

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

No. 473
Sept. Term, 2022
CSA-REG-473-2022

CARL AVERY,
Appellant,
v.
KRISTY AVERY,
Appellee.

On Appeal from the Circuit Court for Anne Arundel County
(The Honorable Terrence J. McGann, Presiding)

**BRIEF OF *AMICI CURIAE* BAR FOUNDATION OF HARFORD COUNTY,
MARYLAND, INC., COMMUNITY LEGAL SERVICES OF PRINCE
GEORGE'S COUNTY, INC., MARYLAND LEGAL AID BUREAU, INC.,
MARYLAND VOLUNTEER LAWYERS SERVICE, MID-SHORE PRO
BONO, INC., THE PRO BONO RESOURCE CENTER OF MARYLAND,
THE PUBLIC JUSTICE CENTER, AND THE WOMEN'S LAW CENTER
OF MARYLAND, INC., IN SUPPORT OF APPELLANT**

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Statement of Interest

Amici Curiae represent a coalition of organizations that share a common mission of expanding access to justice in civil matters for underrepresented Marylanders, particularly in the practice area of family law. For example, the Maryland Volunteer Lawyers Service (“MVLS”), is a non-profit legal aid organization based in Baltimore that has provided free civil legal services to low-income Marylanders for over four decades. With a panel of more than 1,600 volunteer attorneys and specialized professionals across the state, MVLS has assisted over 100,000 clients since its establishment in 1981. To meet this goal, MVLS provides free legal services to low-income Marylanders, spreads awareness of inequities within the legal system, and advocates for equitable laws that remove barriers to justice.

Like MVLS, other of *Amici*’s staff and volunteers have a deep understanding of the importance of pro bono legal services and the benefits of mitigating the economic burdens inherent in the justice system. *Amici*’s Statements of Interest identifying this coalition of advocates are contained in the attached Appendix.

This case represents a direct assault on pro bono services in Maryland. The ruling of the Circuit Court of Anne Arundel County reimposes the economic burden that pro bono services are designed to eliminate. The circuit court’s ruling penalizes Appellant, Mr. Avery—a low-income, qualified individual receiving pro

bono services—by requiring him to reimburse Appellee’s litigation expenses solely because he “doesn’t have attorney’s fees[.]” E. 31 (Tr. 213:7). On top of violating the law, this decision contradicts the fundamental purpose of pro bono legal services and runs afoul of the Maryland General Assembly’s, Maryland Rules Committee’s, and Maryland Judiciary’s commitment to pro bono representation.

As a long-standing provider of pro bono legal services, MVLS has a strong interest in maintaining the efficacy of pro bono services, protecting widespread access to justice, and ensuring that Marylanders are not shouldered with the burden of litigation fees they cannot afford. *Amici Curiae* share this interest and respectfully submit this brief to highlight relevant information and policy concerns and request that the Court reverse the judgment of the Circuit Court for Anne Arundel County in a published decision to ensure trial courts protect the sanctity of free legal services for low-income Marylanders across the state.

Statement of the Case

Amici Curiae adopt the Statement of the Case included in the Brief of the Appellant.

Question Presented

Amici Curiae adopt the Question Presented included in the Brief of the Appellant.

Statement of the Facts

Amici Curiae adopt the Statement of the Facts included in the Brief of Appellant.

Standard of Review

Amici Curiae adopt the Standard of Review included in the Brief of Appellant.

Argument

Although a court's award of attorney's fees is generally reviewed for abuse of discretion, *Henriquez v. Henriquez*, 185 Md. App. 465, 475–76 (2009), a court's failure to consider mandatory statutory criteria constitutes legal error reviewed de novo, *cf. Petrini v. Petrini*, 336 Md. 453, 468 (1994) (citing *Carroll Cnty. v. Edelmann*, 320 Md. 150, 177 (1990)). Here, the circuit court's judgment forcing a qualified pro bono legal services recipient to pay fees incurred by his adversary constitutes legal error requiring reversal because it fails to apply the strict statutory criteria mandating that the court consider, *inter alia*, Mr. Avery's financial status and ability to pay. *See* Md. Code Ann., Fam. Law § 12-103(b)(1); *accord Davis v. Petittio*, 425 Md. 191, 204–05 (2012). Indeed, the circuit court here turned the mandatory statutory criteria on its head by imposing a financial burden on Mr. Avery *because* he lacked the ability to afford a lawyer.

