

Pro Bono News

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Message from the Office of the President



Schraver*

This month, as we observe Veterans Day and Thanksgiving, we are especially grateful to the millions of men and women who have served our nation in the armed forces.

These occasions also provide an opportunity to consider the ways in which we can assist them with their legal needs and help them to adjust to civilian life after returning from combat.

As I discussed in my recent President's Message in the New York State Bar Association Journal, too many veterans and active duty members of the military face unique challenges that are related to their military service. They may have trouble accessing their benefits or struggle with consumer debt, housing, or unemployment. These and other relatively routine legal issues can be complicated by combat-related injuries or disability and extended periods of time away

from home. In 2011, the Association established the Special Committee on Veterans to assess the legal needs of past and present military members and their families, and to recommend strategies to meet those needs. The committee, chaired by Michael Lancer* and Karen Hennigan*, issued a report in 2012, and has since been designated a standing committee of the Association.

The Committee has focused on three key areas: legal education, legal services and veterans courts. The Committee has worked to develop legal education materials for veterans in need of assistance and has collaborated with the Office of Court Administration on an information manual for courts, judges, and attorneys to assist them in identifying resources that are available to veterans who may be appearing in proceedings before them. In addition, the committee has recommended the expansion of special veterans courts throughout New York State. Veterans courts take a constructive approach with veterans who become involved in the criminal justice system, engaging them in a non-adversarial way to better address the unique

issues they face.

As attorneys, we are uniquely situated to serve those who have served our nation. We at the State Bar and our Committee on Veterans are proud to offer special training opportunities to familiarize attorneys with the issues commonly faced by veterans and to promote pro bono. Last month, the Committee on Veterans held a CLE program designed to assist attorneys in meeting the qualifications for Veterans Administration certification. Attorneys who obtain VA certification qualify to represent veterans pursuing benefit claims.

We are grateful to the many attorneys who have been giving of their time and talent to serve our veterans, as well as the local bar associations and other legal service providers who help to train them and coordinate their efforts. It is vitally important that we as a nation support the veterans who have sacrificed so much to defend our national security and the rule of law. If you would like to get involved, visit the Pro Bono Opportunities Guide on our website at www.nysba.org/probono.

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A single asterisk appears next to the name of NYSBA members who contributed to writing an article or who worked on one of the many diverse legal projects highlighted in this issue.

A double asterisk appears next to the name of a law student member of the Association.

Greetings!



Herron Arthur*

home and around the world. As we recognize veterans for their service, it is also important to remember the sacrifices they have made, as well as some of the unique challenges many veterans face upon returning home from active duty. Some of these challenges may involve frustrating legal matters, and, as attorneys, we can honor veterans by doing our part to make sure their needs are met.

Having endured the strain and dangers of active duty, when our service members return home they sometimes encounter other difficult issues as they attempt to re-enter civilian life. Some suffer from physical and psychological injuries or disability related to combat. They may also experience indirect financial and personal consequences such as consumer credit problems, stress in their family relationships, mental health issues, and even substance abuse and homelessness. Some veterans may be reluctant to seek assistance, fearing that it could be viewed as a sign of weakness or failure, and those who choose to seek help may not know where to turn.

This issue of the Pro Bono Newsletter is dedicated to highlighting a wide-array of civil legal services available for service members, veterans and their families. One article identifies free legal services for veterans residing in Erie and Westchester counties and the five boroughs of New York City who are struggling with consumer debt. Law student pro bono veterans’ projects at Albany and Hofstra Law Schools provide inval-

This month, I am proud to join with millions of other Americans in observing Veterans Day, November 11, to honor our veterans and thank them for protecting our freedom and security at

able support to attorneys donating legal advice to veterans in the areas of housing, estate planning, divorce, and child custody proceedings. Free legal help is also available to veterans seeking disability benefits through the Veterans Assistance Project of the City Bar Justice Center.

Unfortunately, some veterans become involved in the criminal justice system. Due to issues that may be present in these cases, such as post-traumatic stress disorder, traumatic brain injury, depression, and other mental health issues, a separate intervention is often more conducive to veterans’ rehabilitation than typical criminal prosecution. Veterans courts or special veterans treatment tracks recognize that issues related to veterans’ service may contribute to involvement in criminal activity. These specialized courts deal with veterans in a constructive, non-adversarial manner by working to treat the underlying factors and help veterans get their lives back on track. Several articles in this issue describe the rehabilitative role these specialized courts have in transforming the lives of veterans charged with crimes. For a number of reasons, not every veteran has access to a treatment court when charged with a crime. The Association’s Committee on Veterans is committed to working on expanding access to veterans treatment courts.

No issue of the Pro Bono Newsletter would be complete if it did not include articles from the pro bono volunteers’ perspective. Inside this issue are two articles written by volunteers about their experiences representing veterans. Another article describes the special role a pro bono volunteer played in reuniting a veteran with his son.

Many of the programs featured in this issue are seeking volunteers. Please consider donating your time and legal skills to one or more of these worthwhile projects.

A Unique Partnership – Legal Clinics at VA Hospitals in the Bronx and Manhattan

Kevin Kenneally, Senior Staff Attorney, NYLAG

On October 1, 2013, LegalHealth, a division of the New York Legal Assistance Group (NYLAG), opened legal clinics at the VA medical centers in the Bronx and Manhattan funded by the Robin Hood Foundation. During the past year, LegalHealth has handled 862 legal matters for veterans. This data shows that the need is enormous and that veterans who receive care at the VA hospitals did not have adequate access to legal services.

Randy Retkin, Director of LegalHealth, spent close to a year developing partnerships with the VA medical centers by networking with local VA sites and the VA regional general counsel's office. Late last year, the VA issued their policy on homeless veterans' legal referral process. LegalHealth was then positioned to establish its partnerships.

Kevin Kenneally is the attorney who staffs both hospital legal clinics. He has 13 years of experience in legal services, 10 of those at NYLAG. It was important for LegalHealth to assign an experienced attorney to the VA hospital sites because clients who have served in the military often have unique and complicated legal needs. Each legal clinic has 8 weekly appointment slots for a total of 16 every week. The clinics have been fully booked since their inception.

Both LegalHealth clinics are located in the outpatient mental health setting, which results in a close working relationship with medical staff. If LegalHealth needs a form completed for a veteran who has a pending Social Security Disability appeal, Mr. Kenneally can simply walk down the hallway and have a conversation with the psychiatrist. The close working relationship with medical professionals is what makes LegalHealth a successful model. The attorney is on site,

for the convenience of the veterans and VA staff.

For example, Martin is a veteran who receives treatment at the Bronx VA for depression. When he was denied Social Security Disability benefits, his treating psychiatrist at the VA referred him to the LegalHealth clinic, who said "Martin needed an attorney in his appeal given his severe mental limitations and memory loss. Legal

and food stamp appeals. In particular, the majority of legal issues involve housing, public benefits, and family law. Many referrals come from HUD VASH¹, which is a federal government program that provides Section 8 rental subsidies for formerly homeless veterans. HUD VAH recipients often experience bureaucratic and financial problems that result in an eviction case, so LegalHealth will represent the veteran

The close working relationship with medical professionals is what makes LegalHealth a successful model. The attorney is on site, for the convenience of the veterans and VA staff.

