

Whose Law Is It Anyway?
Episode 1: ...And Justice for All
Full Episode Transcription

Matthew Hannon: Welcome to the first, or inaugural, episode of “Whose Law Is It Anyway?” an American Bar Foundation podcast. My name is Matthew Martinez Hannon, and I’ll be your host. This podcast will explore some uniquely American legal challenges, uncovering new insights into policy problems and social issues that face the nation. On each episode, I’ll be welcoming some of the nation’s best scholars and lawyers, asking them difficult questions about topics such as justice, rent and housing, civil rights, consent, and other issues that matter to all of us across the country. But let me start by telling you a little bit about myself.

Full disclosure: I’ve never done anything like this before. Bear with me. I think there’s a quote about starting at the beginning so that’s what I’ll do. At the end of 2019, I had recently finished grad school, I was looking for a job, as one does. And I only had one caveat at the time: I wanted to work somewhere where the work felt meaningful. My temp agency was able to place me at ABF and thanks to my solid work ethic, charming disposition, and COVID restricting the ABF’s ability to hire someone for the position I was helping cover, I was fortunate enough to be brought on permanently in December of 2020 as the Database and Gift Processing Specialist. So, that covers how and why I’m at the ABF, but how and why did I end up as your host? Again, work ethic, charm but, also, like Jon Snow for all you Game of Thrones fans, I know nothing. I guess that’s not entirely true. I know a lot about pop culture, movies, tv shows, music – I can recite every single lyric Mariah Carey has ever sung -- but when it comes to laws and policies? Not so much. So, here I am, a regular person, asking all the questions a regular person might ask, for all you other regular people, so that the rules that govern our lives don’t seem so overwhelming, confusing, or abstract. Basically, me, a self-professed know-nothing, is about to ask some of the smartest people around questions about their work and how it impacts our daily lives.

Here’s what I quickly learned about The American Bar Foundation once I began working there, and this is important to know as we proceed: it is a leading research institute for the empirical and interdisciplinary study of law. The ABF employs faculty and researchers who study how law is made, implemented, practiced, and understood. They also analyze how regular people understand the law and use it to access justice and protect their rights.

The ABF’s motto is “Expanding Knowledge and Advancing Justice,” and we hope that if you’re curious about law and society this podcast will offer a good starting point. Our guests will come from a variety of backgrounds and diverse perspectives to share their stories of how law matters in the real world. We will feature the ABF’s own researchers and others in the sociolegal space to learn about how they seek the uncompromising truth through empirical research. We’ll also host a number of practitioners to gain insight into the real-world impact of these topics. As a note, the ABF is an independent and non-profit research institute. So any of the viewpoints expressed during the podcasts are those of the guests, and my own, -- not the ABF. As a host, this is a wonderful learning experience for me. As I said, I’m new to the sociolegal space, so this will be an intellectual journey for me as well as our listeners.

So of all the topics to start off with, the one that seemed to be the most encompassing was access to justice. This is a huge topic, and there are a number of ways to tackle it. First, we’ll be speaking to ABF Faculty Fellow and Arizona State University Professor Rebecca Sandefur, or as I get to call her Becky. Becky is a sociologist and was awarded the 2018 MacArthur Genius Grant for her work that promotes

evidence-based approaches for increasing access to civil justice for low-income communities. She has been on the forefront of many issues of access to justice, and she'll talk us through where we are and where we're going.

Our second guest, Salvador Mungia, or as I get to call him Sal, is a Washington state lawyer who has worked on the ground with issues of access to justice. He'll take us from theory to practice, discussing what access to justice looks like in daily life.

Our hope is that through these discussions, as I'm learning, you'll also learn a little bit about the law, the challenges people face, and what the future might look like. At the end of our discussion, our guests offer up resources in order to take immediate action and learn more about the topics at hand. So, now that I've covered everything I think I know I need to cover, let's get started and talk about access to justice.

Rebecca Sandefur Interview

Matthew Hannon: Alright. So Becky, first of all, thank you so much for being here with us today. This is very exciting. And if I'm being completely honest, this interview is, I feel like there's a lot riding on it because what you do, involving access to justice is sort of the crux of why the American Bar Foundation exists. So why don't we get started? Where are you from? Where do you live now? Any fun things we should know about you before we delve into all your research and expertise?

Rebecca Sandefur: My name is Rebecca Sandefur. I usually go by Becky and I'm from Norman, Oklahoma, which is right in the center of Oklahoma. Now I live in Fountain Hills, which is in the East Valley, East of Phoenix, between the mountains and Scottsdale. I've been here for about, I think this, this is my second year. Before this, I was on the faculty of the University of Illinois and before that I was on the faculty of Stanford. And I started my affiliation with the American Bar Foundation many, many years ago when I was a graduate student. And I was a research assistant on a project studying the careers of lawyers, which was an accident, but it was sort of what set me on this road.

MH: Fantastic. I have to ask really quickly: have you ever been in a tornado?

RS: Yes.

MH: It's like the one weather thing that I don't ever want to experience.

RS: So growing up in Oklahoma, we had tornado drills the time and there was this public service announcement that would always tell you that it sounded like an oncoming train and you sort poopoo that until you hear the oncoming train.

MH: Yeah. Even thinking about it right now, I'm getting a little bit of goosebumps. You know, I grew up with earthquakes all the time and people often think that that's crazy, but just sort of second nature, no pun intended. Anyway, thank you for answering that and indulging me.

Back to the topic at hand, which is access to justice, which is such a big term although something I think that we hear a lot more about now. And I will say from my own personal experience, growing up in Southern California, it wasn't something that I think was part of the vernacular. But certainly when I ended up doing my undergraduate at UC Berkeley and the simultaneity of, growing and being more

exposed to the world and also possibly the world being more exposed to itself, this idea of a lack of access to justice, I think is in the societal conversation more and more often. I would love though your definition, the legal definition of what we are talking about when we talk about access to justice.

RS: In our legal system, we have this kind of somewhat artificial, but also real distinction between criminal justice and civil justice. And my work really focuses on the civil side. So, when I'm talking about access to justice, I'm talking about people's ability to resolve the millions of problems that they have every year, if you think about the U.S. collectively, in ways that are consistent with the laws that are meant to help us order those problems. So, this is things like getting paid the wage that your labor contract says that you'll be owed, or dealing with the fact that you're three months behind on your mortgage payment and therefore the bank is getting ready to foreclose, or taking care of people who are dependent on you. And so that could be your kids, but it could also be parents or other adults, members of your family, or neighbors who, who can't care for themselves.

Our best guess is that if you're looking at the nation as a whole, there's probably 150 million to 250 million civil justice problems that happen to people every year. And so the reason we've made rules, laws, I guess you could call them about these problems is because we think that these issues are so important that we should have a collective stake in ordering them. And it's concerning, therefore, when we've decided that it's really important that we order these things, but we know that many people's issues and lives are outside those protections and outside those responsibilities.