The circuit court's decision directly undermines the strong public policy favoring provision of pro bono services by penalizing a party simply because he "doesn't have attorney's fees." E. 31 (Tr. 213:7). This Court should reverse because the circuit court's decision: (1) contravenes the Maryland General Assembly's, Maryland Rules Committee's, and the Maryland Judiciary's goals of providing access to justice for low-income Marylanders; (2) fails to account for the importance of pro bono representation in family law matters and the increased need for such services during and in the wake of the COVID-19 pandemic; and (3) would dissuade and penalize low-income Marylanders for obtaining such services and discourage attorneys from providing volunteer services while their clients are forced to pay the fees of their opponents who have the financial ability to pay their own fees. Given the harmful departure from both longstanding precedent and the State's goal of encouraging Maryland attorneys to provide legal services, *Amici Curiae* respectfully requests that this Court reverse the circuit court's decision in a reported opinion to reaffirm the judiciary's commitment to providing necessary civil legal services without penalty.

I. The circuit court's decision is inconsistent with the strong public policy supporting pro bono civil legal services.

While the Constitution protects a defendant's right to counsel in criminal cases, U.S. Const. amend. VI, no such guarantee exists in most civil cases. Parties facing civil challenges must obtain their own legal representation. For low-income

individuals, the cost of obtaining counsel, among other expenses associated with civil legal processes, can be economically infeasible if not impossible. Legal Servs. Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans*, 45 (2022), <https://lsc-live.app.box.com/s/xl2v2uraitobbzrhwtjlg0emp3myz1> [hereinafter, “*Justice Gap*”].

Civil legal issues burden nearly three quarters of all low-income Americans every year, leading to financial hardship, homelessness, poor physical and mental health, and income insecurity. *Id.* at 37–38. Yet low-income Americans obtain legal services in just 25% of cases, largely due to legal expenses and underfunding of legal services. *Id.* at 45, 52. Thus, limiting access to free legal services would further reduce low-income Marylanders’ ability to resolve the fundamental legal issues they routinely confront. For underrepresented groups such as racial minorities, older adults, and people with disabilities, the situation is even worse due to their lack of resources to secure counsel, making them face the brunt of the adverse effects of a weakened pro bono system. *See* Emily A. Shrider, et.al., *Income and Poverty in the United States: 2020*, 2–3 (2021), <https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-273.pdf>.

To address these inequities, pro bono organizations like *Amici Curiae* expand access to justice to underrepresented groups that are unable to break

through the economic barriers inherent in the justice system. *See e.g.*, Robert J. Rhudy, *Equal Access to Maryland's System of Justice*, 36-APR Md. B. J. 48, 52 (2003) [hereinafter, "*Equal Access*"] (“[T]he Maryland Court of Appeals adopted rules intending to expand pro bono services to increase access to justice for poor persons throughout the State.”). The intent of the Maryland General Assembly, the Maryland Attorneys’ Rules of Professional Conduct as recommended by the Maryland Rules Committee and adopted by the Court of Appeals, and the Maryland Judiciary’s promotion of equal access to justice through pro bono legal services militate in favor of reversal.

In adopting the Maryland Legal Services Corporation Act (“MLSCA”), the Maryland General Assembly enshrined into law its commitment to closing the gap between low-income Marylanders and their access to justice. *See generally* Md. Code Ann., Hum. Servs. § 11-102. Among other things, the MLSCA highlights the need: 1) “to provide equal access to the system of justice for individuals seeking redress of grievances”; 2) “to continue and expand legal assistance to those who would otherwise be unable to afford adequate legal counsel”; and 3) to provide pro bono attorneys the “full freedom to protect the best interests of their clients in

keeping with the Maryland Rules of Professional Conduct and the high standards of the legal profession.” *Id.* § 11-102(1), (3), & (6).

