLATURE IN THE NEXT, WHILE THE ECONOMY IS STILL IN THIS TANK SO THAT THE IOTA MONEY IS ALSO WHERE, YOU KNOW, AT ALL TIME LOWS, TO GET THAT FIXED IS LIKE, IS A LITTLE BIT-- AND I KNOW YOU'RE NOT NAIVE.

BUT THE SUGGESTION IS AT THIS POINT WE'RE ASKING WHAT CAN WE DO NOW.

THE IDEA THAT THE PRO BONO HOURS, WE KEEP ON SAYING THEY'VE RISEN.

FIRST OF ALL, A LOT OF THOSE HOURS THAT ARE REPORTED ARE FOR OTHER THAN DIRECT SERVICES TO LEGAL, YOU KNOW, WORKING WITH THE PROGRAMS WHICH DOESN'T MEAN IT'S NOT IMPORTANT, BUT IT'S NOT ALL GOING TO HELP THE LEGAL, YOU KNOW, THE LEGAL AID ORGANIZATIONS.

AND THE AMOUNT OF THE \$350 WHICH HAS BEEN THE SAME AMOUNT FOR, WHAT, TWO DECADES IS LESS AND LESS OF THE TOTAL MEMBERSHIP OF THE BAR.

SO THE BAR LEADERSHIP HAS STEPPED UP TO THE PLATE, BUT THE RANK AND FILE MEMBERS OF THE BAR HAVE NOT.

AND SO WE CAN TALK ABOUT ENCOURAGING THEM, BUT I'M NOT SURE SHORT OF SOMETHING A LITTLE MORE DRASTIC THAT WE OUGHT TO BE JUST SAYING WHAT MIGHT HAPPEN IN THE FUTURE.

SO, AGAIN, YOUR SOLUTION IS THE LEGISLATURE SHOULD FUND.

THAT'S-- AND IS THERE ANY--

>> I DON'T THINK THAT'S GOING TO HAPPEN.

>> YES, I THINK THERE ARE OTHER SOLUTIONS.

I THINK THAT THE BAR COULD
CREATE A VOLUNTARY FUND AND
ENCOURAGE LAWYERS TO CONTRIBUTE
TO IT.

LAWYERS HAVE CONTRIBUTED TO--
>> HOW MUCH WHEN THE NOW
CAMPAIGN WAS, APPARENTLY, THERE
WERE 3,000 LAWYERS OUT OF
100,000 THAT GAVE MONEY.

>> WELL, I DON'T KNOW HOW
EFFECTIVELY THE NOW CAMPAIGN WAS
PUBLICIZED TO LAWYERS.

BUT I DON'T KNOW WHAT ALL THE
SOLUTIONS ARE, BUT I KNOW WHAT
THE BAR TRULY BELIEVES IS NOT
THE SOLUTION, WHICH IS A
MANDATORY EXACTMENT OF ANOTHER
\$100 ON THE BAR DUES.

AND BY THE WAY, WHEN WE TALK
ABOUT THE \$4.8 MILLION IN
MONETARY CONTRIBUTIONS THAT WERE
MADE FOR THE \$350 SUGGESTED
CONTRIBUTION, WE HAVE TO ASK HOW
MUCH IS THAT GOING TO BE REDUCED
BY LAWYERS WHO SAY, WELL, OKAY,
INSTEAD OF \$350, I'LL GIVE \$250
BECAUSE NOW MY BAR DUES HAVE
BEEN RAISED, AND THAT'S
EARMARKED FOR THE SAME FUND.
OR STOP PAYING IT ALTOGETHER.

>> LET ME ASK YOU THIS--

[INAUDIBLE]

COMMISSION THAT WE'RE
ESTABLISHING--

[INAUDIBLE]

QUITE A FEW YEARS DOWN THE ROAD.
NOT GOING TO HAVE A QUICK FIX.
THEN COMES THE IMPLEMENTATION OF
WHATEVER--

[INAUDIBLE]

SO WE'RE TALKING A FEW YEARS
DOWN THE ROAD.

IT IS IMPERATIVE, I THINK, IN
OUR SOCIETY FOR LEGAL AID
SOCIETIES TO EXIST.

WE CANNOT DO WITHOUT THEM.

AND THEY'RE LOSING LAWYERS LEFT
AND RIGHT.

MY CONCERN IS WHAT DO WE DO
BETWEEN NOW AND THE TIME THAT WE

GET ANY TYPE OF SOLUTION OR SOME TYPE OF PERMANENT FIX TO THIS? WE'RE GOING TO LOSE A LOT OF THESE LAWYERS, WE'RE GOING TO SHUT DOWN LEGAL AID SOCIETIES, AND IT SEEMS TO ME, YOU KNOW, THE BAR OUGHT TO TAKE THE LEADERSHIP IN THIS TYPE OF THING.

BUT I'M LOOKING AT WHAT OTHER STATES HAVE DONE.

