

**Remarks of Panelist, Harrison D. McIver, III, Executive Director/CEO
Memphis Area Legal Services, Inc. During Public Meeting Convened by the
Tennessee Supreme Court, February 20, 2009**

Nearly 200,000 people living in just four counties of West Tennessee - Shelby, Lauderdale, Tipton, and Fayette - have little or no voice in our system of justice. These are people who have little money, thus, no discretionary income to pay for lawyers to access our courts. That's what the Access to Justice's effort is all about: to give a voice to people like Dorothy Holiday, who suffered from a massive brain tumor that left her with little memory and without the ability to write. She was unfairly denied her SSI benefits so her mother turned to MALS. Our paralegal under an attorney's supervision represented her before the Social Security Administration and she now receives those benefits. To learn more about the insights of Harrison D. McIver III, Executive Director of MALS, in the public meeting in Memphis, convened by the Tennessee Supreme Court's Access to Justice initiative, you may read his remarks below:

Chief Justice Holder, members of the judiciary and legal community, and others of you who are committed to access to justice, today is a momentous occasion in the Memphis, Shelby County-area – the Tennessee Supreme Court has convened a meeting to raise public awareness of access to justice. On behalf of the Board of Directors, a dedicated staff and client community of Memphis Area Legal Services (MALS), we say “thank you.”

Today is not just about a public meeting, but it is about the hundreds of thousand faces who may be voiceless in our system of justice. We are here today to give voice to individuals like MALS’ client, Ms. Holiday, whose daughter, Dorothy, suffered from extensive memory lapses and lost her ability to write. Doctors found a massive brain tumor. Yet, she was denied SSI benefits. She turned

to MALS for help and our paralegal advocated for her before the Social Security Administration and she now receives SSI benefits.

It is also about giving voice to a woman who was locked in a power struggle with her estranged husband and had grown weary of fighting to secure a stable future for herself and her three children. Though she had long ago gathered enough strength to leave her husband, he continued to stalk and harass her, vandalize her property, and otherwise exert control over her life. His actions eventually earned him a conviction for several counts of aggravated assault and burglary. Yet, he walked free and often belittled and reminded our client that she could not divorce him if he did not allow her to. With the assistance of our Domestic Violence Project staff, the client was able to obtain a divorce and was given the opportunity to raise her children in a non-violent and stable home, free of her abuser at last.

MALS also gave voice to an 87-year old female client who is wheelchair-bound, arthritic, asthmatic, and diabetic, spending most of her day attached to a portable oxygen dispenser. She survives on Social Security and disability checks of her disabled, adult sons who live with her. A broker firm and local mortgage company visited her home and convinced her to refinance her mortgage into a 30-year loan with interest of more than 10%. Income and other information were falsified and credit card debt all wrapped into a new loan. She turned to MALS, and our Housing Law unit resolved this matter that reversed the terms of the loan most favorable to her. These are but a few examples of the clients and types of cases that are common to MALS.

With the recession and continuing downward spiraling economy, the poverty rolls have grown exponentially since the 2000 census that found 155,000

individuals in MALS four-county service area – Shelby, Tipton, Fayette and Lauderdale counties – living at or below the poverty line. Take Shelby County for example, one in five individuals are found to be economically poor or nearly 180,000 fall within the poverty guidelines, resulting in 2007 of approximately 190,000 or 35,000 (or 20%) more people being eligible for legal assistance from MALS than in 2000. And, yes, as you might guess, they are mostly women with children and the elderly. But if those figures were updated today, I would not be surprised if 200,000 figure would not be far off, including members of the former middle class who have joined the ranks of poverty due to loss of employment, home foreclosures and the dire economy.

Reginald Heber Smith, credited as the founder of the legal aid movement in this country, challenged the thinking at that time by saying “Thou shalt not ration justice.”

MALS has more than 50 staff, with 17 attorneys, paralegals or paraprofessionals and other staff. In 2008, MALS recorded nearly 9,000 service requests, 96% of which resulted in full applications, but more than 40% of those were turned away. We assisted nearly 5,600 clients, impacting the lives of more than 11,600 individuals. Even with the assistance of the private bar and partnerships with the MBA and other bar associations, the unmet need is compelling.

Are we not rationing justice by meeting no more than 10% of the need? The answer is unquestionably yes. The need is dramatic – just review the facts:

1. Unemployment figures in Memphis, Shelby County are well over 8 %. Among the poor, and the data although three (2005) years old, 18.5% of the poor are

unemployed in Shelby County. In our neighboring Fayette County during the same period, 49.2% of the poor are unemployed; in Tipton County among the poor unemployment- 30.4%, and 29.3% in Lauderdale County.

2. In Shelby County, of the 180,000 residents who are poor, 7.9% are white, 30% black while 26.2% are Hispanic.
3. Law Enforcement reported more than 60,000 domestic crimes, an increase despite the drop in overall crimes. An average of 400 temporary or protective orders is issued monthly, but how many of these victims, mostly women, never file and how many more have no advocates assisting them. Are we not rationing justice?
4. West Tennessee is reported to have more bankruptcy filings per capita than any other area in the country and is dubbed the bankruptcy capital of the nation.
5. Memphis is ranked 18th nationally in 2008 in home foreclosures with a 3.2% of housing units receiving foreclosure notices. For example, residential foreclosures have increased by 6.6% in 2008 compared to 2007.

Turning now to resources, MALS and other legal aid organizations across Tennessee aggressively seek other funding and support above and beyond the Legal Services Corporation funding. We are fortunate to receive grants and/or funds from filing fees, etc., through the Administrative Office of the Courts; the Justice Department's Violence Against Women Act; Community Development Block Grant funds from the City of Memphis; Interest on Lawyers' Trust Account (IOLTA) from the Tennessee Bar Foundation; and local fundraising campaigns

largely within the legal community. While all these sources and resources help, and MALS is indeed appreciative, they are far from adequate to address the unmet need and thereby reduce rationing justice as we know it.

We in Memphis, in particular, and the State of Tennessee are so fortunate, really blessed, to have a Court led by Chief Justice Janice Holder to raise the challenges underlying access to justice. We would all agree that since our country was founded upon a principle of equal justice under law and without access there can be no meaningful justice.

With the Court joining forces with the TBA's "4-ALL Access to Justice Campaign" and through the leadership of our own TBA President, Buck Lewis, I firmly believe we are on our way to a better tomorrow for individuals like Ms. Holiday and others who would otherwise be voiceless in our legal system. The theme of President Barack Obama's campaign was "Yes We Can!" Hopefully, working together with the new Commission as a catalyst we can give greater voice to those who are voiceless in our legal system. Rather than saying, "Yes We Can," I submit we should say "Yes We Must!"