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Photo by Jeff Lyons

Mother Bethel A.M.E. Church Pastor Rev. Mark Tyler (from left), Barristers' Association President Amber Racine, Chancellor William P. Fedullo and *The Philadelphia Inquirer* Editorial Page Editor Harold Jackson at the May 2 *Brown v. Board of Education* 60th anniversary event.

## Access to Justice Panel Urged for Pa.

By Joseph A. Sullivan

THE CREATION OF A FIRST-EVER ACCESS to Justice Commission to serve as a vehicle for studying and implementing measures to expand access to justice in the commonwealth is among the key recommendations released by the Pennsylvania Civil Legal Justice Coalition.

There are a staggering number of unrepresented low-income litigants in civil legal matters, and that lack of representation by lawyers adversely impacts the quality of justice for everyone in the Pennsylvania *continued on page 14*

## 60 Years After Brown, Education Gaps Remain

By Jeff Lyons

FIVE YEARS AFTER THE HISTORIC *BROWN v. Board of Education* ruling, *Philadelphia Inquirer* Editorial Page Editor Harold Jackson started first grade at an all-black elementary school in Birmingham, Ala.

"If my parents ever thought the *Brown* decision meant my four brothers and I might one day attend an integrated

school, I never heard them say it," said Jackson, the keynote speaker at the May 2 program "Remembering the Legacy: *Brown v. Board of Education* 60 Years Later" at Mother Bethel A.M.E. Church. The program was sponsored by the Philadelphia Bar Association and the Barristers' Association of Philadelphia.

The program also included remarks from former Gov. Edward G. Rendell,

who criticized the lack of state funding provided to The School District of Philadelphia. A 16-minute video, featuring Philadelphia attorneys and judges and their recollections of the impact of the *Brown* decision on their lives, was also premiered. Those interviewed on the video include Clarence D. "Clay" Armbrister, president, Girard College; Nolan N.

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## Judges McKee, Moss Headline at June 9 Quarterly Luncheon

JUDGE THEODORE A. McKee, chief judge for the U.S. Court of Appeals for the Third Circuit, will deliver the Judge A. Leon Higginbotham Jr. Memorial Public Interest Lecture at the Philadelphia Bar Association's June 9 Quarterly Meeting and Luncheon. Judge Sandra Mazer Moss, a longtime judge

on the Philadelphia Court of Common Pleas, will receive the 2014 Sandra Day O'Connor Award at the event.

Judge Moss, now a distinguished neutral with Dispute Resolution Institute, was the 2007 recipient of the Philadelphia Bar Association's Justice William J. Brennan Distinguished Jurist Award. The



McKee



Moss

Sandra Day O'Connor Award is conferred annually on a woman attorney who has demonstrated superior legal talent, achieved significant legal accomplishments *continued on page 19*

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Chair of the Workers' Compensation Section  
of the Pennsylvania Bar Association.

## Access to Justice

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courts, according to a report released May 6 at a Senate Judiciary Committee hearing. The report also observes that the lack of representation negatively affects the courts' administration of justice and undermines the rule of law, leaving many litigants unable to protect their legal rights and obtain appropriate remedies.

The report does not stop with evidence of social injustice, however. It goes on to highlight significant economic downsides that may not be as apparent to the average citizen. The report concludes that the unmet need for legal aid costs the state money, including direct economic benefits statewide and in local communities, and hurts taxpayers to the tune of millions of dollars by increasing homelessness, failing to prevent domestic violence, and exacerbating other social maladies. These include greater unemployment, disruption of children's education and family stability, and residential dislocation due to evictions and mortgage foreclosures that might have been avoided.

In "Toward Equal Justice for All: Report of the Civil Legal Justice Coalition," the 30-member group, which includes Philadelphia Bar Association representatives, cites several economic studies across the nation, including a recent analysis that found that for every additional dollar spent on legal aid in Pennsylvania, there is an \$11 return to the state and its residents.

The coalition recommends the creation of a first-ever Access to Justice Commission to serve as a vehicle for studying and implementing measures to expand access to justice. Such a commission would be a kind of "blue ribbon" panel that might include judges, legislators, community and business leaders and others seeking ways to insure that more Pennsylvanians get a meaningful "day in court" when their homes, safety, access to children and other basic needs are put at risk in lawsuits filed by public and private parties.

