

## Pro Bono – Organizations

# MFY – A “Holistic” Approach To Pro Bono Legal Services

The Editor interviews **Andrew Goldberg**, Supervising Attorney at MFY Legal Services, Inc.

**Editor: Could you provide an overview of MFY’s mission?**

**Goldberg:** MFY’s mission is to ensure that low-income New Yorkers get access to justice. By partnering with neighborhood social service providers and community advocates, we work to resolve a wide range of problems faced by large numbers of low-income New Yorkers, including housing, employment, consumer, public benefits, disability rights and family matters. We offer a wide array of pro bono opportunities for attorneys in law firms and legal departments to work on individual and class action cases. We also provide community-based legal education to social service providers, workers’ centers, and community advocates, and work to resolve the root of our clients’ problems through legislative and policy advocacy.

MFY is unique in several ways. First, we provide legal services to people who cannot receive legal services from existing legal services programs for various reasons. Second, we focus on unmet legal needs, the kinds of issues that private services will not take. This is particularly the case with our Workplace Justice Project. There is a Plaintiffs’ Bar in New York City that will represent people with employment issues, but we work with people whose claims are too small for them to take. Third, we represent undocumented workers, who make up a very large percentage of the working poor population in New York City and who are, irrespective of their immigration status, entitled to the protections of the employment law. Such protections include the payment of minimum wage and overtime. Overall, we represent very marginalized people, including many seniors in Manhattan who have aged in place without families and now lack any real support network.

**Editor: I understand you decided against receiving federal funding.**

**Goldberg:** In 1997, restrictions were placed on non-profits receiving federal funding for legal services, including prohibitions on representing class actions and undocumented workers, and being involved in any legislative or regulatory work for poor and disabled people. Most significantly, non-profit legal services providers were prohibited from serving people with incomes over 125 percent of the poverty level, effectively excluding the working poor and many people on fixed incomes. The restrictions made it impossible for us to fulfill our mission, so by 2003 we successfully restructured ourselves as an unrestricted legal services program.

**Editor: Can you tell us about projects you work on?**

**Goldberg:** In the employment arena, MFY is one of the largest not-for-profit providers of individual legal services to low-wage workers in the city. Begun six years ago, our Workplace Justice Project addresses wage and unpaid-overtime claims, discrimination claims, unsafe work practices and access to unemployment benefits. For instance, domestic workers and restaurant workers constitute a large portion of the Workplace Justice Project clien-

tele, and violations of wage and hour laws are endemic in these industries. We also remove the legal barriers to employment for people with former criminal convictions to help them re-enter the economic mainstream.

When we represent our clients in court proceedings, we maintain that their immigration status is not relevant to their rights. The court may state that immigration status is relevant to unpaid future earnings that might result from an injury or discrimination, but we represent people who have actually worked and not been paid their due. And in those cases, we maintain that the law protects their right to wages they have earned without inquiry into their immigration status because it has no relevance.

**Editor: How do people – especially domestic workers, for whom English is often a second language – find out about you?**

**Goldberg:** We continually reach out to workers’ centers and community groups and we conduct trainings on workers’ rights and employment rights in all five boroughs. This past year we trained over 650 workers. We have staff who speak Spanish, Cantonese or Mandarin as well as English. Our community partners provide translation for workers who speak other languages. By working and partnering with community groups we are better able to provide legal services and to reduce the language barrier.

**Editor: What about the Consumer Rights Project and how did it start?**

**Goldberg:** This project is in its third year. We found that many former clients – people who had come to us with housing or public benefits problems – were coming back to our office with restrained bank accounts. We discovered that a very abusive debt collection process was going on in New York City and all of New York State. A new industry of third-party debt collection began in the 1990s, and by 2000 it had escalated greatly. Third-party buyers buy credit card debt from banks for pennies on the dollar. But while these third parties are transferred ownership of the debt, they receive very little of the documentation other than computer spreadsheets. The buyers then file consumer debt proceedings. Now, according to MFY’s recent report, “Justice Disserved,” 95 percent of consumer debt proceedings in the civil court of New York City – which is the busiest court in the United States and sees tens of thousands of such cases – result in default judgments. Once the creditor plaintiff has obtained a default judgment, the attorney for the plaintiff is then empowered to issue a restraint on the bank account, and despite all the requirements of service and notice, the reality is that many people are never served. (Our report, which readers can access at [www.mfy.org](http://www.mfy.org), contains numerous examples of fraudulent claims of service.) Many of our clients discovered that debt collection lawsuits had been filed against them only when they went to the ATM and found that their bank accounts had been restricted.