The Maryland Rules of Professional Conduct similarly promote pro bono services across the state. For example, the Rules provide that “all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.” Md. Rule 19-300.1. Additionally, Rule 19-306.1(a)–(b) provides, in relevant part, that “[a]n attorney has a professional responsibility to render pro bono publico legal service,” and full-time attorneys “should aspire to render at least 50 hours [of pro bono services] per year.” Rule 19-503(b) mandates that attorneys report the number of pro bono hours they work each year. While there is no mandated minimum number of hours, this reporting requirement emphasizes Maryland attorneys’ professional obligation to engage in such services.

The Rules of Professional Conduct also create expectations for the Maryland Judiciary. The State Pro Bono Committee and Action Plan requires a committee of Maryland judges to develop standards for Local Pro Bono Committees to include among other things, requirements for: 1) developing needs assessments and action plan reports; 2) creating a process for reviewing such assessments and reports; 3) gathering and sharing information on pro bono

projects; 4) filing an “annual report with recommendations on the implementation and effectiveness of Local Pro Bono Action Plans” and related Maryland Rules; and 5) preparing “a State Pro Bono Action Plan.” *See* Md. Rule 19-501(b)(1). This program demonstrates the Rules Committee’s and Maryland Judiciary’s extensive efforts to maintain an effective and robust pro bono system in Maryland.

Likewise, “the Maryland Judiciary has been a critical player in advancing a statewide commitment to pro bono legal service among the bar.” Pamela Cardullo Ortiz, *Courts and Communities: How Access to Justice Promotes a Healthy Community*, 72 Md. L. Rev. 1096, 1100 (2013). “[E]mphasiz[ing] the importance” of pro bono legal services, the judiciary has “attempted to increase the availability of free or reduced fees for legal representation of indigent individuals throughout our State.” *Henriquez v. Henriquez*, 413 Md. 287, 294 (2010). Indeed, the Maryland Rules discussed above “reflect this commitment” to expand access to justice in Maryland. *Id.*

For example, the Maryland Judicial Ethics Committee has consistently reinforced the principles set forth in *Henriquez* through various opinions promoting pro bono representation. *See, e.g.*, Md. Jud. Ethics Comm., *Judge’s Ability to Encourage Attorneys to Provide Pro Bono Public Legal Services*, Op. Request No. 2017-35, 1 (Dec. 8, 2017) (clarifying that judges may encourage attorneys to provide pro bono services); Md. Jud. Ethics Comm., *Judges May*

Solicit Attorneys for Pro Bono Representation of Indigent Parties, Op. Request No. 2013-29, 1 (Feb. 12, 2014) (asserting that judges may solicit attorneys to “represent indigent parties on a pro bono basis”); Md. Jud. Ethics Comm., *Solicitation of Attorneys for Pro Bono Work*, Op. Request No. 1996-20, 1 (Oct. 22, 1996) (advising that judges may place ads in local bar newspapers or attend meetings of the Bar to solicit attorneys to provide pro bono services). The judiciary’s commitment to pro bono representation encourages litigants to obtain legal services when they qualify, not penalize them for doing so.

The circuit court’s decision gravely deviates from Maryland’s longstanding commitment to pro bono services. Appellee retained and could afford private counsel. On the other hand, Mr. Avery received “pro bono [representation] through [MVLS]” and “had to submit a bunch of paperwork to get approved . . . to show that [his] income was not enough to hire private counsel” E. 18 (Tr. 56:11–20); *see also* E. 29 (Tr. 184:21–23) (representing that Appellant “qualified for [counsel’s] pro bono services”). Yet without considering Mr. Avery’s ability to pay fees and that he unquestionably qualified as indigent to receive pro bono legal services, the circuit court sanctioned Mr. Avery because he “doesn’t have attorney’s fees and that’s big” E. 31 (Tr. 213:7). Because he lacked the resources to pay his own lawyer, the circuit court ordered him to pay his

opponent's. That ruling punishes the recipient of pro bono services and should be reversed.

II. The circuit court's ruling is even more egregious when considering the importance of pro bono services in family law matters and the heightened need for free legal services caused by COVID-19.