MH: Right. I think that that's something that, as I've spent more time at the ABF, that has become very clear to me. We engage with these laws, we engage with them all the time, sort of whether we are actively doing that or not, right, because they're set up in that way. And it's, it's always been something that is, felt a bit far away from me. I can tell you all about pop music and talk about these things that seemingly don't have a lot of effect on the world, but the things that do have effect feels so far, and that's why I think what you do is quite exceptional because it seems like it makes it a bit more accessible. So you've talked a little bit about what ordinary people might experience with access to justice. I would love for you to sort of paint a picture about what access to justice looks like in practice as you have researched it.

RS: What it looks like in practice is that all of us are going on with our lives and then various situations emerge. Like, we're grandparents. And for whatever reason, our kids can't take care of their kids anymore because they are ill, because they have substance abuse issues, because they're deployed in the military, or because they're incarcerated, for example. And so, then we do what feels absolutely normal in the context of solving the problem that's in front of us, which is we say in this particular example, okay, well, we're going to take care of our grandkids. And that feels like a very human thing to do, which of course it is. But at this point in history, we've made formal rules about so many aspects of normal life, that there are many kinds of routine feeling things that you do that actually have you bump up against the civil law.

To go on with the grandparents taking care of grandkids example, when you go to enroll your kid in your grandchild in school, you don't actually have the legal right to do that without certain documents. And you can't attach them to insurance, and you can't get them vaccinated, and you can't make medical care decisions about them and so on, without this kind of formal authority that you have to get by going through a legal process. And there are lots and lots of aspects of life that involve relationships at work relationships with family, relationships with neighbors, relationships with service providers and, and people who sell us stuff, people that we sell stuff to, that are governed by those rules. When these problems emerge in people's lives, they just feel like ordinary problems. And people don't typically

recognize that they have legal aspects, which turns out to have really big implications for how these problems go down.

A few years ago, I did a survey of a middle-sized city in the Midwest, which I gave the really creative name of Middle City. And the survey asked people about a bunch of concrete situations in their lives. So, does your employer owe you over time that you're not paying or that he's not paying? Are you three months behind or more on your rent? Are you six months behind or more on your student loan payments, et cetera. These are all issues that lawyers had identified as justiciable. There are concrete situations that invoke legal issues on one side or the other, or both. And we asked people who reported some of these issues, you know, okay, you told me that you're three months behind on your rent. Or, okay, you told me that your employer is not paying you overtime. What kind of problem is this? Is this a moral problem? Is it a personal problem? Is it a bureaucratic problem? Is it a legal problem? Is it bad luck? It is God's will for you? And the most common responses that folks in that community gave were that it was either bad luck or God's will for them. That was something like 56% of problems. So people understand these things as parts of life that are either supposed to happen to them or a part of what just happens to all of us. It was only if I can remember correctly, 9% of problems that people saw as having legal aspects. And so, if you're confronted with a justice problem that you don't recognize has justice aspects, you're not going to solve it probably, by using any kind of legal services, legal information, filing lawsuits and so on.

And sometimes that's probably fine. Sometimes people are able to work out solutions to these issues in ways that are consistent with the rules that we've made to govern them. But sometimes of course, they're not able to enroll their grandchildren's school because they don't understand what they need to do and so on. And so it's, it's that space, that gap, between people who need some kind of assistance with the justice aspects of their life problems and people who are able to get that kind of assistance. And that's where most of my work is, is in trying to figure out how to make that connection, either by helping people get across the divide or helping services get across the divide to them, or by thinking about how we could design systems and services differently so that more people could access their rights under law.

MH: And so, what do you think causes that gap that you mentioned? Is there something that is actively prohibiting people from turning to the law, whether it be cost, stress, or just unawareness?

RS: When I first started this research, we all believed including me that it was all about money and that it was because lawyers were incredibly expensive, that people didn't go to them. And that's certainly sometimes true that the lawyers can be very expensive. I mean, if you look at the cost of a contested divorce that can easily take you into six figures on one side, right? So that's a really expensive legal issue, but there are lots of other legal issues that are not expensive. So even if you don't have a complicated estate or a lot of money, it's better for you and for your family if you have a will, because it makes everything go much more smoothly after you die. And if you add powers of attorney, it makes clear who can make health decisions about you when you can't make your own health decisions. And then you can have things the way you want them, as opposed to the way they work out through other processes. But most Americans don't have wills, even though you can get one for \$200, \$500. You can make it on the internet.

Part of it is that because people don't part of it is that people don't see the connection between their life problems and legal rights or legal responsibilities. But that makes it sound like it's their fault. Like if we gave them a class on the law, they would suddenly, you know, know much more. But it's probably more likely the fault of the way we design and distribute legal services, which is not completely, but very

unrelated to the way people experience their problems and the places they go when they experience problems.

So, if you look at how people handle justice problems, they occasionally go to law. That is, they occasionally file lawsuits, or they occasionally go to lawyers. But for the most part, they go to their families and friends and ask them what they think they should do. They go to community organizations, if they're a member of a religious community, they'll go there. And so, thinking about how to embed the help that people need in the places that they're already going to, and how to frame that help in ways that they're already thinking about their problems?

If we want to put a responsibility, the responsibility is on the justice system and legal service providers to rethink the way they make those connections.

MH: That's great. Cause that's actually one of the questions I wanted to ask. You've written that many people don't view some of their most pressing problems as legal or to be solved through law.

So how do lawyers engage with this?

RS: You mean, how do they, or how could they?

MH: How do they, currently? And then, how in your opinion, should they?

RS: I mean, for the most part, lawyers sit around with signs that say legal help here and wait for people to come in. There are exceptions to that. The example that probably occurs to people who are listening to this, you have any access to media is personal injury lawyers who often advertise. So: injured in an accident, got this or that illness at work, you know, call me and I can get you thousands of dollars and you pay nothing upfront. Because they take a cut of what they do and what's called a contingency fee. What's really interesting about that kind of outreach is it's effective in helping people understand that their work-related illness or their disability due to an accident has legal aspects and could be connected to a specific legal solution.

I'll give you a kind of a sort of strange example of this. So when I first started this work, I did some focus groups around middle-sized cities in the Midwest, but different ones than the ones that were in that survey study. And I had people come into the library and give them some cookies and a little bit of an incentive and say, let's talk about just kind of problems that you have in your life that happened to people like you, you know, these could be problems at work, it could be problems with family members it could be problems with neighbors. It could be problems with government offices of different kinds. Let's just go around the room and tell a story about a problem. And so the first thing that happens is that everybody tells you about legal problems, even though they don't think about it that way. So, you know, Medicare for example has already paid their doctor's bill, but the doctor keeps billing them. And so finally they'll just pay it, even though they don't owe it, because it's a hassle. But they don't perceive it as something where there's someone else who has a contractual obligation to pay and has already done so, for example.

So you go around the room, you get all these stories where people don't really see the legal aspects of their justice problems, and then you say, okay, well, so one of the stories we have here is that, so-and-so's in an apartment and there are lots of pests in the apartment. What can so-and-so do about these pests? And people will be really stuck. You know, they'll often say, well, you can go to the landlord and say, would you please fix this? Or you could go to the hardware store and buy some rat poison. They have solutions, it's not that they're stumped, but they don't typically think of law.

