

Resolution 7 In Support of State Supreme Court Leadership in Increasing Funding for Civil Legal Assistance

WHEREAS, equal justice is fundamental to the American system of government under law; and

WHEREAS, the inability to afford legal counsel in effect denies access to justice to individuals in need of legal representation; and

WHEREAS, representation of individuals who cannot afford counsel is essential to the efficient operation of state court systems; and

WHEREAS, in every state and territory, current levels of civil legal assistance are inadequate to meet the civil legal needs of individuals who cannot afford counsel; and

WHEREAS, public and private financial support at the state and local levels now accounts for more than sixty percent of all funding for civil legal assistance in the United States; and

WHEREAS, in many states, leadership by state supreme courts, chief justices, associate justices, and court administrators has proven to be a critical factor in obtaining and increasing state legislative funding for civil legal assistance and has played a valuable role in catalyzing additional private contributions, especially from the legal community; and

WHEREAS, examples of such leadership include: taking a leadership role in campaigns to obtain, maintain or increase state legislative funding; participating in the planning of fundraising activities for legal aid entities; speaking in support of the work of legal aid programs and the need for increased funding before the legislature, at bar functions, to the media, and at legal aid fundraising events; and donating personally to legal aid programs; and

WHEREAS, state supreme courts have the authority to promulgate rules with the potential to increase funding for civil legal assistance, such as those governing Interest on Lawyer Trust Accounts (IOLTA), cy pres funds, pro hac vice fees, and attorney admission fees to practice law; and

WHEREAS, supreme court-created access to justice commissions and similar entities in many states have had major successes with initiatives to generate additional funding for civil legal aid, often undertaken with supreme court collaboration and support; and

WHEREAS, Rule 3.2 of the American Bar Association Model Code of Judicial Conduct provides that a judge can appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, in connection with matters concerning the law, the legal system, or the administration of justice; and

WHEREAS, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have long been committed to the fundamental principle of fair access to justice for all in civil matters; and

WHEREAS, ensuring access to justice in adversarial proceedings involving basic human needs, such as shelter, sustenance, safety, health or child custody, remains one of the Conferences' highest priorities; and

WHEREAS, CCJ and COSCA have previously adopted joint resolutions recognizing that a fundamental requirement of access to justice is access to the courts; and

WHEREAS, such resolutions include Joint Resolution 2, adopted on July 30, 2008, which encouraged their members to continue to take steps to ensure that no citizen is denied access to the justice system by reason of lack of resources or any other such barrier, and which urged their members to take a leadership role in their respective jurisdictions to prevent denials of access to justice; and

WHEREAS, CCJ has previously adopted resolutions encouraging judicial leadership in promoting equal justice; and

WHEREAS, such resolutions include Resolution 23, adopted on January 25, 2001, which encouraged individual members to establish partnerships with state and local bar organizations, legal service providers, and others, inter alia, to develop viable and effective plans to establish or increase public funding and support for civil legal services for individuals and families who have no meaningful access to the justice system;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators encourage their members in each state and territory, where ethically permitted under judicial conduct rules, to promote the expansion of funding for civil legal assistance and access to civil justice by:

- (1) leading and/or supporting leadership by other members of their courts in efforts to increase financial resources for civil legal assistance;
- (2) advocating publicly for increased funding; and
- (3) collaborating with bar entities and legal services programs to plan and implement effective fundraising strategies for civil legal assistance.

AAccepted as proposed by the CCJ/COSCA Access, Fairness and Public Trust Committee at the 2010 Annual Meeting on July 28, 2010.