The circuit court's ruling similarly overlooks the particularized need for pro bono representation in family law cases and increased need for legal services caused by COVID-19.¹

Family law cases bring with them complex procedural issues and rules that “are simply not designed to accommodate an untrained advocate.” Jonathan Smith, *Closing the Courthouse Door on Maryland's Poor*, 34-Aug Md. B. J. 19, 20 (2001). Yet, those who “regularly appear” in family court are “low-income families.” Jane C. Murphy, *Rethinking the Role of Courts in Resolving Family Conflicts*, 21 Cardozo J. Conflict Resol. 625, 630 (2020).

In 2016, family/domestic practice was the “top pro bono service area” in Maryland. ANASYS, Inc., *Final Report: Current Status of Pro Bono Service*

¹ While parties unable to obtain legal counsel can represent themselves as pro se litigants, “pro se assistance programs hinder litigants, create confusion, and generate frustration about the complexity of the law and the legal process itself.” Jessica Dixon Weaver, *Overstepping Ethical Boundaries? Limitations on State Efforts to Provide Access to Justice in Family Courts*, 82 Fordham L. Rev. 2705, 2723 (2014). Presiding over cases involving pro se litigants can create issues for judges as well, including “procedural difficulties, time-consuming delays, and . . . ethically compromising dilemmas” *Id.* at 2727.

Among Maryland Lawyers, Year 2016, 11 (Nov. 15, 2017),

<https://mdcourts.gov/sites/default/files/import/probono/pdfs/probonoreport2016.pdf>

f. That trend has continued, with the Maryland Legal Services Corporation (“MLSC”) reporting that 43% of its closed cases from fiscal year 2021 were in the area of family law. Md. Legal Servs. Corp., *Annual Report*, 4 (2021), <https://www.mlsc.org/wp-content/uploads/MLSC-FY21-Annual-Report.pdf>. The need was so great that MLSC approved funding in the amount of \$1,936,500—\$1,586,500 of which came from a grant provided by the Administrative Office of the Courts—for the continuation of the Judicare project, which pays reduced fees to private attorneys for contested family law representation. *Id.* at 5.

Similarly, in fiscal year 2022, MVLS provided 948 low-income Marylanders with pro bono representation in family law matters—approximately 27% of its total cases. *See* Md. Volunteer Laws. Servs., *2022 Annual Report* (2022), <https://mvlslaw.org/annual-report/>; *see also* Admin. Off. of Cts., *Current Status of Pro Bono Service Among Maryland Lawyers*, 16 (Spring 2021), <https://www.courts.state.md.us/sites/default/files/import/probono/pdfs/probonoreportfy2020.pdf> (explaining that in fiscal year 2020, family law ranked among the top three practice areas where the greatest percentages of lawyers reported providing pro bono service).

COVID-19 has further compounded the need for pro bono family law representation. The effects of the pandemic have been especially devastating for “communities that struggled before the pandemic,” including communities comprised of people of color, low-income individuals, and people with disabilities, to name a few. Legal Aid Interagency Roundtable, *Access to Justice in the Age of COVID-19*, 9 (2021), <https://www.whitehouse.gov/wp-content/uploads/2021/10/White-House-Legal-Aid-Interagency-Roundtable-Report.pdf>. Even before the pandemic, these communities “faced systemic barriers to accessing legal assistance and the courts,” *id.*, relying on pro bono organizations for assistance. Unfortunately, “[t]he pandemic drastically exacerbated the need for legal help and strained the resources that did exist.” *Id.* at 14.

In an effort to counter the adverse impact of the pandemic, Maryland Attorney General Frosh partnered with the Maryland Access to Justice Commission in 2021 to establish the Maryland Attorney General COVID-19 Access to Justice Task Force (the “Task Force”). *Confronting the COVID-19 Access to Justice Crisis: A Report of the Maryland Attorney General’s COVID-19 Access to Justice Task Force*, 2 No. 3 Md. B. J. 73, 74 (2021). The Task Force released a report concerning the effects of the pandemic on Marylanders and the justice system, finding that “the pandemic both highlighted and deepened the crisis in access to civil justice that affects so many low-income Marylanders.” *Id.* at 75.

The report called for an increase in pro bono services by attempting to “mobiliz[e] 500 new pro bono lawyers to meet the rising demand for civil legal aid” and “increase[e] awareness about pro bono opportunities,” among other suggestions. *Id.* at 76.