So they're going around telling these stories more than once someone would say, "Well, I don't know what this person should do about this problem, but if she had been injured in an accident, she could call..." and then they would give you the name of the personal injury firm that did a bunch of advertising in that community, which is a great illustration of how it's possible to create essentially education campaigns that help people connect specific circumstances in their lives to particular kinds of solutions. We just don't do that very much. For the most part, lawyers sit around and wait for people to come to them with different kinds of problems, rather than engaging in different forms of outreach, of which advertising is just one. There are lots of other ways to do that.

I'll give you an example from the legal aid side. So in the United States, there's no right to counsel if you have a civil justice problem, but there is, in every state, there are organizations that will provide free legal services to people who are poor. The definition of poor depends on different States, but usually the federal definitions are 125% of the federal poverty level or below. Those organizations don't provide services to everybody. They provide services to everybody they have the resources to serve. So they turn away at least half of the people who come to them. Those organizations sometimes engage in outreach where they try to embed referral sources to them in places where people are already going. A great example of that would be Tennessee, which has a Faith Justice Alliance and what the Faith Justice Alliance does is it goes around to churches and synagogues and temples and teaches frontline service providers, how to issue spot essentially, and then make referrals to legal aid.

So, if someone goes into their pastor and says, I'm very afraid of my husband, he keeps getting so angry. The pastor might say, let's pray about it, let's talk about this and that. But the pastor might also say, you know, you may want to talk to a lawyer because this may be a situation that involves domestic violence. And maybe you need to think about protecting yourself and your children. And there may be legal routes to doing that. There are attempts to do things like that around the country. I think that they could be a lot more extensive than they are.

MH: So that's talking a little bit about the current state of access to justice. But what factors -- you know, you mentioned poverty, but race, class -- make someone less likely to view the U S justice system as a resource?

RS: That's a really interesting question because it's, it turns out to be quite complicated. So we know that there are communities in the U.S. where they have horrible experiences with the criminal justice system, right? They have awful experiences with the police. They will have actually have had contact with courts because they're the object of state action. And so those communities can develop from experience views that certainly the criminal justice system and its various parts are not there to serve them. That doesn't always translate into a sense that the civil justice system is not there to serve you. There are very conflicting findings about the relationship between those criminal justice experiences, whether they're direct or vicarious, and people's views about, say for example, legal aid lawyers or whether if they went to a civil court, they could get a fair result.

What we do know is that it's that most people in this country don't get services of any kind that have legal expertise in them when they have justice problems. And that's true for poor people, but it's also true for middle class people. And it's true for the owners of small businesses. So the lack of access to services is certainly widespread across all groups in the population. It is more acute for poor people, we know. We also know that it's sometimes acute in central city areas, but it's also sometimes really acute in rural areas where there just no services there to connect to.

MH: Do you think we are at a -- I'm probably going to mix a whole bunch of metaphors -- crisis point, boiling point, a place where the levies are going to break in terms of people being aware of, you know, they're inaccess to justice and the law?

RS: You know, if you look at what's happening on, on the issues of criminal justice, I think over the past 20 or 30 years, you've seen a growing and widespread, and at this point politically bipartisan, recognition that the way we've been doing that doesn't work. And I think that, that we can hope that that will not get simplified. But if you see what's happened on the civil side over the past, past the same period, you know, there's been an enormous movement for what's called tort reform. Tort reform is making it harder, basically for ordinary people to sue companies when they manufacture faulty products or to sue medical care providers when there are different kinds of medical errors. Tort reform may have had some pro-social goals, right? I mean, you don't want a bunch of spurious lawsuits and you don't want people driven out of being medical care providers because they can't afford malpractice insurance, but the sort of, sort of closing off people's access to their rights under law might not be the only way to achieve those goals. So what'd you see on the civil side is this sort of portrayal as Americans as incredibly litigious, which of course they're not, if they're not taking most of their justice problems to law. So, you know, I'm hopeful that, that this, that this, that we'll see a kind of awakening that we've seen on issues of criminal justice. I don't know what's going to happen there.

MH: If only you did. This be so much easier for all of us. But in terms of some of your recent research about the way that non lawyers access advice and help... legal technology and other forms of legal services, do they help people obtain solutions to their justice needs without knowing their justice needs?

RS: Well, the best ones do, absolutely. I'll tell you about one of my favorites. So in New York City, there's a range of tools and programs around low-income housing or access to rental housing. And it started the name of the program is JustFix. It started as, as a computer program, or an app I guess we call them now, that you could put on your phone, and it would help you write a letter of complaint to your landlord about, conditions in your apartment. And it doesn't say: "Help us notify your landlord about violations of the warranty of habitability under blah, blah, blah." It says: "Are there some things in your apartment that you would like your landlord to fix?" And then it takes you through a guided interview thing, you know, are there rats, are there leaks, do the lights work in the common areas? Did the elevators work? And so on.

You go through this whole thing and it says, okay, you told me there was a leak, go take a picture of a leak. You told me there were rats, go take a picture of a rat. It puts all this information together and it writes a beautiful letter to your landlord that says, you know, I'm your tenant. This is who I am. I'm at this address, you're responsible for it. I'm letting you know, pursuant to city ordinances that there are these conditions that you have to fix. And by the way, just to make sure you understand, here are the datestamped, timestamped, geolocation stamped photos of the condition violations. And then the program will send that off to your landlord as a certified letter. So, no lawyers involved, right?

Ideally your landlord then fixes these things, but if the landlord doesn't, you then have taken the necessary first legal step to file a suit in housing court to compel the landlord to repair those conditions. So that's a very sophisticated tool. But, it's distributed in a very thoughtful way. So it was developed was essentially community led design, where you go to communities and you say, what are, what are the problems that bother you? What would help you work on those problems? And then that tool is distributed through networks of tenants, unions, and housing rights organizations and other kinds of community organizations, so that people get it from places that they're already going to.

MH: I could have used that two years ago.

RS: It's a very common problem.

MH: No, it's sort of incredible to me that more things like that don't exist yet. I want to sort of veer us just slightly off track because you know, now you've mentioned housing, and one of your earlier examples was about grandparents needing to take care of their grandchildren. Where do you see most of the civil justice issues happening? If there is sort of a consensus around a specific issue, whether it be bankruptcy, illness, family issues, housing issues, et cetera.

RS: So in the survey I did in Middle City, 25% of adults reporting some issue at work. There are a lot of issues around livelihood. So if you're working it's employment, if you're retired, it's problems with your pension, or if you're disabled, it might be problems with disability benefits, or veterans benefits, or some other kinds of benefit that you're entitled to. Housing is a big set of issues, particularly rental housing, but people also have problems with condo associations and they have that, you know, they run into issues with their mortgage lenders and with contractors and so on. There are a lot of issues around debt and sometimes that's credit card debt, sometimes it's student loan debt. Um, but you know, most of us are, are financing a lot of our lives within peace. Even if you pay your credit cards off every month, you're in short term debt all the time, right?

MH: You said credit card debt and student debt and my body shivered twice.