Health is here every Wednesday so it was a simple referral process." Once LegalHealth accepted Martin's case for representation, his treating psychiatrist worked closely with Kevin Kenneally on the necessary paperwork. He highlighted what makes the process so effective: "Mr. Kenneally and I discussed Martin's case in detail and we collaborated to provide Social Security with the necessary information. Their legal clinic and our staff have a strong working partnership which greatly benefits our veterans." Martin was awarded Social Security Disability benefits after his hearing. "I am very grateful for the legal representation that I received at the LegalHealth clinic", said Martin. "Mr. Kenneally closely worked with my psychiatrist and the Bronx VA to obtain all the important medical documentation that supported my claim for Social Security Disability benefits. His office is in the same building where I receive all my medical treatment, so we were able to meet frequently to prepare for my hearing."

LegalHealth handles matters ranging from evictions to child support

in court to preserve their voucher and resolve rent arrears. Many veterans also require representation in food stamp, Social Security, and public assistance appeals. Finally, family law issues such as child support and divorce require legal advice.

LegalHealth has assisted veterans of all age groups and service years. Approximately one third of veterans are from combat eras and half of those are recent OEF² or OIF³ veterans who served in Iraq or Afghanistan. Many combat veteran clients have PTSD which causes severe mental limitations, so the need for legal services is even more essential.

For more information on this project and volunteer opportunities, please contact Kevin Kenneally at kkenneally@nylag.org or (212) 613-5081.

1. HUD VASH is the acronym for Housing and Urban Development Veterans Affairs Supportive Housing program.

2. OEF stands for Operation Enduring Freedom.

3. OIF is the acronym for Operation Iraqi Freedom.

Assisting Veterans with Consumer Credit Issues

Matthew Alan Parham¹, Staff Attorney, Western New York Law Center

Abusive lending and debt collection affect individuals across the socioeconomic spectrum, but disproportionately impact our nation's current and former service members. A 2006 Department of Defense (DOD) study found that predatory lenders, such as payday and installment lenders, specifically target military personnel.² Although there are also special protections for service members, they are limited in scope and efficacy. Fortunately, current and former service members may also avail themselves of legal services available to consumers generally, which have been expanding in the area of consumer credit.

"Predatory" lending, briefly described, encompasses lending at high interest with regard to collectability upon default, not to the sustainability of repayment and thus the avoidability of default. As the core example, "payday" lenders make small loans of up to \$1,000, with annual percentage interest rates between 400% and 2000%, secured by the consumer's paycheck. These lenders do not review budgets or other financials to determine whether a consumer can afford to repay. Rather, any consumer with reliable income who authorizes the lender to make withdrawals from a bank account can obtain a loan. As recent studies have confirmed, recipients are rarely able to pay off a payday loan, and industry profitability depends on repeated refinancings leading to an inescapable debt cycle.³

Payday loans are illegal in New York, as this state prohibits the charging of interest in excess of 16% without a special license.⁴ Unlicensed lenders from outside the state nevertheless make payday loans to New York consumers over the Internet—an action our Department of Financial Services maintains is unlawful and has recently taken strong action to stop.⁵ In addition, a number of "military installment lenders"—which the DOD also identifies as "predatory"⁶—have obtained state licenses to lend at over 16%.

Predatory loans have a debilitating impact on financially-strapped veterans' finances. Illustrative is the

case of Bill.⁷ An avid fisherman desiring to purchase a boat, but living on a fixed military pension after a 30-year career in the Army, Bill walked into the office of a licensed installment lender near the Fort Drum military base. With minimal underwriting, Bill obtained a sizable loan at nearly 30% interest—a rate at which the interest payments alone consumed all of his disposable income. Bill paid the minimum due for over five years, making total payments nearly triple the loan amount, yet still owed the same principal balance. He was finally forced into default when his wife's medical condition led to unexpected household expenses.

In an effort to obtain additional income and get out of default, Bill signed up as a civilian contractor and moved to Kuwait, where he provided logistical support to service members in Iraq. Surprising to Bill was that despite the indispensable service he was providing to his country, the lender could still sue him, serve process on his wife, force him to appear in court in New York (thus requiring him to hire an attorney), and attempt to obtain a judgment imposing nearly 30% interest into perpetuity. By aggressively defending the case and asserting that the original loan itself was unconscionable, Bill was able to negotiate a settlement for a percentage of the principal loan balance, with no interest.

Congress has passed special protections for active-duty military personnel facing debt collection or litigation. Most well-known is the Service members Civil Relief Act (SCRA) which, among other protections, provides for a stay of collection activity or lawsuits during a soldier's active-duty status, and caps the rate of interest that may be imposed during such status at 6%. But these protections are limited. First, they apply only to active-duty military personnel, not to veterans, contractors, or even dependents. Second, the protections can be difficult to invoke because of documentation requirements. And third, the protections do not apply to loans obtained *during* active service—thus inviting the very

predatory targeting of military personnel that has been decried by the DOD and others. As anyone who has driven around Fort Drum or other military bases knows, high-interest lenders are ubiquitous in military communities.

Following up on the SCRA and the DOD report, Congress in 2006 capped interest rates at 36% for all loans to active-duty service members and their dependents nationwide and prohibited payday loans to them.⁸ Bills have also been proposed to extend the SCRA's protections to some or all military dependents. Although helpful to many service members, these existing or proposed protections leave individuals like Bill—not active duty and with a predatory loan below the 36% cap—unprotected.

Current and former service members can and should avail themselves of programs helping consumers generally to defend against predatory lending or unfair debt collection. Depending on their location, consumers facing debt-collection lawsuits may obtain assistance from nonprofit legal services providers, county bar volunteer lawyer programs, or the CLARO program.

In the counties where it operates—Erie and Westchester and the five boroughs of New York City—CLARO provides free legal assistance at walk-in clinics for consumers seeking to resolve their own debt-collection lawsuits or judgments. Since its launching around a year ago, CLARO-Buffalo has helped hundreds of consumers, including a number of current or former service members.

The collateral consequences of a judgment—damage to credit, title blot on real property owned, and forcible involuntary collection through wage garnishment or bank levy—are severe for any consumer. This is especially so for current or former service members who may face loss of security clearance and thus job loss due to a blot on their credit.

That was exactly the situation facing Marcia⁹ when she came to a CLARO-Buffalo session six months ago. A Navy reservist working for a defense con-

tractor, Marcia learned from a credit report that a debt buyer had obtained a judgment against her several years earlier. Facing a pending review of her security clearance, she had a limited amount of time to address the judgment. Upon obtaining her court file she learned that the process server's affidavit contained a false description of her residence, thus suggesting "sewer service." With assistance of CLARO-Buffalo's volunteer attorneys and its "attorney of the morning" program, Marcia made a successful motion to vacate the judgment and to dismiss the action for lack of jurisdiction, and was thus able to retain her security clearance.

Information about CLARO-Buffalo may be found at www.clarobuffalo.org.

1. Mr. Parham is a staff attorney handling consumer finance litigation at the Western New York Law Center, a nonprofit legal services provider in Buffalo, New York. He previously ran a consumer law practice in Buffalo. Mr. Parham has taught consumer law at the SUNY-Buffalo law school and serves as the expert attorney at sessions of CLARO-Buffalo, a twice weekly free consumer debt self-help clinic modeled on similar clinics in the five boroughs of New York City. Mr. Parham has represented veterans in various consumer and other matters, including helping obtain U.S. citizenship for a Vietnam combat veteran in the case *Lawson v. USCIS*, 785 F. Supp. 2d 283 (S.D.N.Y. 2011).