The Maryland Judiciary, Attorney General, State Bar Association, and Access to Justice Commission also announced a “pro bono call to action,” urging Maryland attorneys to take on pro bono cases “in the areas with the *most acute need*,” including “*family law*.” See Md. State Bar Ass’n, *Pro Bono Call to Action* (2021), <https://www.msba.org/pro-bono-call2action/> (emphasis added). These efforts emphasize the importance of pro bono services in addressing the ever-widening justice gap perpetuating the inequalities of the justice system, especially while the pandemic continues to hinder the most vulnerable populations. *Justice Gap, supra*, at 27.

The Maryland Court of Appeals’s Statement on Equal Justice echoes these concerns:

All of us—members of the judicial branch and the legal community—must, as Justice Thurgood Marshall has demanded, ensure that the doors of justice open wide for all people—and that once inside, procedural fairness and due process are a given. No one should suffer the degradations that too often accompany poverty—and we, the stewards of the justice system, cannot allow the lack of representation in civil matters to add to the burdens of the poor. Until governments can afford to guarantee representation to all in civil matters, the provision of legal representation *pro bono publico*—for the public

good—and the legal services and information we provide can fill some, but not nearly enough, of the need.

Md. Ct. App., *Statement on Equal Justice under Law*, 2 (June 9, 2020),

<https://mdcourts.gov/sites/default/files/import/coappeals/pdfs/statementonequaljustice060920.pdf>.

The COVID-19 pandemic has exacerbated the need for volunteer attorneys in this practice area. In *Amici Curiae*'s experience, the majority of family law attorneys in Maryland are either small firms or solo practitioners. MVLS has seen a significant decline in volunteer attorneys in this particular practice area because attorneys are overwhelmed with catching up on delays in their own caseloads caused by the pandemic. Sending the message that a volunteer's time will not be compensated, while their adversary's time can be, will further the divide between low-income Marylanders and access to justice through volunteer attorneys. Surely the Administrative Office of the Courts did not intend to set aside significant funding for legal services concerning family law matters only to have those pro bono recipients later pay their adversaries' legal fees.

III. The circuit court's ruling will have a chilling effect on low-income Marylanders seeking legal services and dissuade attorneys from providing them.

The circuit court's decision should also be reversed because it will dissuade Marylanders from obtaining desperately needed pro bono services. The ruling abolishes the benefits of pro bono services by reimposing the very fees those

services are designed to eliminate, leaving low-income individuals at the mercy of a justice system that requires substantial resources to navigate, much less succeed.

Amici Curiae's research has not revealed a single case in which a court has granted a fee request *against* a client receiving pro bono legal services absent extraordinary circumstances not present here; in fact, the overwhelming majority of courts have only awarded fees in the opposite scenario, *i.e.*, when the prevailing party *received* such services. *See, e.g., Henriquez*, 413 Md. at 302 (“Therefore, we conclude that Section 12-103 [of the Family Law Article] permits an award of counsel fees when a prevailing party initially receives legal representation from a non-profit legal services organization on a pro bono basis.”); *accord Pearson v. Pearson*, 200 W. Va. 139, 150, n.11 (1997) (noting that “where statutes authorize recovery of attorney’s fees in general, courts have permitted the prevailing party who received legal aid services . . . to recover attorney’s fees,” and citing cases). In limited circumstances, courts have required a legal services corporation—not the client—to pay for fees where the corporation itself engaged in litigation that was “irresponsible and vexatious.” *See, e.g., Flora v. Moore*, 461 F. Supp. 1104, 1122 (N.D. Miss. 1978), *aff’d*, 631 F.2d 730 (5th Cir. 1980). No such reasoning applies in the present case.

To hold otherwise would expose low-income Marylanders to potential liability for fees they have demonstrated they cannot afford, *see Justice Gap*,

supra, at 63–64, discouraging them from obtaining counsel to address their civil legal issues in the first place. Low-income individuals already view the legal system in a negative light overall, with less than 30% of low-income Americans believing they are treated fairly by the justice system. *Id.* at 51; *see also* 3 Amy Weaver & Catherine Moreno, *Successful Partnering Between Inside and Outside Counsel* § 37:18 (2021) (explaining that knowledge of the inequalities within the justice system “undermine[s] public confidence in the system as a whole”). The circuit court’s ruling will take this situation from bad to worse.