FOR EXAMPLE, ILLINOIS, MISSOURI, NEW YORK, PENNSYLVANIA, TEXAS, THEY ALL HAVE SOME TYPE OF GRADUATED FEE THAT IS GIVEN TO THE LEGAL AID SOCIETY SYSTEMS IN THOSE STATES.

WHY ISN'T SOMETHING LIKE THAT POSSIBLE HERE PERHAPS NOT AS AMBITIOUS, BUT SOMETHING POSSIBLE WHERE LAWYERS CONTRIBUTE SOME MONEY AS A REQUIREMENT OF THEIR ADMISSION TO THE BAR OR HAVING THE LICENSE TO PRACTICE LAW IN FLORIDA WHICH IS A LUCRATIVE THING TO HAVE?

>> WELL, I THINK, AGAIN, THAT COULD BE DONE SO LONG AS IT IS NOT IN THE NATURE OF A TAX WHICH A MANDATORY EXACTION RAISE REVENUE TO SUPPORT THIS PROGRAM, I BELIEVE, WOULD BE.

HOWEVER, THERE ARE OVER 500 PETITIONERS WHO HAVE FILED THIS PETITION.

THAT WOULD BE A VERY STRONG CORE GROUP TO ASSUME A PROGRAM OF PERSUADING LAWYERS TO PROVIDE MORE PRO BONO OR TO RAISE THE AMOUNT OF MONEY THAT THOSE WHO CAN AFFORD IT CAN PAY INTO A PRO BONO PROGRAM.

AND WHAT I'M SUGGESTING TO THE COURT IS I THINK THAT'S THE WAY TO GO.

THE BAR HAS NOT, THE BAR HAS NOT DONE ENOUGH IN THIS REGARD.

IT NEEDS TO STEP UP AND DO MORE. THE BAR RAISES SUBSTANTIAL SUMS OF MONEY FROM LAWYERS TO LOBBY

THE LEGISLATURE OR TO ATTEMPT TO PASS REFERENDA WHEN IT THINKS IT'S IMPORTANT NOT ONLY FOR THE MEMBERS OF THE BAR, BUT FOR CITIZENS IN GENERAL.

I SUSPECT THAT WITH THE APPROPRIATE LEADERSHIP MORE LAWYERS COULD BE PERSUADED TO DO A GREAT DEAL MORE TO ASSIST PARTICULARLY IN THIS PERIOD OF CRISIS.

AND I THINK THAT'S THE APPROPRIATE WAY FOR US TO GO.

>> THANK YOU.

MR. CANTERO, I'LL GIVE YOU ANOTHER TWO MINUTES, AND I'LL KEEP MY QUESTIONS SHORT.

[LAUGHTER]

>> THANK YOU, YOUR HONOR.

THE PROBLEM WE HAVE THAT SOME OF THE JUSTICES HAVE IDENTIFIED IS WHILE WE ARGUE ABOUT WHOSE RESPONSIBILITIES IT IS TO PROVIDE LEGAL SERVICES TO THE POOR, MORE CUTS ARE COMING, FEWER SERVICES ARE BEING GIVEN, MORE PEOPLE LOSE THEIR HOUSES, MORE PEOPLE DON'T GET SOCIAL SECURITY, MORE PEOPLE ARE FORCED INTO HOMELESSNESS AS A RESULT, AND IN THE MEANTIME, WE'RE POINTING FINGERS AT THE LEGISLATURE OR THE GOVERNOR AND BACK.

WE NEED TO DO SOMETHING NOW. THE FOUNDATION JUST FOR THIS COMING YEAR HAS SAID IT IS CUTTING GRANTS FOR LEGAL AID PROGRAMS 35% OVER LAST YEAR JUST IN ONE YEAR, 35% FROM 11.7 MILLION TO \$7 MILLION FOR EVERYBODY.

>> YOU DO AGREE, YOU DO AGREE THAT WE HAVE TO COME UP WITH SOMETHING, WE CAN'T JUST KEEP GOING TO THE LAWYERS.

>> YES, YOUR HONOR, I BELIEVE THAT--

>> CAN'T DO IT.

>> I BELIEVE THERE'S A GREATER

SOCIETAL ISSUE, BUT WE NEED TO TAKE LEADERSHIP.

NOBODY IS TAKING LEADERSHIP AND RESPONSIBILITY FOR THIS PROBLEM. AND IF LAWYERS DON'T TAKE AND JUDGES DON'T TAKE RESPONSIBILITY FOR ADMINISTRATION OF JUSTICE OF PEOPLE GETTING REPRESENTATION IN COURT, THEN WHY CAN WE EXPECT SOMEBODY HE IS TO TAKE LEADERSHIP OF THAT PROBLEM?

>> I RECALL BACK WHEN ARTICLE V CAME AROUND, ESTABLISHED A PUBLIC DEFENDER SYSTEM.