2. *Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents*, 4 (Aug. 9, 2006), available at http://www.defense.gov/pubs/pdfs/report_to_congress_final.pdf; see also Steven M. Graves & Christopher L. Peterson, *Predatory Lending and the Military: The Law and Geography of 'Payday' Loans in Military Towns*, 66 Ohio St. L.J. 653 (2005).

3. Pew Charitable Trusts, *How Borrowers Choose and Repay Payday Loans* 13 (Feb. 2013), available at http://www.pewstates.org/uploadedFiles/PCS_Assets/2013/Pew_Choosing_Borrowing_Payday_Feb2013.pdf

4. General Obligation Law § 5-501; Banking Law § 14-a. Federally regulated entities, such as national banks or FDIC-insured banks, are exempt from this limitation, though some such entities are subject to federal limitations, e.g. an 18% cap on interest charged by a federal credit union.

5. Press Release, *Cuomo Administration Demands 35 Companies Cease and Desist Offering Illegal Payday Loans That Harm New York Consumers*, Aug. 6, 2013, available at <http://www.governor.ny.gov/press/08062013Illegal-Online-Payday-Loans>.

6. DOD report at 4.

7. Name changed to preserve anonymity.

8. John Warner National Defense Authorization Act of 2006, Pub. L. No. 109-364, § 670, codified at 10 U.S.C. § 987.

9. Name changed to preserve anonymity.

Hofstra Law Turns Veteran's Passion to Legal Advocacy

Rosalyn A. Naval, '13, Hofstra Law School, U.S. Army Captain

Max Ehrmann wrote in his poem *Desiderata*, "[e]njoy your achievements as well as your plans. Keep interested in your own career, however humble; it is a real possession in the changing fortunes of time."

After a decade of military service, first as an enlisted soldier and later as an army officer, my own experiences instilled in me a desire to continue giving back to fellow service members whose lives were changed forever by their experiences overseas. Upon returning home, service members lives were further changed as they confronted new problems in employment, disability, bankruptcy, divorce, custody and other family law-related issues, VA benefits and claims, housing, estate planning, mental health, substance abuse, and crime.

At Hofstra Law, faculty and staff created experiential learning clinics where students are trained to assist low-income clients in a variety of legal areas. Students are encouraged to combine their knowledge and passion with available resources in order to make a difference in areas we care about. One such legal clinic was Hofstra's Veterans Legal Assistance Project (VLAP) where faculty conducted a series of trainings

designed to prepare student-volunteers to assist veteran clients. The VLAP afforded me the opportunity to acquire the legal tools and practical skills I needed in order to give back to my fellow veterans.

Nassau County, where Hofstra Law is located, is the third most densely populated veterans' county in the United States. Since the program was launched, VLAP has provided free legal services to Nassau county veterans using a clinic based model. To date, 15 volunteer-attorneys together with 25 volunteer-students have provided legal assistance to 70 veterans in a diverse range of legal issues.

The law school administration has strongly supported the new VLAP project, by working tirelessly to assist the students in building corporative relationships with the Nassau County Executive's Office, the Veterans Service Agency, the Nassau County Bar Association, and the Northport VA Hospital. Hofstra continues to expand its Veterans Legal Assistance Project by developing an academic curriculum dedicated to veterans' legal issues and veteran representation, which will be offered to students next Spring. Hofstra also continues to recruit volunteer-



Last Spring, Hofstra's Veterans Legal Assistance Project was able to provide legal assistance for over 70 veterans.

attorneys interested in pro bono opportunities. **Interested volunteers can reach Hofstra at VLAP@hofstra.edu or at (516) 463-7302.**

Following one's own passion might seem more privileged than practical, especially in the struggling legal job market today. But it is much easier to network successfully when engaged with those who share your passions and interests. Hofstra Law allowed me to demonstrate how passion is an *asset* to an employer. When I am appointed as a new Army Judge Advocate in January, I will be providing legal assistance for active duty soldiers much in the same way volunteer law students and attorneys provide legal assistance to veterans through the Clinic. Hofstra Law gave me an opportunity to put my own passion for veterans advocacy into practice, with resources that were literally, right at my doorstep.

“Veterans’ Court Program Saved my Life”

Susan J. Deith*, Esq., Member, NYSBA Committee on Veterans,
Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP¹



Anzalone

When I heard the defendant utter the above words, “Veterans’ Court program saved my life,” and I heard the judge respond “Thank you for serving

our country,” it not only affirmed in my mind the success of the court, but it also warmed my heart and brought tears to my eyes. This is what it is all about. This is what it means to utilize our court system to help address the needs of those serving our country who may have gotten off track somehow as a result of their experiences as a service member. This is justice in action.

I had the opportunity to interview Judge Anna R. Anzalone, who presides over the Veterans’ Treatment Court (VTC) in Nassau County, and to observe a court session. Immediately upon meeting Judge Anzalone, I was able to see her passion and commitment to the court and her pride in its success.

Judge Anzalone was elected in 2003. She took office in 2004 and has always been interested in veterans’ affairs. From 2006 to 2013, prior to becoming the Veterans’ Treatment Court (VTC) judge this past year, she presided over the treatment court for drugs and alcohol. She has taken veterans’ courses to familiarize herself with the special needs of veterans.

The history and success of the Nassau County Veterans’ Treatment Court can be traced back to when Judge Terence Murphy was elected in 2010. Subsequent to Judge Murphy’s election, efforts to establish a veterans’ treatment court in Nassau County took off. The court was ultimately opened in November 2011, with Judge

Murphy presiding. Judge Murphy was later deployed to active duty, in May 2013, and is expected back in May 2014.

Major supporters of the court are, and have been, Judge Thomas Adams, Administrative Judge of Nassau County; Judge Norman St. George, Supervising Judge of the Nassau County District Court; Justice Anthony Marano, Administrative Judge of Nassau County at the time the VTC opened (currently Supreme Court Justice, Nassau County); and Judge Christopher Quinn, Supervising Judge of the Nassau County District Court at the time the VTC opened (currently Administrative Judge, County Court, Nassau County).

According to Judge Anzalone, the drug and alcohol treatment court dealt with over a dozen veterans’ cases between 2006 and 2010, relating to drug or alcohol problems. Often-times such problems are a result of post-traumatic stress disorder and other issues caused as a consequence of military service. She remembers in particular a marine captain who had severe injuries from a helicopter crash and became addicted to drugs. He was arrested for possession in Nassau County. He followed and successfully completed the program. Judge Anzalone thinks recovery is somewhat easier for veterans because of their disciplinary training, as opposed to other addicts who do not have that same ability. Judge Anzalone stated that “Based upon what veterans have done for us, they deserve special attention.” Since 2011, over thirty veterans have graduated from the VTC. There are presently another fifty with ongoing cases.

Most of the cases are DWI’s but some deal with domestic violence (which is not handled by the other treatment courts). For DWI matters, defendants must wear bracelets that detect alcohol and must use ignition interlock systems. Defendants may be

on this type of monitoring for a month or more. Usually, if they follow these directives, they will receive a driving while impaired violation, as opposed to a driving while intoxicated misdemeanor. VTC handles cases involving defendants who are charged with assaults and grand larcenies as well. Judge Anzalone also has seen matters involving suicide attempts. In such cases, defendants can meet with base psychiatrists or they may be sent to the VA hospital or other facilities paid for through veterans’ benefits. She also was quick to point out that it is important to get the word out that most veterans are eligible for the VTC, not just current veterans from ongoing military operations. The court has seen veterans from the Korean Conflict, Vietnam War, Operation Enduring Freedom and Operation Iraqi Freedom.