**Andrew Goldberg**

We decided to take a multi-prong approach to this problem. We began representing people in court to get their bank accounts unrestrained and to get their proceedings dropped against them. Then we researched and wrote our report, “Justice Disserved.” We testified before the New York City Department of Consumer Affairs, the agency that regulates process servers, suggesting that a 95 percent default rate in New York City should raise a very large red flag. We urged that the executive agencies responsible for licensing process servers must take a much more aggressive role in supervising that group.

Third, because we are an unrestricted program and are no longer prohibited from engaging in legislative reform and advocacy, we decided to fight for legislation protecting our clients, many of whom are elderly and/or disabled. The current situation is dire. We took an active role with a statewide coalition of consumer advocates in drafting remedial legislation called the Exempt Income Protection Act, which was introduced two years ago and was passed by the Assembly and the Senate in early July. We are confident that Governor Pateron will sign the bill and that it will go into effect in 2009.

This act will help a very large portion of the clients we are seeing now. It will create the presumption that if the sources of the funds in the bank account are from social security, or pension, or veterans’ benefits, then the first \$2,500 owed will be exempt from collection by restraint. Therefore, this bill protects what is considered exempt income, so plaintiffs cannot collect against it nor can they enforce a judgment against it. The banks’ lobby actually supported our legislation. When the creditors serve a restraint on the banks, the banks then recognize that these are court orders, and if they didn’t comply with them, it would constitute a contempt of court. The banks’ hands were tied. I assume that the banks were very happy not to be in the position of restricting the accounts of people who are disabled or who live month to month. Such restraints almost inevitably lead to an immediate downward spiraling of a person’s well-being. Our hope is that once this legislation goes into effect, this segment of our consumer population should become more secure.

**Editor: How does MFY partner with corporate law department and law firm attorneys? What practice areas are important?**

**Goldberg:** We partner with corporate law departments in several ways. Many of our Board member firms take pro bono cases. We partner with member firms when our consumer clients sue affirmatively under the Federal Fair Debt Collections Practices Act. Recently a question came up about the tax treatment of that part of the settlement award that was for attorneys’ fees. I reached out to a tax attorney to help us better understand the state of the law, how to structure our agreements with clients and how to advise clients when we get a settlement.

Our Consumer Justice Project involves tax issues, credit issues and consumer transaction issues. For example, I am sending out today a request to our in-house pro bono coordinator a question about how to collect on a dishonored check. I hope to get a recommendation of what action to take

from an attorney in the consumer or commercial transaction division of the firm.

I have been at MFY for a long time, and historically we have partnered with firms for big cases, particularly those involving the rights of people with disabilities. But we have many cases well-suited for associates in firms, and we have some wonderful examples of dedicated associates. Associates can represent tenants at administrative hearings and people with disabilities at fair hearings. Many associates serve as guardians ad litem for clients with diminished capacity and they find the experience very rewarding. One associate is currently working with a client facing an eviction. The woman was recently hospitalized, so the court had to appoint a guardian ad litem. The attorney volunteered, and he has since done an incredible amount of work of meeting with the client, looking at her personal finances and more.

We currently have over 60 volunteer attorneys representing clients in our Pro Bono Kinship Caregiver Law Project, representing grandparents and other relatives who are caring for related children in custody, guardianship and adoption proceedings. Twenty-six firms and corporate law departments are participating in this initiative, and we have trained over 150 attorneys to do this work.

**Editor: What do you think volunteer attorneys find most rewarding about MFY?**

**Goldberg:** Many pro bono attorneys, especially those who do transactional work, enjoy working with a real person who desperately needs and values their help. Volunteers also appreciate MFY’s commitment to providing holistic services. For instance, clients who come to us with an employment problem often also have a housing problem. Those who come with a consumer problem, such as a frozen bank account, are likely to have a housing problem due to non-payment of rent. When clients tell us that their bank accounts are frozen, we conduct an early assessment and take steps to prevent further problems. We try to avoid referring clients to other providers for issues that may emerge later. I believe attorneys find it rewarding to use this whole-person model. Our staff attorneys in the Consumer and Workplace Justice Projects are equally familiar with and capable of appearing in housing court. For the volunteer attorney, this also means that there are lots of peers and supervisors to learn from.

**Editor: Where do you see MFY going in the future? Do you foresee any new programs developing or new needs to be addressed?**

**Goldberg:** MFY’s Workplace Justice and Consumer Rights Projects are two examples of our commitment to addressing unmet legal needs, and there is a lot of room for growth in both. Together, these projects handle over 1,000 cases a year, but that is a small fraction of the people who need help. Our biggest challenge, of course, is to secure stable funding so they can grow. As the economy worsens, we expect demand for help in the employment and consumer areas to increase, and we will undoubtedly uncover new areas of legal need. With the help of our board and supporters, we will work to meet those

Please email the interviewee at [agoldberg@mfy.org](mailto:agoldberg@mfy.org) with questions about this interview.