What is more, the circuit court’s decision disincentivizes Maryland attorneys from representing clients pro bono. While fee shifting statutes often “appear neutral as to the identity of the prevailing party, the statutes serve to support work by lawyers striving to enforce these statutes and serve the public values behind them.” Kathryn A. Sabbeth, *What’s Money Got to Do With It?*, 91 *Denv. U. L. Rev.* 441, 467 (2014). “The Supreme Court specifically recognized this aspect of fee-shifting statutes . . . , holding that fees are to be awarded to prevailing plaintiffs in virtually all cases, while prevailing defendants may be awarded fees *only in highly exceptional ones.*” *Id.* (emphasis added) (citing *Newman v. Piggie Park Enters., Inc.*, 390 U.S. 400 (1968) (per curiam); *Christiansburg Garment Co. v. E.E.O.C.*, 434 U.S. 412 (1978)).

This commonsense reasoning equally applies here. If attorneys who volunteer their time and agree to forego compensation from a client who cannot afford their services sees that a court is willing to force that client to pay for opposing counsel's fees (for which the attorney did not volunteer their services), there is no incentive for those attorneys to provide the services pro bono in the first place. That slap in the face will make volunteer attorneys think twice before providing such services in a time where the need for pro bono representation is greater than ever.

Instead, the circuit court principally punished Mr. Avery because he qualified for free legal services. If left to stand, the circuit court's decision will only worsen feelings of distrust towards the justice system among low-income populations and the public at large, contrary to the important public policy supporting increased pro bono representation. The court's ruling would have a chilling effect, sending the message that Marylanders who obtain these services to navigate complex areas of law can still be stuck with the bill—whether they can afford it or not—and that attorneys providing such desperately needed services will not be compensated while opposing counsel who did not volunteer services will nevertheless be reimbursed. Because the circuit court's order punishes an already underserved population in need of civil legal services and undermines the efficacy

and fairness of the justice system, the ruling of the circuit court should be reversed in a published opinion.

Conclusion

For the foregoing reasons, *Amici Curiae* respectfully requests that this court reverse the judgment of the Circuit Court for Anne Arundel County in a reported opinion.

Respectfully Submitted,

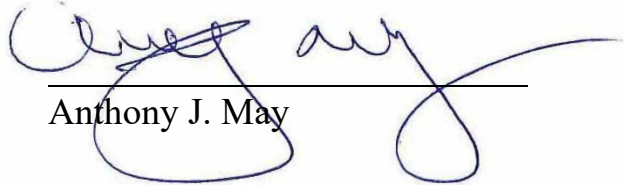


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Certification of Word Count and Compliance with Rule 8-112

1. This brief contains 3,794 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the requirements stated in Rule 8-112.



Anthony J. May

Certificate of Service

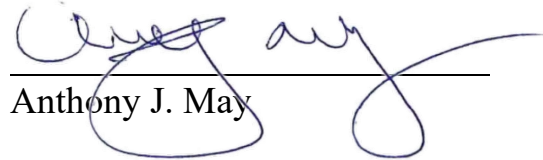
I hereby certify, pursuant to Rule 20-201(g), that on this 30th day November 2022, a copy of the foregoing Brief of *Amici Curiae* in Support of Appellant was filed electronically via MDEC with the Court and that, pursuant to Rule 8-502(c), two copies each were mailed, postage prepaid, first-class, to:

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Pro se Appellee



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Appendix

Bar Foundation of Harford County, Maryland, Inc., (HCBF) is a Maryland nonprofit community outreach program established in 1991, whose mission is to surround the disadvantaged citizens of Harford and Cecil Counties with legal education and advocacy regarding issues that impact an individual's and family's well-being. HCBF holds clinics and workshops to provide direct representation and collaborates with other non-profits regarding abuse, custody, homelessness, bankruptcy, employment, individual rights, and end-of-life decisions. The HCBF team works to find a way to assist through direct referrals to legal, local services, or organizations based on each client's unique need. HCBF provides free legal services to approximately 2,000 residents each year, including legal counseling, document preparation, and representation in judicial litigation through a network of over 145 volunteer attorneys. HCBF relies on the pro bono work of volunteer attorneys to meet the legal needs of people meeting the Maryland Legal Services Corporation's definition of low income, 50% of Maryland's Median Income. Volunteer attorneys provide over 3,500 hours of pro bono legal assistance annually, valued at \$665,000. HCBF's volunteer attorneys demonstrate an unwavering commitment to providing services to those who need them most. Residents in Harford and Cecil Counties who need family law representation face many barriers to accessing the legal system beyond lack of