RS: So there are lots of issues around that. And then there are lots of issues around family. I think it's two and a half million grandparents are raising at least one grandchild. Then as the population ages, you have more and more people who will have age-related conditions like dementia that mean that they can't take care of some or all of their affairs. And so then other people have to step in and help them with those kinds of things. So if you think about the major categories is being able to make a living, it's having a place to live, that's safe and secure. And it's being able to take care of people who are dependent on you. That's where the main groups of problems fall.

MH: And what happens when these are compounded onto one person?

RS: Well, that happens a lot. I mean, if you think about how the COVID-19 pandemic will have shaped this, so those numbers like two and a half million grandchildren, grandparents raising grandchildren or pre COVID. I think we have 3.7 million evictions in a usual year – that's pre COVID. So many people will have lost their jobs. And, that means that they will not have been able to pay their rent and they will not to have been able to make debt payments. They will not necessarily have been able to pursue family arrangements that they might need legal documents for. And so that stuff is building up. I mean, once you lose your income, all of these things kind of cascade. There are eviction moratoria in place right now. There are some debt collection moratoria in place right now, but then those will end.

And so, if you got laid off at the beginning of the pandemic and you've been protected from eviction by it from homelessness by an eviction moratoria, when that ends you're 12 months in arrears on your rent. So you're thousands of dollars in debt to your landlord. I mean, courts are going to have to handle the adjudication of all those evictions that have been held back, but then what are we going to do? Right. So in the short-term we solve the problem by basically trying to prevent mass homelessness by keeping people in their homes, but that doesn't erase their rental debt. How are we going to handle that? I think that has not been figured out yet.

MH: That's a little bit unnerving. I hadn't actually put it into perspective like that, because it will still come to a head. Once things start to clear. You know, you mentioned one of these apps that seemingly worked really well. I guess this is sort of like a two-pronged question. Have you seen any technological or digital tools intended to help people that did not help people? And you know, when we talk about technology, there's also the question of access to this technology. Are people who really need this technology able to access and utilize it?

RS: So a couple of years ago, working with some students, I did a, I think we called it the Survey of Legal Technology. So we tried to find all of the consumer facing legal technologies that would help you with justice problems. And we found 330 or so of them. So there are a lot of them out there. Most of them are not particularly useful because they're just a whole bunch of information in legalese in like a giant dictionary of stuff. And we know that people need and want information that's tailored to their particular circumstance, and that's in ordinary language rather than in legalese.

MH: Which why do we use legalese? Who was that serving? Becky, I need you to answer this question for me, because I have often looked at contracts and like, I don't really know what I'm signing, but I need, you know, X, Y, Z, or whatever it is.

Why is that the way we're communicating with people? Why is that how people are communicating with me?

RS: The short answer is because, if you're thinking about the delivery of services, it's provider driven. So it's not that everyone sits down and talks to people and ask them what they want the broader sit down and think to themselves, what do I have to offer? This is the way I think about the world. Here you go. So here's a bunch of information in legalise. It's an interesting question. How much of that specialized language is necessary? So, if you're thinking about your rental contract or employment contract. One of the things that you see in courts is a movement towards plain language. And you see this to some extent in things like credit card agreements. So the Consumer Financial Protection Bureau was instrumental in making your credit card agreement simpler than it was. It's still not necessarily very simple, but it got simpler.

And then in courts around the country, you know, to go back to New York City in that if you get a notice of eviction in many jurisdictions, your next move is to do what's called filing an answer. And traditionally what you would do then is right along narrative essay, using specific legal terms about your response to the notice of eviction. You know, if you're not a lawyer, you don't know what the terms are and what's legally relevant and what's not legally relevant. And so, jurisdictions like New York said, okay, well, there are actually 16 possible responses that would delay this or get you out of it or be a defense. So, here's a form, it has 16 lines, and it tells you each one, like I actually did pay the rent, or, you know, the premises are not up to housing code, or I didn't get necessarily served a notice that I owed back rent. And that makes it much more easy for, for people to participate in their own problems, because then they can understand what the court wants them to have.

So there is a movement to do that, but it's kind of slow. And the reason it's slow is not necessarily because lawyers are conservative, although in some ways they are, but it's because giant committees of everyone across the state has to get together and agree that, in every county all of these forms are going to be the same. And that's just a, a sort of a big, bureaucratic, slow process to achieve.

MH: Yeah. I feel like the only legal forms that I get and understand sort of immediately are the random class action lawsuits that I'm automatically entered into.

RS: That's right. You need to take no action.

MH: Yeah. And I'm like, give me my \$42 and 17 cents for something that I didn't even know happened to me four years ago. So yes. So, you mentioned, you know there are about 300 of apps services, digital tools. I'm assuming that there is now, and as technology expands, a consumer demand for this sort of access to advice or, you know, legal paperwork.

RS: Yeah, I think that as things that are framed around problems that as we experienced them become more available, people recognize that this is something that they can use. So, the things that may be most familiar to folks from, from TV and internet ads are things like Robot Lawyer, and Legal Zoom, where essentially a computer program is helping you, helping you prepare some kind of document, uh, will incorporating your small business, maybe a simple employment contract for an employee. And then you have the option of adding on a little bit of legal advice for an extra fee.

So, one way of thinking about that in the, in the, in the world of legal practice is, you've unbundled part of what lawyers do. You've offered people, partial lawyer assistance, and that little fee you're paying for just the advice. So a lawyer is not doing everything for you. You're making the document with lawyers, checking out and tell you that, tell you that it's okay, but you've also unbundled that expertise and put it in a computer program so that the computer program is doing part of what traditionally only a lawyer could do.

I think there's a lot of potential to make legal services cheaper, to make them more consistent by automating those parts of them. It's also pretty clear though that, that we will never replace lawyers with robots. You know, there's some things that are just too sophisticated and nuanced for computers to do, and probably always will be. But also, people want to interact with other people when they have these situations, they want to be able to ask questions. They sometimes need guidance about which direction to go and so on. And so yes, these tools can be a big value add if they're well-designed and if they're distributed in ways where they reach people who can use them through channels that people trust. But we'll always need people to help us interface with those tools.

MH: Yeah. You mentioned that there was a difference in the quality, amongst the apps and the digital tools. The ones that you thought worked well, would those forums, would that advice hold up in court or, you know, favor their sort of positions in any of these given situations?

RS: Well, I mean, if you're, if you're doing documents of incorporation or you're writing a will, as long as it does what you want it to do, then, then you're fine. As long as, you know, as long as your assets go, where you want them to go, then, then you're fine. I don't know that we've done that we've compared evaluations of say automated wills to, to human lawyer wills in the U S but in, in the United Kingdom or in England and Wales, non-lawyers can provide legal advice and can provide different kinds of legal services. And so there are in fact, a bunch of non-lawyer will writers. Um, they come to your house and they sit down with you at your kitchen table and they ask you, what you want to do with your estate? And then they write a well. Um, and so a few years ago they did, uh, some, some researchers did a study comparing the wills produced by these non-lawyer will writers and the wills produced by solicitors or office lawyers in the English legal system. And they found some really striking things.

