



NEW YORK STATE BAR ASSOCIATION

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MICHAEL E. GETNICK

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June 25, 2009

Honorable Charles E. Schumer
Hart Senate Office Building
Room 313
Washington, DC 20510

Dear Senator Schumer:

I am writing to request that you work with your colleagues on the Senate Appropriations Committee to urge positive action on the FY 2010 Commerce, Justice, & Science appropriations bill, which includes the budget for the Legal Services Corporation (LSC). Last week the House of Representatives passed HR 2847, to appropriate \$440 million for LSC, a much-needed increase over the 2009 appropriation. It also removed the restriction on the ability of legal services organizations to receive attorneys' fees under fee-shifting statutes.

The Preamble to the U.S. Constitution states that the first enumerated function of government is to "establish justice." A bipartisan Congress and the Nixon Administration in 1974 created the LSC to provide low-income persons access to the justice system through civil legal services. Today, 51 million Americans (including 18 million children) qualify for federally funded legal assistance. Many of these individuals have significant legal needs and may suddenly be poor because of the recession, unemployment, foreclosure or eviction, natural disaster, the break-up of their family or uninsured medical care.

Although the appropriation in the House bill does not solve the problem of the unmet need of indigent New Yorkers for civil legal services, we view this increased funding as step in the right direction.

In addition, we urge that the Senate lift several burdensome restrictions in the LSC appropriations rider.

In 1996, the Omnibus Consolidated Rescissions & Appropriations Act of 1996 imposed numerous restrictions on funds within the LSC budget. That legislation resulted in the enactment of Public Law 104-134. Each year since 1996, Congress has restricted how LSC grantees may spend both LSC funds and their non-federal dollars through an Administrative Provision attached to the annual LSC appropriation. The Administrative Provision each year carries forward the restriction by incorporating by reference 1998's Appropriations Act, Public Law 105-119, which, in turn, incorporates by reference 1996's Appropriations Act, P. L. 104-134.

These restrictions on providers of legal services for the indigent result in burdens that contradict fundamental American principles and the promise of equal justice under the law. The restrictions imposed on LSC-funded programs in 1996 restrict clients from having access to the full range of legal tools available to clients of private attorneys. Moreover, Congress extended the restrictions to cover non-LSC funded activities of providers who receive LSC funds, so that hundreds of millions of dollars from state and local governments, private donors, and other non-LSC sources are restricted under the same terms as the LSC funds.

On behalf of the 76,000 members of the New York State Bar Association, I respectfully call your immediate attention to this important matter. In sum, I ask for your support and favorable action on the following items relating to the FY 2010 LSC budget:

- Support LSC budget of \$440 million;
- Lift the restrictions on funding of legal services. In particular, lift the restrictions on recovery of attorneys' fees, as was provide in HR 2847; and lift the additional restrictions on the prosecution of class actions and use of non-federal funds by LSC grantees.

Sincerely,

A handwritten signature in cursive script that reads "Michael E. Getnick".

Michael E. Getnick



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June 25, 2009

Honorable Kirsten E. Gillibrand
Russell Senate Office Building
Room 478
Washington, DC 20510

Dear Senator Gillibrand:

I am writing to request that you work with your colleagues on the Senate Appropriations Committee to urge positive action on the FY 2010 Commerce, Justice, & Science appropriations bill, which includes the budget for the Legal Services Corporation (LSC). Last week the House of Representatives passed HR 2847, to appropriate \$440 million for LSC, a much-needed increase over the 2009 appropriation. It also removed the restriction on the ability of legal services organizations to receive attorneys' fees under fee-shifting statutes.

The Preamble to the U.S. Constitution states that the first enumerated function of government is to "establish justice." A bipartisan Congress and the Nixon Administration in 1974 created the LSC to provide low-income persons access to the justice system through civil legal services. Today, 51 million Americans (including 18 million children) qualify for federally funded legal assistance. Many of these individuals have significant legal needs and may suddenly be poor because of the recession, unemployment, foreclosure or eviction, natural disaster, the break-up of their family or uninsured medical care.

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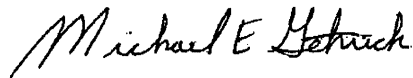
In 1996, the Omnibus Consolidated Rescissions & Appropriations Act of 1996 imposed numerous restrictions on funds within the LSC budget. That legislation resulted in the enactment of Public Law 104-134. Each year since 1996, Congress has restricted how LSC grantees may spend both LSC funds and their non-federal dollars through an Administrative Provision attached to the annual LSC appropriation. The Administrative Provision each year carries forward the restriction by incorporating by reference 1998's Appropriations Act, Public Law 105-119, which, in turn, incorporates by reference 1996's Appropriations Act, P. L. 104-134.

These restrictions on providers of legal services for the indigent result in burdens that contradict fundamental American principles and the promise of equal justice under the law. The restrictions imposed on LSC-funded programs in 1996 restrict clients from having access to the full range of legal tools available to clients of private attorneys. Moreover, Congress extended the restrictions to cover non-LSC funded activities of providers who receive LSC funds, so that hundreds of millions of dollars from state and local governments, private donors, and other non-LSC sources are restricted under the same terms as the LSC funds.

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Sincerely,

A handwritten signature in cursive script that reads "Michael E. Getnick". The signature is written in black ink and is positioned centrally below the word "Sincerely,".

Michael E. Getnick