A key component of the VTC are the mentors who are veterans themselves and generously give of their time. These volunteer mentors meet twice a week with their many mentees, defendants who are before the court, just before court sessions begin. The veterans being treated usually come in once a month and meet with their mentors at that time. Support from the veterans’ families is an important component as well.

In talking about why the VTC is so successful, Judge Anzalone pointed out it is always stressed to veterans that their participation lays the groundwork for future veterans to come into court, and that they should look at their time as defendants in the VTC as a “mission.” She feels this approach is successful because it is something veterans can relate to. Judge Anzalone tells veterans being treated “You’re doing exactly what you should be doing.” As so eloquently stated by the judge, “Veterans have character, heart and training to be successful at this and would not be here but for the experiences they went

through while serving their country.”

Prior to my observing a court session, Judge Anzalone explained the procedural aspects of the cases. She is given a list of who will be appearing before her. The list includes information as to where the defendants served, their experiences, etc. After the defendant has appeared before her, and with the approval of the District Attorney’s office and the court, a contract is signed by the defendant, wherein he/she agrees to participate in treatment, and, if necessary, wear a bracelet, use ignition interlock system, and/or go to anger management as required by the treatment program. It is the District Attorney, along with the case managers, who recommend the treatment program. It is, however, ultimately the District Attorney’s program. Although defendants do get “TLC,” there must be rigorous compliance. Defendants must comply with the treatment directives and get involved in veterans’ centers.

To say that watching court in session was a rewarding experience is an understatement. It was awe-inspiring. Present were the judge, an ADA, the Project Director of the VTC, a social worker from the Northport VA Hos-

pital, and the defendants. Oftentimes defendants are offered a transitional housing program, Beacon House, as part of their treatment program. Veterans may reside there for up to two years. The program is for substance abusers, and is offered in partnership with the VA Hospital in Northport. The housing is for veterans only, no civilians.

The first defendant sought permission to leave Beacon House for the weekend and go to Washington, D.C. to visit his children. Permission was granted by the court. It was this veteran who stated that “Veterans’ Court Program saved my life.”

The second defendant asked the court for a conference date to address his request to enter an outpatient facility, notwithstanding that his contract called for six months at an inpatient facility. A conference was set up for the following week, at which time the defendant would return with his attorney to address the issue.

Judge Anzalone was both patient and stern with each of the defendants, at all times treating them with the utmost respect. When her short calendar was completed, there was a look of pride and satisfaction on her face. Her

expression mirrored my feelings exactly.

Veterans’ Treatment Courts, such as the one in Nassau County, are essential to our justice system. The New York State Bar Association’s Committee on Veterans is committed to exploring and facilitating the spread of Veterans’ Treatment Courts throughout New York State. It hopes to facilitate the means by which every veteran in our state may gain access to a VTC and/or treatment tracks so that a veteran living in a jurisdiction without a VTC may have his/her case referred to a county where those services exist, preferably a neighboring county. The Committee supports this expansion of access by endorsing the amendment of court rules, changing existing legislation and/or creating new legislation. Our veterans deserve access to justice. As Dr. Martin Luther King, Jr. stated, “Injustice anywhere is a threat to justice everywhere.” Let New York State continue to be a leader in this arena by insuring justice for all our veterans.

1. This article is dedicated to my son SPC Eric J. Karafiol who is a proud veteran of Operation Enduring Freedom.

Free Legal Clinic Helps Broome County Veterans

Arlene Sanders*, Managing Attorney, Legal Aid Society of Mid-New York, Inc.

Legal Aid Society of Mid-New York (LASMNY) has joined forces with the Broome County Vet Center and the Broome County Bar Association to provide legal advice clinics to Broome County veterans. The monthly “Talk to a Lawyer” program features selected topics such as family law, real estate, housing, estate planning, bankruptcy and debt collection. Vets can sign-up for the topic of their choice by calling the Vet Center at (607) 722-2393. On the clinic date vets meet privately with an attorney who provides free advice and counsel. The clinics are held at

the Vet Center, located at 53 Chenango Street, Binghamton, and are run by Vet Center and Legal Aid staff.

The idea for the clinics originated with Vet Center director Allison Miller. A clinical psychologist by training, she observed that many of her clients had legal issues that needed to be addressed. She and Sindy Garey, Executive Director of the Broome County Bar Association, approached LASMNY with the idea of co-sponsoring free legal clinics for the vets. LASMNY already had a robust pro bono program with hundreds of vol-

unteers. “It was easy to tap into this resource to recruit attorneys for such a program,” says LASMNY paralegal Pam MacLaren. MacLaren notes that several of the volunteer attorneys who participate are veterans themselves and were eager to be a part of such a worthwhile effort.

At the end of each clinic, vets are asked to fill out a questionnaire on whether the program was helpful to them. Without exception, they have expressed strong appreciation for the service and the volunteer attorneys they have met with.

Legal Services of the Hudson Valley Expands Pro Bono Efforts to Include Veterans

Virginia Foulkrod, Staff Attorney, Veterans and Military Families Advocacy Project, Legal Services of the Hudson Valley



Serving Those Who Serve CLE May 29, 2013. Pictured from Left; Shari Gordon, Esq., Virginia Foulkrod Esq., Richard Gerberth Jr., Junior Vice Commander for the Military Order of the Purple Heart Department of New York, Barbara Finkelstein, Esq., Executive Director of Legal Services of the Hudson Valley, and Jody Fay*, Esq., President of the Westchester County Bar Association. [Photo Courtesy of Shari Gordon, Esq.]*

For over 45 years, Legal Services of the Hudson Valley (LSHV) has provided free, high quality counsel in civil matters for poor and low-income individuals and families who cannot afford to pay an attorney where basic human needs are at stake. With the gap separating those who can and cannot afford legal representation widening each day, we work hard to engage as many allies as possible in this vital mission. Even with over 45 staff attorneys who handled 11,105 cases in 2012 and a dedicated corps of pro bono attorneys who represent individuals and families in matters including family law cases, consumer issues, tort defenses, bankruptcy, land-

lord/tenant issues, and wills, among others, the need for civil legal services far outweighs the available resources.

In recognition of the special challenges facing veterans and their families, in July 2012, LSHV received a generous grant from the Lanza Family Foundation to create the Veterans and Military Families Advocacy Project to address the unique legal needs of veterans.

According to Barbara Finkelstein*, CEO of LSHV, "The goal of the project is to provide free legal advice and direct representation to veterans in civil legal matters. Together with our partners, we are part of a comprehensive network of providers who

address the unique challenges that veterans and their families confront. We are constantly seeking to expand this network and enhance our programming in order to better serve those who have served our country," she added.

