



Tip of the Month August 2011

Brief Legal Services at Clinics – Making a Difference in Your Clients' Lives

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Last year, VLN volunteers provided 2,208 brief legal services, such as such as drafting court paperwork and making phone calls on behalf of clients. To determine what difference these services make in our clients' lives, I analyzed results from the LAP clinicⁱ clients served between January 1 and March 31, 2011. This tip summarizes the lessons learned and lists resources that support providing effective brief legal services in a limited time.

Lesson One: Screening for merit is essential (as well as required by ethics, as addressed in the February 2011 Tip of the Month). Unless the client's cause has merit, your work is unlikely to be helpful and could be better spent elsewhere. Results show you are effectively screening cases for merit prior to providing brief services; 56% of respondentsⁱⁱ had a positive outcome to their case. Thank you for the great work!

Lesson Two: Some brief services are more effective than others. The following brief services had 80% to 100% positive outcomes, and are therefore a highly effective use of your time:

- **Drafting an Answer:** Typically, defendants have merit to at least part of a petition. When an answer is served on the plaintiff, the defendant avoids default judgment and either the plaintiff drops the case or the case is resolved on the merits. *Resources:* HotDocs Answer to Summons and Petition linked on our website,ⁱⁱⁱ Self-Help Center's Answer packet, and Legal Aid Fact Sheets^{iv} (*What to Do If You Are Sued*, and *Garnishment and Your Rights*, in particular).
- **Financial Disclosure Forms:** Completing and filing this form prevents an Order to Show Cause Hearing and bench warrant (a very concrete benefit). The advice you provide also gives the client an opportunity to understand their rights in collection and/or garnishment. *Resources:* Legal Aid Fact Sheets, including *Your Rights in Collection*.
- **Telephone Calls:** All clients whose attorney made phone calls to judicial clerks or other government agencies, and 80% of clients whose attorney made phone calls to creditors or opposing counsel, reported that their case was advanced. Those calls helped clients gain important information or negotiate from a position of greater strength.
- **Power of Attorney Form:** This straight-forward form helps clients who are leaving the country or otherwise unavailable for a time to protect their financial interests, including when they are collecting on a judgment. *Resource:* POA fact sheet and form linked on our website.
- **Wage Garnishment Exemption form:** This keeps much needed income in the client's household when a client is receiving government assistance based on need, received such assistance within the last six months, or was incarcerated within the last six months. *Resource:* The wage garnishment exemption form is on our website.

Lesson Three: Other brief services are relatively effective and a good use of your time:

- **Debt Dispute/Validation Demand Letters:** Asking the creditor to validate the debt puts clients in a position of greater power; creditors without certain documentation may even stop collection efforts. One third of clients had measurable outcomes following this brief

service. *Caveat:* The FDCPA protections are not enforceable against original creditors. *Resource:* Sample debt validation demand letter on our website.

- **Demand letters:** A demand letter for return of property or security deposit is a critical part of a document trail for a positive outcome in Conciliation Court. One third of clients reported even more immediate positive outcomes.^v *Resource:* Sample letters on our website.
- **Conciliation Court (CC) Complaints:** While CC is the preferred venue for many of our clients' issues, hurdles to success include difficulty serving a foreign defendant (business) by mail and failure to bring evidence to the hearing. Clients who receive specific coaching about potential problems, as well as detailed written instructions of next steps are more likely to succeed. *Resource:* A user-friendly CC manual on ProJusticeMN.org.

Lesson Four: Some brief services are almost never effective and should not be performed absent special circumstances. These include drafting motions to vacate default judgment, a (district court) summons and complaint, and judgment collections. Reasons include:

- **Low merit.** Clients seeking a motion to vacate have already lost on one level. In addition, clients starting a district court lawsuit court have a high burden of proof.
- **Money.** Even with well-drafted paperwork, clinic clients often can't pay the \$322 filing fee (plus \$100 motion fee in motions to vacate default judgments) and the paperwork is never seen by the judge. (Check first whether the client qualifies for a fee waiver.)
- **Courtroom appearances.** Unrepresented litigants typically lose in general district court hearings, especially if the other side has an attorney. *Caveat:* This finding is limited mostly to debtor/creditor cases, and does not include housing or family court hearings.
- **Limited remedies.** Most judgment debtors have limited assets or are skilled at hiding assets or evading service, making collection efforts futile. Remind judgment creditors of the court's limited remedies. (Please refer clients with judgments against former landlords or employers to VLN for more extended assistance.)

Lesson Five: Well-trained clinic assistants are essential to brief services; they quickly provide appropriate forms and resources and can complete the service under your supervision while you advise the next client. This finding confirmed the feedback from many clinic attorneys. As a result, VLN is currently improving and streamlining clinic assistant training.

Conclusion In the right situations, brief legal services are a highly effective use of your time, leading to positive outcomes, some of which are typically associated with full representation. Determining in which situations to provide these services is essential in making most effective use of a limited resource - *your time!*

Thank you for your dedicated work to at our clinics and, as always, please let us know how the VLN staff may support your work.

ⁱ The LAP (Legal Access Point) clinic is a walk-in legal advice clinic located at the Hennepin County Government Center; legal issues are typically civil legal issues.

ⁱⁱ Between January 1 and March 31, 2011, 91 clients received brief legal services at the Legal Access Point Clinic (LAP), of which 48 (or 53%) responded to our requests for information.

ⁱⁱⁱ All references to our website are to this page: <http://www.volunteerlawyersnetwork.org/volunteer/brief>

^{iv} All legal aid factsheets referenced are available at <http://www.lawhelpmn.org>.

^v This study was completed prior to the conclusion of some clients' matters.