AND BEFORE WE HAD A STATEWIDE PUBLIC DEFENDER SYSTEM CONSTITUTIONALLY MANDATED, WE HAD A SCATTERED TYPE OF PUBLIC DEFENDER SYSTEMS PRETTY MUCH THE WAY LEGAL SOCIETIES ARE TODAY. PERHAPS THAT'S THE FIX THAT WE NEED TO LOOK AT, SOMETHING TO THAT EFFECT.

BUT, AGAIN, THAT'S LONG TERM. I'M CONCERNED ABOUT WHAT'S HAPPENING NOW, WHICH IS WHAT YOU'RE CONCERNED WITH--

>> YES, YOUR HONOR.

>> SINCE THE PETITION IS FILED, AND I REALIZE WE HAVE THIS, YOU KNOW, WE CAN'T TALK TO YOU ALL INFORMALLY EVEN THOUGH THIS IS ALL SOMETHING THAT SEEMS TO ME WE SHOULD OUTSIDE THE COMMISSION SIT DOWN TO TRY TO HELP SOLVE. BECAUSE WHAT I'M THINKING IS ONE ASPECT IS THE ILLINOIS PROGRAM WHERE, FOR THE FORMS, I GUESS IT'S AN \$11 MILLION PROGRAM THAT I THINK THE BAR FUNDED.

HAVE THERE BEEN ANY FURTHER DISCUSSIONS BETWEEN, YOU KNOW, WE NOT ONLY COMMEND NOT ONLY YOU, BUT ALL THE LAWYERS THAT FILED THIS PETITION. TO JUST SEE WHETHER SOMETHING VOLUNTARILY COULD BE CONSTRUCTED--

>> IN OTHER WORDS, YOU WANT US TO NEGOTIATE A SETTLEMENT.

[LAUGHTER]

>> I MEAN, SOMETHING TO DEFER THE DECISION IN THIS CASE TO SEE IF THERE ARE SOME OTHER IMMEDIATE THINGS.

I'M THINKING ALSO IN TERMS OF THE-- WE'VE GOT STRUGGLING YOUNG LAWYERS, BUT THEN WE'VE GOT LAWYERS WHO ARE BILLING AT \$750 AN HOUR AND HAVE LARGE FIRMS--

>> I DON'T KNOW WHO THOSE ARE.

>> DON'T KNOW WHO THEY ARE.

AND WHETHER THEIR FIRMS ARE, YOU KNOW, WHERE ARE THEY ON CONTRIBUTING TO PRO BONO OPT-OUTS OR WHATEVER IT IS TO SEE IF WE CAN GET SOMETHING IMMEDIATELY GOING TO FILL THIS GAP.

BECAUSE THE OTHER PART IS NOT ONLY THIS, BUT YOU MENTIONED THAT THE DECREASE IN THE GRANTS TO THE LEGAL AID SOCIETIES, THERE'S ALSO HOW MUCH OF A DECREASE FOR FUNDING FOR PROGRAMS FOR LAWYERS FOR CHIRP. THAT'S ALSO--

>> RIGHT.

>>-- JUST GOING DOWN THE TUBES.

>> EXACTLY.

>> SO WE'RE IN A CRISIS MODE.

>> AND LET'S FACE IT, BEFORE WE FILED THIS PETITION, THIS WAS NOT ON THE BAR'S RADAR.

IT TOOK THE PETITION FOR THE BAR TO RECOGNIZE THE PROBLEM, AND I THINK WHAT IT TAKES IS THE COURT GRANTING THE PETITION AS AN IMPETUS.

ONCE YOU GRANT THE PETITION, THE BAR'S FEES AREN'T GOING TO GO UP, BUT IT PROVIDES A POINT OF DISCUSSION TO THEN HAVE THOSE DISCUSSIONS WITH THE BOARD OF GOVERNORS AND SAY, AND THEY CAN SAY, WELL, WHY SHOULD WE INCREASE FEES, HOW MUCH SHOULD WE INCREASE, SHOULD IT BE GRADUATED, OR COULD WE DO

SOMETHING ELSE?

RIGHT NOW THAT DISCUSSION HASN'T OCCURRED BECAUSE THE BAR HAS HAD OTHER PRIORITIES.

THIS NEEDS TO BE THE FIRST PRIORITY, AND IT SEEMS LIKE THE ONLY WAY IT WILL BE IS IF THE COURT FRAMES THE PETITION AND SAYS REPORT BACK TO US IN A YEAR ABOUT WHAT YOU HAVE DONE, AND EITHER COME BACK AND BRING AN INCREASE IN FEES OR COME BACK AND BRING SOME OTHER SOLUTION. I THINK THAT'S WHAT IT'S GOING TO TAKE FOR THE DISCUSSION TO EVEN BEGIN.

UNLESS THE COURT HAS ANY OTHER QUESTIONS, I THANK YOU FOR YOUR TIME AND YOUR CONSIDERATION AND ASK YOU TO GRANT THE PETITION.

>> THANK YOU.

>> THANK YOU.

[INAUDIBLE CONVERSATIONS]