With the goal of giving back to those who have given so much to this country, LSHV has created the Veterans Pro Bono Project. As with our Pro Bono Unit in general, the Veterans Pro Bono Project includes CLE training for participating attorneys and those trainings are veteran focused and include additional instruction on military cultural competency as well as best practices for working with veterans. Our inaugural training was conducted on May 29, 2013 in partnership with the Westchester County Bar Association and the Westchester Women's Bar Association. The event was the first in our series of veteran focused CLEs titled *Serving Those Who Serve; Veterans and Child Support*. The program included instruction on handling child support matters as well as a presentation on trauma-informed care and best practices for working with veterans. Following the CLE, the number of attorneys participating in our veterans Pro Bono Project grew to 12. Based on the high level of interest, we expect participation to double by the end of the year.

Anyone interested in participating in LSHV's Pro Bono Project or the Veterans Pro Bono Project should contact Lillian Krusz Welby*, Esq., Pro Bono Director at 914-949-1305 ext. 127 or by email at lwelby@lshv.org

“One Team, One Fight” – One Community’s Integrated Approach to Veterans Issues

Hon. Patricia Marks*, Louis Prieto*, Esq., and Kevin Saunders*, Esq.¹

From the first day of basic training, military personnel are trained to be part of a team, a team of many parts focused on one mission, goal, or “fight,” whether literal or figurative. The concept of team is so ingrained in the fiber of a veteran that it is sometime very difficult to transition back into the civilian world, a journey made so much more difficult by numerous combat tours. The need to serve our veterans is long-term, with research indicating that combat veterans reach a peak need for services twenty years after discharge and projected needs for up to forty years.

Creation of 1T1F

One community with a veteran population of approximately 72,000, the fifth largest veteran population in the country, has taken a unique approach to assist its returning heroes. In the Greater Rochester area and its surrounding counties, companies, colleges, and service providers have joined forces to address its veterans’ educational, employment, housing, medical, psychological, and legal needs under a coalition called One Team, One Fight (“1T1F” at <http://1t1f.org/>). 1T1F ensures that its veterans have access to the education or training necessary to not only enter but succeed in the civilian workforce, while removing other obstacles in their paths. The additional goal is that this system will draw thousands of veterans to this region as they seek a degree at one of the area’s many excellent universities and a job in a related field.

The Rochester legal community — service providers, the Monroe County Bar Association (MCBA), and private firms -- also has combined its resources to assist veterans and is a key partner and leader in the 1T1F effort. The area’s veterans face a diverse array of legal issues, some typical, but others made atypical due to several long

deployments, type of discharge, or post-traumatic stress disorder (PTSD). If the legal issues facing veterans are viewed in this context, our obligation to returning veterans is stronger.

Partnership of VOC, LawNY, and MCBA

Recognizing this “behavior in context” and the fact veterans are often reluctant to seek help from organizations outside the recognizable veterans’ community, two Rochester organizations, Veterans Outreach Center (VOC) and Legal Assistance of Western New York (LawNY), believed the obvious solution was to integrate legal services with other services already being offered to ensure a single point of entry and no handoffs between organizations. The VOC is an independent service agency, offering veterans employment training, education benefit training, financial counseling, and housing. In 2009, VOC partnered with LawNY, so that now as each veteran is seen at VOC, their financial, housing, employment, and legal needs are assessed immediately. The on-site legal clinic offers a broad range of legal services, including employment, child support, housing, and wills.

The program was at first limited to two days per month for attorneys to assist veterans. A year later, VOC obtained VA grant funding to address veteran homelessness and included LawNY’s legal services with other agency partners providing mentoring and housing assistance services. As a result, the on-site service now has a full-time attorney.

Additionally, Volunteer Legal Services Program (VLSP) provides a source for referrals to volunteer attorneys, many of whom are veterans themselves, in the areas of consumer debt, foreclosure, wills, family law, and domestic violence. MCBA’s Lawyer Referral Service also enables self-identified veterans to connect with the right volunteer attorneys for their

particular problem.

LawNY extends its legal services outside Rochester into thirteen other counties, with many portions being rural. Because veterans, particularly those who have served within the past twenty years, tend to be internet savvy, technology has proven to be an effective tool for reaching rural veterans. A LawNY paralegal (and veteran) developed a veterans’ link on the LawNY website and LawHelpNY legal services resource site at www.LawHelpNY.org. Veterans throughout upstate may also utilize a LawNY hotline to receive appropriate referrals or direct legal assistance.

Partnership of LawNY and Private Firms

1T1F presents an unprecedented opportunity for the legal community to work together to provide access to legal help for veterans, not only in Monroe County but throughout the region. When attorneys from Xerox Corporation and Nixon Peabody LLP recently approached LawNY, the three groups quickly partnered to establish a corps of pro bono attorneys to assist veterans attending two VA Medical Centers with benefits and other issues. Training is set for more than twenty-five attorneys over the next couple months.

Going Forward

Recently, retired Monroe County Court judge Patricia Marks, on behalf of the MCBA Veterans Legal Services Task Force, testified before Chief Judge Jonathan Lippman about what Rochester is doing to assist its veterans and what needs to be done both to address unmet legal needs here and throughout the State. Some suggestions included:

1. Provide approved CLE training programs for volunteer attorneys

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in specific areas: military culture, veterans benefits, discharge status upgrades, PTSD, etc.

2. Address creation of a modest means program for veterans whose income is too high for free legal services, but too low to pay an attorney's standard rate.

3. Create a "Lawyer of the Day" program where volunteer lawyers are available on a regular basis.

4. Expand Veterans Courts and provide on-site civil legal services at these courts. If the community has a Veterans Court, like Monroe County does, have a representative present who can introduce the veterans to

service providers for any additional needs.

Conclusion

Veterans often face challenges that are interlinked with a variety of issues requiring creative solutions and collaboration with other groups across an array of issues, in other words, a "one team, one fight" approach. The 1T1F Greater Rochester legal community learned this most valuable lesson from its veterans, who were taught the team concept and value unselfish approaches to problem solving.

The 1T1F legal experience underscores the importance of establishing close community partnerships with organizations, like VOC, that are well-known within the veteran community. The team needs bar associations and

private attorneys and firms who have the desire to assist veterans. In rural areas, internet resources and hotlines are useful tools when adapted specifically for veterans.

Teamwork is the key to working with veterans to meet their legal needs and, furthermore, to opening opportunities for resource development to better serve a community's men and women who have served our country.

1. Hon. Patricia Marks is a retired Monroe County Court judge, a 1T1F member, and VOC board member. Louis Prieto is the Managing Attorney of the LawNY Rochester office and a 1T1F member. Kevin Saunders is a Nixon Peabody LLP attorney, an Iraqi war veteran and lieutenant colonel in the U.S. Marine Reserves, one of the founding members of 1T1F, and a VOC board member.

Volunteering with City Bar's Veterans Assistance Project Leads to Wealth of Opportunity

Fraser Hartley, Associate, Shearman & Sterling

I first got involved with the Veterans Assistance Project in 2008, when, as a very junior lawyer I attended an intake clinic at the New York City Bar. I remember being more than a little overwhelmed as the veteran across the table from me started to recount 40 years' worth of experiences and his difficulty in navigating the VA benefits landscape. I left that meeting with a new client, a long list of scribbled questions and a lot of research to do.

For the next 15 months, I wrote countless letters to military records agencies and former platoon members and dug into the depths of veterans' benefit laws, in an effort to build our client's argument. Happily, the case ended with a positive result – we were able to secure the service related disability ratings upgrade that the veteran had been seeking for years. This resulted in increased monthly benefit payments as well as a nice lump sum for past benefits owed.