So the first thing they find is that everybody makes mistakes, including lawyers. So about 20% of the time, both the, the non-lawyer will writers and the solicitors didn't properly represent the wishes of the person that they were serving. But then of course means that about 80% of the time, both of them did. And when the wills were simple, when the States were simple, the will\ writers actually did a better job than the lawyers, but when things got complicated and invoked a bunch of legal issues, the lawyers did a

better job than the wheel riders, which makes perfect sense because the wheel riders are specializing in writing wills. Whereas the lawyers may be a little bit more of a general practitioner. Um, and it suggests it's consistent with a lot of other research that says people and things who are not lawyers can very effectively provide a chunk of legal services, but there's a chunk for which you'll still need attorneys. Once things get legally complex, it makes sense that you would need to be legally trained for a long time to do them. But a lot of the legal issues that many of us run into, especially in the beginning are simple with respect to law, even though they may be very complicated in our lives. And so there's a lot of scope for people and things, whether they're computer programs or, or non-lawyer helpers to provide assistance that right now is restricted by the rules about the unauthorized practice of law.

MH: Yeah. In some ways I'm like, Hey, this isn't, this isn't so hard. I could engage with this. Just like I became an ordained minister online -- true story. That's breaking news here. You're the first one I've told. So if you know anybody who needs to get married, I can do that. Thank you so much. That was getting way off topic. But two months ago -- I had forgotten all about this because I did it like 10 years ago -- I got an email from Universal Life Church that was like, congratulations on your decade long journey of uniting souls. And I was like, Oh yeah, I'm an ordained minister.

Anyway. You talked about this a little bit at the beginning, but I'd love now to even dive deeper into what drew you to this research.

RS: It was sort of an accident. So I went to graduate school in sociology to study inequality because I find it both fascinating and troubling. It's so incredibly pervasive, but it's also really persistent. So when we designed social programs to try to decrease different forms of inequality, it has an amazing resilience coming back. And sometimes that's because people are intentional about trying to hoard stuff for themselves. And sometimes it's because they're just going on thinking only about themselves and maybe not about a broader system. And sometimes of course, it's because our policies are not very well thought through. And some forms of inequality are probably okay. Or some amount of inequality is probably okay. But there's some, there's some degrees of any quality in some forms of inequality that are just, I think, unconscionable, particularly in a world that has so many resources.

MH: Can you talk about, about some of the inequality that you think is okay? I'm actually really curious about that, to the degrees at which it's okay.

RS: So, let's think about something like income inequality. If we have a company and some people make the thing that the company sells, and some people advertise the thing the company sells, and some people run the company that sells the thing. What you'll see is that those people will be paid different amounts of money. And if you're a real capitalist, which I'm not, but if you're a real capitalist, you would say, well, it's because of their relative contribution to the production of the value. It comes out the other side. So you would expect them if they're making different kinds of contributions, they would get different kinds of compensations, but is it really the case that the CEO's contribution is 350 or 3000 times more than that of the line worker? That's unconscionable to me, but it's obviously not unconscionable to us in general, otherwise we wouldn't let it persist.

So, I think you will see, you know, if you, if you watch groups, sometimes there are people who talk more than other people. And what we're concerned about is not that some people are talkers and some people are quiet, but that some voices are systematically silenced, right? You want a world where everybody can participate in the important things in life. So that was what drew me into sociology. And I was originally going to study educational inequality in the very early years of kids' lives. So like kindergarten first grade, because I was curious about whether, what schools were doing to create that

inequality very early on. Anyways, I got involved in a research project that kind of collapsed under the Pls. And so, the man who became my dissertation advisor randomly called me up and said, I have a project on the careers of lawyers, and I need a research assistant. And I thought, well, I could use the money and I needed a dissertation. So this is going to work out perfect.

And so I ended up writing my dissertation on how the careers of lawyers had changed between the fifties and the nineties. And so, I was looking at inequality within the legal profession, but as I was studying lawyers and reading a lot about them, it occurred to me that in our system anyways, they fill a really interesting role. So this is a democracy sort of, which means that we vote for people and they then write laws. And those laws are the rules that are supposed to order our lives.

MH: That's certainly the way it was sold to me, I'll say.

RS: And then we, then we pay taxes for a justice system, right? So we built courthouses and pay judges and court clerks and buy office equipment and all that stuff. And, it's our justice system in two senses. The rules are ours because we are the people who elected the rule writers. And then the justice system is, the apparatus of it is ours, because it's public, right? We're contributing to its existence, right. But in order to use that into your order to use your own justice system, that justice system has become so complicated and inward-looking, then you have to go to a private third party, also known as a lawyer, and pay that private third-party money to use your own justice system. And I just thought that was really interesting. And so I became curious in how that shaped inequalities and people's access to justice, not just their ability to use the system or access the service, but their ability to get resolution to the problems in their lives in ways that were consistent with those rules we had all made through our elected representatives.

MH: Is this something that is a uniquely American problem in terms of the way we've set things up? Or do people experience these issues of access to justice internationally, as I'm sure they do, but in a similar way that we're talking about here.

RS: To think about it in, in an international perspective, you know, there's certainly countries where it's worse, right? So if you, if you look at a country like Brazil, where you've got millions of people, many of them are not getting assistance with their justice problems, but then you also have backlogs in the court that are much longer, even in the backlogs we have here. But there are also places where it's better.

And the places where it's better usually have a couple of things going on. One is we have one of the stingiest legal aid systems in the developed world. It's only about 16% of the population is eligible it and we underfund it. So we can't even serve all the people who are eligible. We don't fund our courts adequately, so they can't do their jobs. And then we have these really strict rules about who can provide any kind of legal advice or assistance.

If you go to countries where access to justice is somewhat better, they are countries where two things are true. One is you have more funding to provide people with different forms of assistance, but you also have rules that permit more kinds of helpers. An example would be from England and Wales, where you have these things called the Citizens Advice Bureau that have been around since World War Two, where train community volunteers can help you think through what to do about different kinds of justice problems that you have. They can't represent you in court, but they're absolutely empowered and trained to give legal advice. Whereas in the us, in almost every state that is sometimes against the criminal law, but definitely a violation of the rules about the unauthorized practice of law. So in the US pretty much lawyers can practice law for the most part. There are some exceptions and nobody else, whereas in other jurisdictions, you have many more kinds of helpers that are available to people.

MH: That's fascinating. You talked briefly about this, but how has COVID affected these things? I'm assuming, you know, with, with the access through the technology and stuff that, that, that is still been available, but has it also slowed down the sort of forward momentum of access to justice?

RS: I mean, if you're thinking about the experience of people, they will have many more problems than before they lost their jobs, et cetera, due to the pandemic. There's all of the healthcare issues that people have and insurance issues. And then there are the tragic issues around the deaths of the thousands and thousands of people who have died from this. So all of that is more challenges for people to manage that have civil justice aspects, certainly in-person services have been stopped. One of the things that's been very interesting is courts were resistant for a very long time to making things automated or remote. Um, and so they, at the beginning of the pandemic, they just shut down and then they realized we cannot have this of months and months and months of cases. And so they learned that they could do things, maybe outside of business hours and maybe online and so on, in ways that might let a broader part of our parts of our communities participate in their own cases. And so the hope is that those lessons can't be unlearned. We'll see...

