

# Fixing Our Third World Access to Justice Problem

by Keith A. Call

The World Justice Project recently completed its assessment of the extent to which ninety-seven world countries adhere to the rule of law. Its Rule of Law Index is an extensive quantitative study based on forty-eight “rule of law” indicators designed to focus on actual practice, not just theory. Over 97,000 people and 2,500 experts from around the world participated in the project. WORLD JUSTICE PROJECT, *Rule of Law Index 2012–2013*, available at <http://worldjusticeproject.org/rule-of-law-index>.

In some areas, the United States scored very well. But in the category of “access to affordable civil justice” the U.S. scored very poorly. The United States was ranked sixty-seven out of ninety-seven countries, and fell behind countries such as China, Dominican Republic, El Salvador, Ghana, and Iran. *Id.* at pp. 174–75.

One translation: If you are a poor or modest income person in need of legal remedies, you are better off in one of those other sixty-six countries than you are in the United States.

In a June 2010 speech, former Harvard Law Professor Lawrence Tribe stated, “The truth is that as a nation, we face nothing short of a justice crisis. It is a crisis both acute and chronic, affecting not only the poor but the middle class. The situation we face is unconscionable.” Dan Froomkin, *Access to Justice in U.S. at Third-World Levels, Says Survey*, THE HUFFINGTON POST, May 25, 2011, available at [http://www.huffingtonpost.com/2010/10/14/access-to-justice-in-us-a\\_n\\_762355.html](http://www.huffingtonpost.com/2010/10/14/access-to-justice-in-us-a_n_762355.html).

It is up to people like you and me to change this. What can you do to provide better access to justice for members of our society? Here are three specific ideas on how you can make a difference.

### Be a Private Guardian *Ad Litem*

Every year, thousands of Utah children find themselves caught up in social and judicial systems they do not understand and cannot control. Such children are often caught in the middle of difficult family problems, including divorce, custody, and protective order proceedings.

Occasionally, a guardian *ad litem* is appointed to represent the interests of the child in domestic and other types of cases. Children in these dire situations are sometimes represented by the Utah

Office of Guardian Ad Litem. However, because of recent changes in the law, the need for help from private attorneys has become critical. As of July 1, 2014 (assuming the recent legislative changes stick), the Office of Guardian Ad Litem will not represent *any* children in *any* district court cases.

*“[P]rovided you perform...within the scope of your statutory and ethical duties, you are immune from civil liability that could result from your service.”*

It is estimated that 300 private attorneys in Utah are needed to fill this new gap. Children in need of an independent voice will be unrepresented unless *you* step up.

By registering to serve as a private guardian *ad litem*, you can be appointed to represent the interests of children in district

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court cases. The court can order the parents to pay fees for your services. You may also be asked to serve *pro bono* as needed. And, provided you perform in such capacity within the scope of your statutory and ethical duties, you are immune from civil liability that could result from your service.

**Here's how to get started:**

Log on to [www.utcourts.gov/specproj/casa/pgal](http://www.utcourts.gov/specproj/casa/pgal). You will find an application form and instructions on how you can help. You can also direct specific questions to Liz Knight at (801) 578-3800 or [elizabethk@utcourts.gov](mailto:elizabethk@utcourts.gov). Guardian *ad litem* work can be well suited to litigators, even if you do not have experience in this area of law. Training is provided for all who participate.

**Provide Modest Means Legal Assistance**

There are many people in our community who make too much money to qualify for *pro bono* programs, but do not make nearly enough money to pay normal lawyer rates. This includes your friends and neighbors who are school teachers, nurses, first responders, and, well, even some lawyers. These people are not immune from legal problems, yet the courts are often inaccessible to them because of cost.

The notion that State Street is inaccessible to the man and woman on Main Street and Your Street is something we all need to own and change. The Utah Bar is doing that through the recently-launched Modest Means Program, but it will not work without your help.

Modest Means is a referral program that matches persons of “modest means” to lawyers who agree to provide legal assistance on a reduced fee basis. The reduced fees are usually in the range of \$50–\$75 per hour, depending on the client’s income level. The range of legal problems and need for help is nearly limitless, but you can limit the types of cases you take based on your competency.

What a great opportunity to help real people with real problems.

**Here's how to get started:**

Log on to [www.utahbar.org/volunteer/](http://www.utahbar.org/volunteer/) and follow the links to learn more about the Modest Means Program. There is a simple registration process that is available online.

**Get Involved in Pro Bono Work**

Then there is good, old fashioned *pro bono* work for people in need. We all understand the “business of law” and the need to make money and provide for our families. But I suggest that if you are not currently handling at least one matter for the pure purpose of serving someone who needs your help, make time now to make a difference.

*Pro bono* cases are easy to get. They are now even easier to find with the help of the Utah Bar’s Pro Bono Commission, newly formed in 2012. The Pro Bono Commission’s goals are to recruit, train, retain, and reward attorneys for their *pro bono* efforts. More specifically, the Pro Bono Commission seeks to double the number of *pro bono* attorneys in 2013. Step up and be one of them.

**Here's how to get started:**

Log on to [www.utahbar.org/volunteer/](http://www.utahbar.org/volunteer/) and follow the links for the Pro Bono Commission. You can also contact the Access to Justice Department at (801) 297-7027 or email [probono@utahbar.org](mailto:probono@utahbar.org).

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