The Judiciary Committee, which conducted hearings in Philadelphia, Harrisburg and Pittsburgh throughout 2013 on the issue of access to the courts, accepted the Coalition report with appreciation. "Equal access to legal representation is one of the most critical justice issues we face today," said Pennsylvania state Sen. Stewart Green-

leaf. "I am pleased to see the legal community come together to offer their insights and recommendations to the Judiciary Committee."

The 78-page report exhaustively documents through live testimony, and extensive written statements and studies, the magnitude of the problem and the numerous negative results of failing to address the fundamental needs among poor Pennsylvanians, whose ranks have swelled in the wake of a recession that began in 2008 and only recently has shown signs of receding.

"Some folks have called this crisis a 'perfect storm' of sustained and severe cuts in federal and state funding for legal services," says Jennifer Clarke, a tri-chair of the Coalition, "and a decline in other sources of funding that has led many legal aid agencies across the state to close offices, lay off legal staff, and cut back dramatically in the numbers of clients served. This funding crisis has been all the more devastating when the numbers of Pennsylvanians needing legal representation and who cannot afford to pay for it have grown to record highs."

Sam Milkes, another tri-chair of the Coalition, adds: "State and national studies estimate that, even with the growth of pro bono by lawyers in private law firms, 80 percent of the critical legal needs of low-income people go unmet for lack of funding and support." Jim Creenan, a Pittsburgh attorney who serves as the other tri-chair of the group, puts it most simply: "There is an enormous need for help that current resources just cannot address."

Perhaps no one makes a better case for expanding legal services to those whose basic needs are at stake than those individuals with serious legal needs who stepped forward to share their stories of struggle for themselves and their families. Their testimony, perhaps more powerfully than any statistics, demonstrate the real-world impact of being unable to get one's claims – or defenses to claims by others – adequately heard in a courtroom.

One witness, a veteran with a worn but determined look on his face, testified that, after a lifetime of employment, he became unable to work after collapsing from a heart condition. Without income for the first time in his life, he fell behind on his mortgage payments and was served by the sheriff with foreclosure papers on the small trailer he called home. He did not have the information or skills needed to obtain disability benefits that he was entitled to, and that could have helped with the mortgage

payments or to stop the foreclosure. And, as he frankly stated, he did not have the first clue about how to find help in the process.

Another witness, a woman who had been repeatedly subject to vicious abuse at home, in desperation appeared in court on her own, trying to obtain a protection from abuse order against her child's father. She had never been in a court before, and did not know to bring witnesses to support her claims. Nor did she know that she could subpoena people to testify about the abuse, and so, in her hearing, there were no witnesses to testify on her behalf. Her plea was rejected.

In both of these cases, and as many others who had been to court without a lawyer testified, it was only after they "were lucky enough" to get help from lawyers that these individuals were able to achieve fair outcomes for themselves and their families.

To address the growing gap between client need and the availability of legal help, the coalition's report includes several key recommendations to stanch the harms to those without lawyers.

The three most basic recommendations are that the Pennsylvania Supreme Court, as noted, establish an Access to Justice Commission to develop and implement practical and effective ways to expand access to justice.

This process would call on the Commission to design and promote strategies to increase levels of public, private and volunteer resources and funding to address the need for more legal representation so dramatically outlined in the eloquent testimony of ordinary Pennsylvanians at the hearings. This recommendation already has a track record to support it; 32 states already have such commissions.

Next, the report calls upon the Pennsylvania legislature to appropriate an additional \$50 million each year for civil legal services to address the immediate crisis in access to justice. Given the benefits on a social and economic level as documented in the report, this expense is one that is likely to be recouped, at least in the long term, with a net gain to Pennsylvania taxpayers.

Finally, the report calls for further work towards establishing a right to counsel in civil legal matters in which fundamental needs are at stake.

*Joseph A. Sullivan (sullivanja@pepperlaw.com) is special counsel and director of pro bono programs at Pepper Hamilton LLP.*

## Bench-Bar

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must be a registered attendee of the Conference to receive this group rate. Once you are registered for the Conference, you will receive instructions on how to reserve your room.

Rochelle M. Fedullo, a partner with Wilson Elser Moskowitz Edelman & Dicker LLP and Projects and Programing Advisor to the Chancellor, is chair of the 2014 Bench-Bar & Annual Conference.

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