MH: What was the reason behind, if you know of any, not allowing those? Was there like a concern for fraud because they're government things, or was it just easier to not engage in that way?

RS: I think it was, it was just tradition. This is the way that we've always done this. It's very important that we meet face to face. It's very important that people come to the courthouse. We work under normal business hours. Maybe we have a night court, but you know, this is where this is when I work. Um, I mean, there are some interesting issues that I think are very important to think about that, that using technology, whether it's just video technology or something more exotic to, to deal with justice issues raise. So one is lots and lots of, of hearings are public in the sense that any of us should be able to go in and observe, if we really wanted to well. When we have a hearing over Skype, is that still public? And is it still recorded? Is there still a record of it in the same way that there was before? So that if there's some issue, we can go back and see what everybody said. So I think that's one challenge that these new roots of connection raise.

MH: Well, you know, if you put a cat filter on you, you'll make sure everybody sees it. That is one way to make sure it goes public.

RS: That was awesome. You know, another issue is about, is about privacy. As more and more information gets collected about us and connected across different sources, even though that information might be public as an individual fact, once you put it all together, the picture you can get to people is different than what you could get before we could make all these connections. And so thinking about as all these tools are collecting lots of things about people, um, and connecting them to court, you know, the docket numbers and that sort of thing. So thinking about how to do that in a way that's responsible, and gets the benefits of efficiency and automation, but protects people from invasions into their lives, I think is a next-generation challenge for those folks.

MH: What does the future look like based on what you have learned and what, you know, you have helped us learn today?

RS: I think the future is going to involve, um, more automation of both the public, you know, the court part of the justice system, but also of, of the delivery of services. Um, but it's also going to involve one of the things we didn't get a chance to talk about are some experiments around the country in changing the way people can make money from the practice of law and who can practice law.

MH: Can you talk about that?

RS: Both Utah and Arizona, in different ways have changed the rules. So right now only lawyers essentially can make money from the practice of law. The exception would be DC, but that's a complicated, it's kind of a special thing. Um, and so both Arizona and Utah in different ways have changed the rules to allow non-lawyers, to invest in organizations that produce legal services, which means that for example, Walmart could open a legal clinic between, um, the eye clinic and the nail salon.

And, why would that matter? Well, I mean, the lawyers were in a place for once where people are already going. So that's an interesting opportunity for access to justice. The other change that, that those two States are doing in different ways is allowing non-lawyer provision of relatively sophisticated legal services. So that could be a computer doing something very fancy, or it could be a person who's not a lawyer giving you legal advice and helping you move through a process. California is sort of in the first stages of thinking about what of that it might want to explore and how would want to explore it. I think that's going to be a trend around the country. So we're going to see, I hope at least I hope it is. We're going to see a greater diversity of ways to get help.

MH: So in the States where this is happening, it's been met positively?

RS: Arizona did a survey of the public and the public said, yeah, I'm excited about this. I would love to have somebody else who can help me with the justice problems that I have. The legal profession is kind of mixed. So there are some lawyers who recognize that this is a way for them to, to connect to market segments that they haven't been able to connect to before, because they could, for example, work with non-lawyer providers who might do part of the work, uh, at a, at a lower rate than a consumer might be able to afford. And then they could do say the litigation. They're thinking about new ways to collect, connect with clients, with technology. So I think that's, some people are very excited about that in a bar. And then there's some other groups in the bar who feel like this is going to threaten their settled business models.

It's going to change their referral networks for their clients, or it's going to automate document-based practice in a way that makes it not economical to have a lawyer do lots of it. It's already been the case if you go into big law, they sometimes call it, so big corporate law firms that do big litigation. 30 years ago, armies of associates of junior lawyers used to sit in rooms for days going through boxes of documents. But now we have computers that can really quickly go through boxes of documents. And so that kind of automation is going to happen in the personal client part of the bar. It already is happening as it's, as it's already happened in the, in, in big law. And I think some lawyers are concerned about that. But there are people who point out to them, you know, this could let you practice at the top of your license, right? So instead of doing stuff, that's really routine, you could have a computer or, uh, an independent paralegal do the stuff that's really routine, and you can do the cool and interesting stuff that uses the law that you went to law school to learn. So I think it'll just be a while for, for different segments of the bar to get their head around what this could mean for them. It doesn't inevitably mean anything. Um, but sort of thinking about how they're going to respond to it. I think that takes some time. Yeah.

MH: What can people do individually, I guess in the meantime and systematically, what, what changes can we push for?

RS: Well, I think what people can do individually is start to make access to civil justice, a voting issue. These are our laws and our justice system, and we should be thinking about electing people who make those things accessible to us in a range of different ways, funding, legal aid, as part of it, but properly funding courts, as part of it and permitting other kinds of services that we know from other jurisdictions can be effective and competent and safe. Um, I think those are very important, important changes that people can push for as, as individual residents of this country.

MH: If people want to learn more about their legal rights or wish to take action, where would you recommend they look, I know there's a lot. I'm sure you could give us a laundry list.

RS: Well, I think there are two important sources. One is, every state has a legal aid website and some of them are really good and some of them are less good, but they will provide you with basic information about common legal issues that people run into: housing issues, stuff at work, and so on. And so I think those can be very helpful. I also want to just do a shout out for librarians. One of the things that we've discovered in studying how people actually think about and handle their own justice problems is that libraries are frontline legal services folks. They're not allowed to give legal advice, but they're really good at connecting people to information. Even when people don't necessarily understand that they have legal aspects to the thing that they're trying to understand and solve. And so I would also really encourage people to go to libraries and like ask the people who work there, where you might be able to find some information about the problem that you're confronting.

Interview with Salvador Mungia

MH: Now that we've heard from Becky about how access to justice is operating across the country, including work being done in her state of Arizona, we'll get to talk to Salvador Mungia.

Sal is a Washington state lawyer and an ABF Life Fellow who will provide us with insight into his on-the-ground work expanding access to justice. Sal is a partner at Gordon Thomas Honeywell, and he serves on the Washington State Access to Justice Board and on the Board of Directors for the Endowment for Equal Justice. So, Sal, can I ask you to describe your background and what compelled you to pursue this work?

Sal Mungia: Well, I'm just a simple Tacoma boy. I'm from Tacoma, Washington, where I was born and raised. I also tell people I am the son of immigrants. My dad came from Mexico, my mom from Japan. And I was raised up in this community in the sixties where people weren't as tolerant of people who were different than they are, at least the dominant culture. And what drove me to becoming a lawyer was, and this is actually seared in my mind – the memory of it -- is when my parents would be taken advantage of, especially my mother who had a heavy accent and we didn't have much money. And I would always remember the look of hurt and anger on her face when she knew she was being taken advantage of. And at that time, starting in second grade, he used to watch this TV show called Perry Mason, which involved a lawyer who would represent people. And Perry would always do it for next to nothing, as criminal defense. And I said, that's what I'm going to be when I grow up. I'm going to be a lawyer, so this never happens to me and I can protect my family as well. So that's kind of the short version of what brought me to becoming a lawyer.