financial resources, including lack of transportation and technology and feelings of shame for having to ask for legal help. Fear of paying the opposing party's legal fees would only increase the burden for HCBF's family law clients who are already experiencing financial distress. HCBF joins the coalition of organizations led by MVLS in requesting the Court to reverse the Circuit Court of Anne Arundel County's decision to protect the efficacy of pro bono legal services for people who cannot afford legal representation.

Community Legal Services of Prince George's County, Inc. (CLS), is a non-profit legal services provider assisting income-eligible residents of Prince George's County with civil legal needs and tenants in Anne Arundel County. CLS was funded in 1985 as the Law Foundation of Prince George's County, Inc., to provide pro bono representation to our clients. Since our funding 37 years ago, we have increased our services to include legal advice clinics, direct representation in civil cases, and same-day representation programs in court. CLS is funded by Maryland Legal Services Corporation and clients must meet the stringent MLSC income guidelines to qualify for CLS pro bono attorney representation. Eligible CLS clients are unable to pay for their own attorneys. CLS recruits attorneys to take our clients' cases pro bono, and the clients' court fees are waived based on their eligibility for CLS services. The program exists for the sole purpose of increasing access to the Courts for those of very limited means. Our pro bono

program provides a service that benefits the clients and their families, preserves judicial resources, helps the courts run efficiently, and increases access to justice. Any barriers to representation, including the imposition of attorneys' fees on CLS limit access to justice and creates inequity in the court system. In FY 2022, CLS closed over 10,000 clinics and cases in its combined programs. We placed or represented over 350 individual cases in Maryland courts on a pro bono basis at no cost to our clients. At any given time, CLS has a rotation of approximately forty active attorneys volunteering to take cases. CLS volunteers won over \$8000 in child support and alimony awards for indigent parents and received over \$9,000 on behalf of clients. In no case that CLS is aware of did a court order the party represented by a volunteer attorney to pay their opposing party's attorneys' fees. For the reasons set out by *Amici Curiae*, CLS urges this Court to reverse the decision of the Circuit Court for Anne Arundel County.

Established in 1911, the **Maryland Legal Aid Bureau, Inc. (MLA)**, is a non-profit, 501(c)(3) law firm that provides free legal services to low-income Maryland residents from numerous locations throughout the state. MLA provides assistance to tens of thousands of individuals annually. Its advocates address the legal needs of low-income persons regarding their most fundamental necessities, including preventing unlawful evictions, obtaining healthcare and disability benefits, preventing foreclosures, recovering unpaid wages, restoring utilities, preventing

wage garnishments, and improving substandard and dangerous housing conditions. MLA has an interest in this case its current and future clients would all be harmed by affirming the ruling below, including chilling them from seeking MLA's services in the first place.

The **Maryland Volunteer Lawyers Service (MVLS)**, a non-profit legal aid organization based in Baltimore, Maryland, has provided free civil legal services to low-income Marylanders for over four decades. With a panel of more than 1,600 volunteer attorneys and specialized professionals across the state, MVLS has assisted over 100,000 clients since its establishment in 1981. MVLS's mission is to expand access to justice in the civil legal for underrepresented Marylanders. To meet this goal, MVLS provides free legal services to low-income Marylanders; spreads awareness of inequities within the legal system; and advocates for equitable laws that remove barriers to justice. MVLS staff and volunteers have a deep understanding of the importance of pro bono legal services and the benefits of mitigating the economic burdens inherent in the justice system.