Throughout my work on this

first case, I was struck by a couple of things. First, filing a factually supported and organized VA claim required navigating a maze of paperwork that was often daunting even for lawyers who make a living doing that sort of thing. I can sympathize with veterans who feel frustrated trying to complete the process alone or who are disappointed and give up when their claims are denied based on failures to comply with all of the technical application requirements. Second, there is a lot of help out there, thankfully! The City Bar's Veterans Assistance Project is dedicated to helping veterans receive benefits to which they are entitled. The challenge, of course, is connecting veterans in need with the appropriate resources, most of which have understandably non-existent advertising budgets.

Since that first case, I have been lucky enough to work on several more veterans cases through the Veterans Assistance Project, which have pro-

vided me with a wealth of unexpected opportunities. I have been able to spend some time working on an interesting area of law that is much different - and, some might say, more relatable - than my day-to-day corporate finance practice. I have had the chance to learn from more senior colleagues who have given me advice on difficult issues and also to work with more junior lawyers at our firm by helping them take on their own cases. I have also connected with lawyers at some of our biggest investment banking clients, as we have partnered at intake clinics with in-house legal staffs at firms like Bank of America, Merrill Lynch, Barclays Capital, and Goldman Sachs. And most importantly, I have had the opportunity to try to provide a level of assistance to people who have given a great deal of service to this country. I am grateful that the Veterans Assistance Project has given our firm the opportunity to participate in this cause.

Collaborative Partnerships Ensure Veterans Assistance Project's Continuing Success

Carol Bockner, Director, Pro Bono Initiatives, and Caitlin Kilroy, Staff Attorney, Veterans Assistance Project, City Bar Justice Center

The City Bar Justice Center launched the Veterans Assistance Project in the Fall of 2007 in response to the need for assistance to veterans attempting to access their disability benefits and the interest of several law firms. The inaugural firms who worked tirelessly to help the City Bar Justice Center coordinate a project to assist veterans with their disability claims are Paul, Weiss, Rifkind, Wharton & Garrison; Reed Smith; Shearman & Sterling; McCarter & English; Cleary Gottlieb Steen & Hamilton; Orrick, Herrington & Sutcliffe; Mayer Brown Rowe & Maw; Winston & Strawn; Covington & Burling; Weil, Gotshal & Manges and Howrey.

The Veterans Assistance Project provides pro bono assistance to veterans in connection with the filing of service-connected disability benefits claims before the New York City Regional Office of the Department of Veterans Affairs and the Board of Veterans Appeals. Volunteer attorneys also assist with veterans' pension applications and survivors' benefits. Volunteers are trained in advocacy before the Department of Veterans Affairs and staff monthly clinics that veterans attend for intake, counsel, and ongoing representation. The Veterans Assistance Project serves a diverse group: veterans come from all parts of New York City; range in ages from 20's to 80's; and have served from World War II to Iraq and Afghanistan, through the Korean War, the Vietnam era and the first Gulf War and during peacetime.

Part of the Project's ongoing success is thanks to partnerships formed with the New York City Mayor's Office of Veterans Affairs and the Commissioner of Veterans Affairs, as well as with many of the veterans' advocacy organizations, the Veterans Administration, and veterans' clinics and hospitals. Extensive outreach is done through these partnerships. Additionally, Project staff gives pre-

sentations at various organizations, universities, and veterans' residences and maintains a Facebook page.

An estimated 200,000 veterans currently live in the five boroughs of New York City. Studies show that the peak years for government health care and disability compensation costs for veterans from past wars come 30 to 40 years after war periods end, meaning we are now in the peak claims period for Vietnam era veterans. There has also been an increase in disability claims from veterans who have served in Iraq and Afghanistan. Many of these veterans are returning home with an immediate need for medical care and disability benefits. Iraq and Afghanistan veterans are utilizing VA medical services and applying for disability benefits at much higher rates than veterans from previous wars. Their needs are also expected to increase over time.

Long waits and large numbers of claims pending a decision by the VA are a significant obstacle to these veterans receiving the benefits they deserve. As of September 2013, the New York Regional Office of the VA had over 10,155 claims in process. In our experience, the average initial application will take over a year before a decision is received from the VA. A typical appeal may be in process for anywhere from two to four years. While delays at the VA can be a challenge in disability cases, fortunately, veterans who have legal assistance completing their initial benefits claims are more likely to receive the benefits to which they are entitled and are less likely to need to appeal a decision in the future.

Attorneys are able to help a veteran gather service and hospitalization records, which are often difficult to obtain or incomplete, and develop the factual record. The key to the disability benefits process is proving the required nexus between one's injury and time in the service. Attorneys

have the analytical skills necessary to construct the connection between the injury and military service and can help veterans more effectively demonstrate this link. Our volunteer attorneys have been able to rectify many improper denials and erroneous rating decisions through their careful legal work and aggressive advocacy. Our Project currently has over 400 volunteers, representing 87 law firms and corporate legal departments

Our attorneys work with veterans facing a wide range of issues. The Veterans Assistance Project sees many veterans who suffer from cancers and other disabilities caused by exposure to Agent Orange in Vietnam, veterans who deal with debilitating post-traumatic stress from their time in combat, and veterans with severe physical injuries that prevent them from working. One of the emerging issues we are seeing is an increase in veterans coming forward who experienced military sexual trauma and, consequently, are now dealing with mental health issues such as post-traumatic stress, anxiety, or depression. We also work with veterans who were given less than fully honorable discharges which prevent them from receiving disability benefits. In many cases the misbehavior that led to the discharge can be the result of an underlying, undiagnosed mental health issue that was caused by their service.

An attorney's work can make a huge difference in the lives of our veteran clients. One of our volunteers recently worked with a Vietnam veteran who had suffered from PTSD since his discharge from the Army in 1971. The veteran, Mr. D, was stationed in Vietnam and his duties included handling corpses and casualties in the aftermath of rocket attacks, suicides, heroin overdoses, and combat injuries. Mr. D has struggled to cope with nightmares, flashbacks, crying spells, and constant intrusive thoughts

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caused by his PTSD. He first filed a claim for service-connected compensation for PTSD in 1999. However, the veteran's PTSD was only rated at 30% when he first attended a Veterans Assistance Project clinic. The Project matched him with a pro bono attorney who worked to secure for Mr. D a benefit that allows severely disabled veterans, who are unable to work, to be compensated as if they were rated at 100%. Mr. D was awarded approximately \$95,000 in retroactive disability benefits in connection with this claim. The attorney also assisted Mr. D in applying for service connection for diabetes, which is presumed to be related to service for veterans who served in Vietnam and were exposed to Agent Orange. The attorney helped Mr. D file for additional special monthly compensation as well because of loss of use of his extremities due to his diabetes. Mr. D was thus awarded an additional \$11,000 in retroactive benefits. In total, the veteran received about \$106,000 in retroactive benefits and will be receiving over \$3,000 in monthly benefits going forward.