MH: That's great. And I'm sure I saw lawyers on TV and my response was, I'm going to do that. I'm going to be an actor. We've got different paths for us. So, within your work, on the improvement of the justice system, do you have a particularly proud accomplishment that you can share with us?

SM: One thing that that I'm really happy with is, we got our state Supreme Court to adopt a General Rule. It's called General Rule 37. And what this does is really help combat systemic racism in the selection -- I always tell people, you really don't select a jury, I've been a trial lawyer for over 35 years, what you do is you actually exclude people from serving on juries. And it's all too often the case where people exclude people either intentionally, or really unknowingly, because of the color of their skin -- their ethnicity, their race. And this is allowed, in this country, very easily because there's a rule called the Batson rule, where as long as you can give a reason that is non-discriminatory as to why you're excluding someone from serving as a juror-- and it can be as easy as that person seemed disinterested, or that person is too close to the age of the defendant, or that person has children and so does the defendant -- basically, any reason, and I've really heard some ridiculous reasons given. And as long as you have a straight face reason to exclude a person of color, you can exclude that person.

And that's been a problem it's been known, and our state Supreme court recognized that about six, seven years ago. Because of that, a small group of us got together and started working on proposing a General Rule than what have applied to all trial courts in Washington state, which would make it very difficult to exclude a person of color. Because again, the reason that you're doing it, it could be even unknowingly, you don't know that the reason you're doing it, is because of the person's race. We're the first state in the country to be able to get something like that adopted. And since that time, it's been adopted by two or three years ago now, other states are doing the same. So I'm really happy with that. I'm really happy with our state Supreme Court taking the lead in doing that.

MH: That's great. And this is probably evident for people who are more intelligent than me, but how does that correspond or work with access to justice?

SM: Access to justice is really broad. But there's two ways that this affects access to justice. One is if you're a person of color and you have to go in a court and all the people who look like you are being excluded, I think you get the firm impression, you know, well I'm in the courtroom, this isn't really access to justice. It's not fair. Why is everybody who looks like me getting excluded and the court's not doing anything about it. And two, if you're a person of color, you get summoned to appear in court to serve as a juror, and you're going to become part of the justice system. And really, you know, we say there's two ways of really people being able to contribute to the civil system: one is voting, and the other is serving on a jury. And so, I show up there and I have brown skin, and I get booted off. I don't get a chance to serve. And I noticed that, along with me, other people of color are getting booted off. That is denying me access to justice.

MH: Now we'll pivot slightly. So I want to ask you to reflect on ABF Faculty Fellow Rebecca Sandefur's work for a moment. Professor Sandefur has written that, although somewhere between 150 to 250 million people experience civil justice problems every year, most people don't view their most pressing issues through a legal lens or to be solved through law. They see them as moral or personal problems, bad luck, God's will. How do you react to those findings?

SM: God, her work is just right on the mark. You know, when we talk about access to justice, unfortunately, most people don't even realize that they have legal problems. I'll just give you one example: healthcare. People get these huge healthcare bills. You know, they don't have insurance or

their insurance won't cover very much. And if they're going to a nonprofit hospital, at least in this state, they don't realize that they're entitled. They're entitled under the law for charity care. I mean, these institutions make a ton of money. And that's part of the deal that if people can't pay, you have to give them free healthcare. But people, again, don't realize that this is a legal issue, a legal benefit.

I mean, again, I always think Washington State, we're ahead of the curve as far as access to justice issues. And we actually did a study about what people's legal needs were and how many people weren't getting served. At that time, just like the professor's work, I think it was about 90% of the people who had valid, legal problems. We couldn't help because we didn't have the legal resources. And at that time, the highest ranked legal problems were housing, family relations, and employment. Now, fast forward to 2015, we did an updated version of that legal needs study. And the number one problem that we saw that people were having had to do with healthcare. And when people think of healthcare, they don't think of legal issues, but that's exactly what we're talking about. People don't realize that this is a legal issue.

MH: So how can legal professionals then encourage people who aren't aware that their issues are legal to think of their broad problems or even the specific problems such as healthcare in terms of their rights under the law?

SM: That's one of the big hurdles we face, not only in our state, but I'm sure it's throughout the country. And so, what we've been trying to do in our state, we have what's called an access to justice board, which I've been serving on for the past four years. We were the first state to have an access to justice board, and now I believe that every single state has either an access to justice board or an access to justice commission, and they're all kind of formed differently. But one of our tasks is, and we're tasked by our state Supreme Court, is that we are charged with trying to educate people within the general community about access to justice issues.

So, we do a number of things. One, while most of our meetings are in the Seattle area, we get out at least twice a year out in the community, other parts of Washington state. Of course, this is pre-pandemic and it'll be post-pandemic as well. And when we go out to other parts of the state, we invite community members to our meeting. But more importantly, we also arrange to go out and we meet with community organizations. We split up our board members, so we learn about what the community is doing to really serve the same people that our members are serving, and to educate those community members about where they can access legal aid. So again, trying to get this two-way program going. And so they start thinking, oh, if I have these problems, it could be just a housing authority that we're talking to the members, they realize now, okay, well, these aren't just housing problems, but they're probably legal problems and we know where to go.

Another thing we're doing as the access to justice board, we're having a community advisory panel. So again, asking people who throughout the state of Washington who are involved with their community in different communities to serve on our advisory panel, so they know what is available so they can spread the word out in those groups as well. Every other year, our access to justice board has a conference and really starting in the last conference, which was two years ago, we really made a push to invite non-lawyers, non-legal members. So we had the largest showing yet. And this conference, which we're going to have in August of this year, to really make a big push for that. And in fact, raising funds specifically for that.

So, we have what's called a legal foundation of Washington, which collects our money and distributes money to our different legal aid providers. They're now ponying up funding so that we can allow every community member who wants to attend the access to justice conference to do it without charge. We

want people who are active in the communities to speak at our conference. And in order to do that, a lot of these people don't have access to technology – it's going to be a Zoom conference this year. Or they live in someplace where they're going to have to go to a nearby city so they can get even internet access. And we'll arrange for that funding as well. I mean, it's really important to think about who you're trying to serve here and getting the word out. So that's another way we're doing this.

Finally, just one little example. And I started this a few years ago at one of the schools in Washington, which their community is seventy percent are kids of color. Ten percent of the kids are homeless. Seventy percent of the kids are eligible for free or reduced school lunches. We're starting to have a back-to-school celebration, not just for the kids, but for their whole community. So we're inviting parents, community members. And part of that day, part of that festivities in addition to having games and prizes for the kids, we're inviting civil legal aid providers to go there and they're setting up their tables and people can go and learn about what's available. It's really exciting, and we've had great feedback about that. So yeah, you know, you try to think of how do we educate people so they know, one, that their problems may be a legal problem. And two, if it is, where should they go? Or if they have any questions at all, where can they go?