Mid-Shore Pro Bono, Inc. (MSPB) is a Maryland nonprofit established in 2006 to support and assist individuals and families in civil legal matters and to provide connections to community services. MSPB provides free legal services to over 3,000 Eastern Shore residents each year, including legal counseling, document preparation, and representation in judicial litigation through a network of

over 200 volunteer attorneys. MSPB relies on the pro bono work of volunteer attorneys to meet the legal needs of people meeting the Maryland Legal Services Corporation's definition of low-income, 50% of Maryland Median Income. Volunteer attorneys provide over 9,000 hours of pro bono legal assistance annually, valued at \$2.25 million. MSPB's volunteer attorneys demonstrate an unwavering commitment. Over 45% of MSPB's clients are seeking family law services and during the COVID-19 emergency, requests for assistance with family law tripled. Clients seeking legal assistance from MSPB have no other way to access legal representation due to their financial circumstances. People in need of family law representation face many barriers to accessing the legal system beyond lack of financial resources, including lack of transportation and technology, and feelings of shame for having to ask for legal help. Fear of having to pay the opposing party's legal fees would only increase the burden for MSPB's family law clients who already are experiencing financial distress. MSPB joins the coalition of organizations led by MVLS in requesting the Court to reverse the Circuit Court of Anne Arundel County's decision to protect the efficacy of pro bono legal services for people who cannot afford legal representation.

The **Pro Bono Resource Center of Maryland (PBRC)** is a non-profit organization that serves as the statewide coordinator and clearinghouse for pro bono civil legal services in Maryland. Founded in 1990, PBRC's mission is to

engage and support the Maryland legal community in meaningful and impactful volunteer service to ensure equal access to justice for those in need. It provides training, mentorship, and pro bono service opportunities to members of the private bar; offers technical assistance to the Maryland legal services provider community; and provides direct legal help to low-income communities, serving on average 2,500-3,000 clients per year. PBRC staffs and advises the Maryland Court of Appeals' Standing Committee on Pro Bono Legal Service, chairs the Maryland Access to Justice Commission's Pro Bono Committee, and serves on local pro bono committees. Through its work to provide equal access to justice in Maryland, PBRC has a strong interest in ensuring both that low-income litigants in civil cases receive, and that volunteer attorneys provide, their services to those most in need in the state. The imposition of a duty to pay attorney's fees on indigent clients eligible for and receiving pro bono assistance not only undermines the benefits of pro bono counsel, but also is likely to dissuade low-income clients of PBRC and other pro bono providers from seeking assistance for which they are eligible. For such low-income litigants, the burden of losing a case should not be compounded by burdening a client with an unexpected and overwhelming debt. PBRC respectfully joins the other amici in opposing the clear barrier to access to pro bono counsel the circuit court decision presents.

The **Public Justice Center (PJC)**, a non-profit civil rights and anti-poverty legal services organization founded in 1985, has a longstanding commitment to promoting access to justice. Since 2003, it has led the effort for recognition of a right to counsel in civil matters involving basic human needs, including family law disputes, both nationally and in Maryland. The PJC litigated the case of *Frase v. Barnhart*, 379 Md. 100 (2003), in which a close minority of the Court of Appeals would have recognized the right in custody cases under the Maryland Declaration of Rights. Since that same year, the PJC has been a founder and the home of the National Coalition for a Civil Right to Counsel. More recently, the PJC has been instrumental in securing statutory rights to counsel in evictions, as the affordable housing crisis for low-income individuals in Maryland and throughout the U.S. has dictated. The PJC has an interest in this case because the lower court's decision threatens access to pro bono representation, which remains one critical component of securing access to justice for indigent individuals.

The Women's Law Center of Maryland, Inc. is a nonprofit, public interest, membership organization of attorneys and community members founded to improve and protect the legal rights of women. Established in 1971, the Women's Law Center's mission is to ensure the physical safety, economic security, and autonomy of women, through direct legal representation, research, policy analysis, legislative initiatives, education and implementation of innovative

legal-services programs to pave the way for systematic change. The Women's Law Center is participating as an amicus in *Avery v. Avery* because we know that nearly half a million Marylanders are unable to afford legal services, and having legal representation is a key component in achieving access to justice. Requiring these income eligible litigants to then pay the opposing party's legal fees completely upends access to justice goals underlying the purpose of Judicare and other pro bono legal services. This court's ruling is effectively a punishment for being low-income.