Another one of our volunteers was recently able to secure a significant

award for a veteran suffering from post-traumatic stress caused by military sexual trauma. This veteran, Mr. B, served in the Navy from 1980 to 1982. Mr. B was in a highly selective advanced electronics program and had a promising naval career in front of him. While he was at a Navy base, he was sexually assaulted by a man in the barracks one night. After this horrific event, his grades suddenly dropped and he became depressed and suicidal. He attempted suicide in the year following the event and has been hospitalized on and off since his service. Mr. B has been diagnosed with depression, schizophrenia, and PTSD. Until recently, Mr. B never told anyone about the incident, but the attorney was able to point to his marked change in behavior following the assault and gather statements from medical professionals to provide corroborating evidence. The attorney was able to establish service-connection for PTSD with depressive disorder and psychotic disorder due to military sexual trauma. Mr. B's PTSD is so severe that he was determined to be 100% disabled and will receive a monthly benefit of over \$2,500. He received a lump-sum retroactive payment, back to the date he first applied, for about \$22,000.

These awards are an important source of income security for our clients. Many of the veterans we see are homeless or at risk of homelessness. Many are unable to work because of their disabilities. These VA benefits help lift our veterans out of poverty so they can afford stable housing and support their families. Veterans with service-connected injuries also receive other important VA benefits like priority medical care and vocational rehabilitation. These legal victories are significant financially, but also go a long way to help restore veterans' dignity. Many of the veterans who attend our clinics have been trying for years to access their VA benefits without success. The VA's acknowledgment of their sacrifice can be so meaningful to our veterans. The Veterans Assistance Project is glad to be able to help veterans in accessing the VA resources that will help them continue to have productive civilian lives. We are grateful to our veterans for their service and to our volunteers for their tireless work on behalf of their veteran clients.

If you are interested in volunteering with the Veterans Assistance Project, please contact Dana Alamia, Veterans Assistance Project Coordinator, at dalamia@nycbar.org.

Urban Justice Center Veteran Advocacy Project

Anting Wang, 2012-2013 AmeriCorps VISTA Member, Feerick Center for Social Justice

In recognition of the increasing number of veterans returning from Iraq and Afghanistan, the Urban Justice Center (UJC), the New York County Lawyers' Association (NYCLA), and Fordham Law School's Feerick Center for Social Justice have worked together to develop a pro bono pilot project that will train and support volunteer attorneys assisting veterans with discharge upgrades.

The pro bono program seeks to assist veterans with Other Than Honorable (OTH) and General discharge

upgrades. Such discharges can make it difficult for veterans to find work and also disqualify them from benefits such as health care and education. However, Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), and related disorders that commonly lead to an OTH or General discharge are often directly related to a veteran's service in the armed forces. As a result, the pilot project partners believe that the legal community is an important resource to these veterans, helping them understand their options, appeal

their discharges as appropriate, and navigate the military justice system.

There is an urgent need for attorneys with experience providing legal assistance to veterans with discharge upgrades to serve as mentors to new pro bono attorneys.

For more information about the pilot project or to get involved as a mentor, please contact **Samantha Varn, New York City Civic Corps Member with the Feerick Center, at svarn@fordham.edu or (212) 636-8872.**

Legal Aid Society of Northeastern NY Has an Array of Pro Bono Programs for Veterans

Assigned Counsel Program

Potential low income clients are assisted by Legal Aid staff with completing an application to proceed as a poor person and for assignment of counsel in a divorce. The Supreme Court in Albany and Rensselaer Counties then assigns attorneys to represent eligible low-income clients pro bono in divorce proceeding. Once pro bono counsel is assigned by the court, Legal Aid tracks the case. Intake for the assigned counsel program is generally done on the 3rd Thursday of the month.

Service Type: Extended

Bankruptcy

This Program provides Veterans with a pro bono attorney for representation in filing a Chapter 7 Bankruptcy. Service Type: Extended

Pro Se Divorce Clinics

The Pro Se Divorce Program offers services to clients in Clinton, Columbia, Essex, Franklin, Fulton, Greene, Montgomery, Rensselaer, St. Lawrence, Schenectady and Schoharie counties. The clinics are operated in conjunction with private attorneys,

who instruct clients how to complete their divorce papers. The clinics take between five and six hours in total, and are held in two parts (2.5 to 3 hours each), on separate days. Service type: Brief

UIB Ask-A-Lawyer

This program was implemented based on increased client demand for assistance/advice with unemployment matters. A volunteer meets with a client and provides him or her with advice regarding an unemployment matter. Multiple appointments are scheduled in one day, normally three (3) to four. The schedule for the appointments is arranged around the volunteer's availability.

Service type: Brief

Veterans Legal Clinic

A volunteer meets with a Veteran and provides advice on a civil legal issue. Areas of service include debt collection, bankruptcy, housing, child support, visitation, identity and SSI/SSD. This program takes place twice a month at the Stratton VA Medical Center, and at times other locations.

Service Type: Advice

Wills for Heroes

This program is held in collaboration with the Albany County Bar Association, Hiscock and Barclay and the Albany Law School Veterans Pro Bono project. A Veteran is referred to a volunteer for the purpose of preparing and executing a will and/or other advance directives. A law student assists at the meeting and with document preparation and execution. It takes place the 2nd Tuesday of the month at the Stratton VA Medical Center.

Service Type: Brief

To volunteer, please contact Kristie Cinelli, Director, 518-689-6322, kcinelli@lasnny.org; Cheryl Dedes, Coordinator, 518-533-5932, cdedes@lasnny.org.

If you would like to volunteer in St. Lawrence County please contact Linda LaRue, Paralegal, 315-386-4586, llarue@lasnny.org. Please visit LASNNY's website at www.lasnny.org for more information about programs and opportunities.

Why I Represent Veterans

Steven J. Zaorski, Associate, Ropes & Gray

Before I started as an associate at Ropes & Gray, I worked as a fellow with the Iraq & Afghanistan Veterans of America (IAVA), the nation's first and largest non-profit organization for veterans of America's most recent conflicts. As the nephew of a Vietnam War veteran and the grandson of a World War II veteran, I have always cared deeply about veterans issues and had the utmost respect for their service. It was not until working with IAVA, however, that I understood how under-served veterans were by

the legal community. While our government and society in general does a great job honoring veterans while they are serving and immediately upon their return, we need to recognize that some veterans and their families require lifelong physical, mental and emotional support to recover from the wounds of war. In many instances, this lifelong recovery process will present veterans and their families with legal issues, particularly with respect to the potentially winding and arduous veteran benefit claims process.

Even though I am a private investment funds attorney, I felt obligated to use my unique skill set to help these veterans and their families and I wanted to commit a part of my career to such service, so I contacted the Veterans Pro Bono Consortium Program in Washington, D.C. (the Consortium). Through the Consortium, I was able to attend a full day training class on representing veterans before the U.S. Court of Appeals for Veterans Claims

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("USCVC"), which is an Article I court created specifically for resolving appeals of veterans benefit cases. In exchange for the free training program, the Consortium will place attorneys with veterans benefit cases.

My latest case was the perfect example of how our nation's veterans require lifelong support to recover from the perils of war and how proper legal representation can positively impact the course of the case. In this case, my veteran was seeking a disability pension because he suffered from a completely disabling condition. However, he was denied any benefits because his discharge papers from service contained an alleged typographical error. Tragically, this same error prevented the veteran from receiving educational benefits, which he thought he was promised by a military recruiter, over forty years earlier. Recently, through his own research and at his own expense, the veteran discovered a piece of evidence which he strongly believed would support his argument that the discharge

papers were incorrect. However, he did not know how to connect this newfound evidence to the law in such a manner as to persuade the USCVC to overturn his case.

hearing based on the new evidence. In the years ahead, I look forward to many more rewarding experiences representing veterans before the USCVC. It will be a particularly

I felt obligated to use my unique skill set to help these veterans and their families and I wanted to commit a part of my career to such service.