MH: Exactly. Now you mentioned the pandemic. So I have to ask how has COVID impacted in your opinion, access to justice as a whole, but also specifically your work?

SM: Just like the pandemic, it's has affected everything in our lives. It has done it in multiple ways. And now just list off a few. One is just getting access to the courts itself. I mean, the courts have had to take severe measures, and luckily our courts prioritized domestic violence issues and, and really tried to move those up in line. Because shoot, I'm a civil trial lawyer, and we're finding that our civil trials are being pushed way out, which you understand, because we can only have very limited number of judges hearing matters. So that's at a very basic level. Two is we're seeing a huge increase in domestic violence. And so that is overwhelming our system because already we didn't have enough resources to be able to provide representation to victims of domestic violence. And with the pandemic, with people having to stay at home, people who are now faced with more pressures of not being employed, financial pressures again, or just seeing people being the victims of domestic violence and we need more resources.

Three, people being unemployed, the people who do unemployment work within our civil legal aid systems will tell you that the system was already broken before the pandemic and this is just making it more evident that it was broken. People can't get the benefits that they're entitled to. Our state used some of its CARES money and to pay for attorneys to provide representation at a very reduced rate. So we sent out the word to attorneys in the state saying, would you work for reduced rate to help people get their unemployment benefits? And we had just a number of attorneys step up. I think it was over a hundred attorneys who said, yes, we will work for a very reduced rate. And so we're trying to address that problem that way.

Finally, as you know, we've had a moratorium in the state where landlords cannot evict people who can't pay rent. However, landlords -- some, not all, but some -- have tried to find ways around that. Or some will just completely disregard it. And unless a tenant knows that they're protected, they don't have rights. So our civil legal aid providers have stepped up and doing that. And our state legislature has a bill before it, and I don't know the status. Last time I looked, it looks like it was going to pass. If it hasn't already passed, I don't think it's passed yet, but provide funding for attorneys to represent people once the moratorium on eviction ends. Because we find that if you have an attorney, two things, one, you may be able to not get evicted, or two, you have what's called a soft landing.

The worst thing that can happen to you, which people don't realize, as a tenant is if you have an eviction on your record. Once you have that eviction on your record, it is very, very difficult for you to find a new place to live because once a landlord sees that they're not likely to rent to you. So again, trying to work out a deal with the landlord, allowing you to leave that premises without having an eviction on your record is huge. And I always tell people -- because people don't realize -- that line between being homeless and having a home is so very thin and it is just critical. Shoot, the western states, and my state is one of those, that just has a huge problem with people who can't afford to have a home. So that's just some of the ways that the pandemic has affected access to justice.

MH: So then in your expert opinion, what does the future look like? Or what do we hope the future looks like?

SM: It's kind of like those two masks for the theater, you know, comedy and tragedy. And that's how I always feel about access to justice. I'm hopeful. I'm seeing these things being done. And I've been involved with access to justice since I think like 1992, and seeing improvements, seeing more funding in certain areas. Seeing really in our state, and I say this with a lot of pride, it's not a partisan issue. It's a nonpartisan or bipartisan issue. Our state legislature has really stepped up and provided additional funding because they see the need. And I always tell them, when I go talk to state legislators, I tell them, you know, you can enact these great laws, which you do, but unless you have lawyers who are enforcing those laws one way or the other, they're meaningless.

And, you know, I've seen all too often where those with power can literally take money from those without power. And there's nothing to be done unless there's a lawyer to intervene. Whereas if you have someone take your money with a gun, you have the criminal system that will do something about it. But if you have an unscrupulous landlord or you have an unscrupulous business, take the same money, the same \$500 from you... unless there's a lawyer able to provide representation, there's no hope. There's nothing for you to do. So, in that way, I feel still disappointed. There's not enough lawyers stepping up to do pro bono work. There's still not enough funding for civil legal aid funders or providers.

I told you about the updated legal aid, legal needs study that our state did in 2015. Seventy six percent of the people who have valid legal needs, who are people within what 200% of the federal poverty level -- we can't help. And they have multiple legal needs. We've talked about how healthcare was number one, consumer finance was number two, and employment's number three. And these are just basic needs that people have maybe. Health care -- if you can't get healthcare, where are you? If you can't get employment benefits, where are you? If you're being robbed, if you will, by people who take advantage of you because of consumer involvement, you know, it really does look hopeless for you.

MH: Yeah. And those are all so intertwined.

SM: They really are. And that's where you find that most people don't just have one or two legal problems, but they usually have I think about seven is the average number of legal issues that people who do have them -- that's the number they have.

MH: And that's not a lucky number then I'll say, no. Well, if people want to learn more about their legal rights or wish to take action, where would you recommend they look?

SM: There's a few places you can go. One is always the state bar association websites. They should have a link to that. Like I said, every state now has an access to justice board or commission. You can Google that and find access. Most States have a primary civil legal aid provider that receives federal funding. In

our state, it's the Northwest justice project. And you can Google that, and that will provide a lot of resources, again, where people can also turn to reserve look at local bar associations. So here in Seattle, we have the King County Bar Association and Tacoma with the Pierce County Bar Association. I know in our state, we have about 19 different volunteer legal providers who are one way or another affiliated with the local bar associations. Finally, hopefully people can start asking community organizations you know, housing associations, their YWCAs who provide domestic violence resources through their churches, St Vincent, DePaul's, all these social organizations. More and more, they're becoming aware of what's available through the civil legal aid providers. So that's another way of learning about what your civil rights are.

MH: And if somebody wants to attend your conference, where should we recommend they go?

SM: What you want to Google is a Washington State Access to Justice Board, and that lead you to a site which will tell you about our conference. And I'm really excited about our conference, just a short plug about our conference is really has an anti-racist focus this year. And again, trying to combat systemic racism because that again, and then when you get to the roots of a lot of these problems is systemic racism, which goes back.

RS: If I can complain about the way people like me have approached this in the past. I think talking about access to justice is just too abstract. It's much more easy to see that it matters when you're talking about like, this is people's ability to have a safe and secure place to live. This is a people's ability to make a living. I think that's an important move. People in my world need to make, to focus around the problems that people actually have and how this is one of the ways you can solve them. I think that would be, that would be helpful.

MH: Thank you to our guests Rebecca Sandefur and Salvador Mungia. And thank YOU so much for joining us on our very first episode of Whose Law is it Anyway?, an American Bar Foundation podcast. The podcast was produced by Whitney Peterson and Crissonna Tennison, with associate producers Nina Darner and Natalie Shoop. And I've been your host, Matthew Martinez Hannon. We'll see you (or you'll hear us) on the next episode where we'll be covering the issues of rent and housing. Subscribe to the podcast on Apple Podcasts, Spotify, and anywhere else you get your podcasts. Carrier pigeon, perhaps. I don't know, I don't judge. In the meantime, if you'd like to learn more about the ABF, visit us online at americanbarfoundation.org, or follow us on social media: on Twitter @ABFResearch, on Facebook and on Instagram @americanbarfoundation. Until next time, be well.