At this point, I volunteered to take his case and together we crafted the legal arguments that successfully persuaded the USCVC to remand his case for a re-hearing at the lower tribunal due to the Department of Veterans Affairs failure to satisfy its statutory duty to assist. It was a very rewarding moment for us because this veteran has been waiting over forty years for another shot at receiving the benefits that he believes he deserves. As he told me many times throughout the representation, he really could use the additional financial support from the disability pension, but it was a "bucket list item" for him to simply win another day in court to have a fair

poignant day for me when I have the opportunity to represent one of my peers who participated in our nation's most recent conflicts. While I chose a different path coming out of high school, many of my peers chose to serve at great costs to their families and to themselves. Now as the combat abroad recedes, I strongly believe that it is my time to serve them. I look forward to the challenges ahead and I hope to be able to be there for our nation's veterans throughout the rest of my career. I would strongly recommend such service to my fellow members of the New York State Bar Association.

LawNY Creates Regional Veterans Legal Corps Project

Todd Thomas, Managing Attorney, Southern Tier Legal Services¹

In response to a growing need for legal services targeted toward veterans, active duty military and military families, Legal Assistance of Western New York, Inc. (LawNY) is sponsoring four legal fellowships jointly funded by the Equal Justice Works (EJW) AmeriCorps program and by LawNY. Four lawyers have recently started a year-long fellowship at LawNY offices in Rochester, Bath, and Jamestown, and at the Canandaigua VA Medical Center. The Fellows are Vicki Belstadt*, Veterans Outreach Center, Rochester; Jennifer Aronson, Rochester and the Canandaigua VA Health Center; Amelia Kohli*, Bath VA HC; and Nathaniel Koppel, Jamestown.

The Jamestown Fellow will focus on building a stronger network of vet-

erans services in Chautauqua County where currently no established legal help network exists.

The Veterans Legal Corps Fellows will conduct outreach, provide direct legal services, and recruit volunteers to assist low-income veterans with legal problems. Additionally, two VISTA program paralegals assigned to the LawNY Rochester and Geneva Offices will work exclusively on veteran issues and in support of our Fellows and staff attorneys working with veterans. Presently, LawNY is partnering with law firms across the service area to develop a panel of pro bono counsel to work with veterans on VA benefit issues and other civil legal matters. Fellows will meet with veterans at existing service providers' sites, LawNY offices, and in

cases involving hospice or severely disabled veterans, in their homes.

On October 25th, Terry Northrup, an attorney and veteran with offices in Bath, NY, recently was awarded a Pro Bono Leadership Award in recognition of her efforts to help establish a veterans legal clinic in partnership with LawNY and the Bath VA Medical Center.

To volunteer to assist at one of the regional veterans' legal corps sites, please email [Todd Thomas at tthomas@lawny.org](mailto:tthomas@lawny.org) or call at (716) 664-4543; or contact [Louis Prieto* at lprieto@wnylc.com](mailto:lprieto@wnylc.com) or (585) 325-2520.

1. Southern Tier Legal Services is a division of Legal Assistance of Western New York, Inc.®

The Legal Project: Veteran's Legal Clinics Making a Difference in the Capital Region

Lisa Frisch, Executive Director, The Legal Project



Kindlon*

Well over 80,000 veterans reside in the Capital Region counties that The Legal Project serves; many of them grapple with issues of unemployment, home-

lessness, foreclosure, bankruptcy, PTSD, divorce and problems accessing benefits. Women veterans also deal with the additional trauma of sexual assault and domestic violence in far too many cases. Research suggests that 81%-93% of women veterans have been exposed to some type of trauma, exacerbating the difficulties that many women veterans experience when transitioning back to civilian life.

Recognizing the increasing number of returning veterans and the many legal challenges they are trying to deal with, in 2012, The Legal Project applied to be a host site for an AmeriCorps Vista Volunteer to help us respond to this growing need. Mackenzie Godwin joined The Legal Project in August 2012 for a one year placement as our Military/Veterans

Program Specialist. Throughout the year, she helped create civil legal clinics for veterans, military members, and their families and recruited both attorney and non-attorney volunteers. In that time, five legal clinics that focused on veterans were developed or expanded: Veterans House in Ballston Spa (which also focuses on services for women veterans); Stratton VA Hospital; North Greenbush American Legion in Wynantskill; Rotterdam Senior Citizens Center where local chapter meetings of the Disabled American Veterans and American Legions are held; Homeless and Travelers Aid Society that houses an office of the veterans' organization Soldier On; and our newest clinic at the American Legion in Hudson.

Attorneys with experience with veterans benefits, family law or other civil legal specialty areas are generously volunteering their time to help guide veterans who are facing what seem like insurmountable obstacles while returning to civilian life. Volunteer Attorney Lee Kindlon* stated "Vets have a common experience. We are trained to share hardships and successes. It crosses generations. As attorneys, we meet people dealing with hardships, and it's as simple now as it was on active duty: we share the

load." Kindlon goes on to say "There was a point, when I was a kid and my dad was a young attorney, when Vietnam vets were faced with myriad legal issues and he helped. I don't know if he ever envisioned doing pro bono work thirty years in the future with me, now a veteran myself, for a new generation. But here we are."

Since the beginning of Mackenzie's service year, 18 attorneys have volunteered over 100 hours at the veterans' legal clinics and a total of 115 clients have been served. Increasing numbers of veterans are calling about our clinics and we are able to provide them private consultations without restrictions, essentially serving anyone who calls us needing help. We are pleased to be working in partnership with our community partners, Legal Aid of Northeastern New York, the Albany County Bar Association and Albany Law School in their efforts to respond to the needs of veterans in our region—better ensuring that all those who reach out for information and guidance are able to get this help. In the next few years, these numbers are certain to grow, but our legal community has stepped up to do their part in serving our country, by serving our veterans.

Are You feeling overwhelmed?

The New York State Bar Association's Lawyer Assistance Program can help.

We understand the competition, constant stress, and high expectations you face as a lawyer, judge or law student. Sometimes the most difficult trials happen outside the court. Unmanaged stress can lead to problems such as substance abuse and depression.

NYSBA's LAP offers free, confidential help. All LAP services are confidential and protected under section 499 of the Judiciary Law.

Call **1.800.255.0569**



NEW YORK STATE BAR ASSOCIATION
LAWYER ASSISTANCE PROGRAM



The Veterans Justice Project of Legal Services NYC

M. Audrey Carr*, Esq., Director of Immigration and Programs, Legal Services NYC and Member NYSBA Committee on Veterans



Carr*

On Veterans Day in 2011, Legal Services NYC (LSNYC) launched the Veterans Justice Project. While we have long served veterans and their families, we recognized that with the end of the wars in Iraq and Afghanistan, low-income veterans returning to New York City would face many especially acute challenges. Our goal is to provide legal services and advocacy to veterans who are grappling with securing housing, income, family stability and other basic needs. In two short years, the Veterans Justice Project (VJP) has become the largest project in the nation specifically aimed at providing legal representation to low-income veterans, military service members and their dependents.

Through partnerships with the Veterans Administration (VA), Vet Centers and dozens of social service agencies serving veterans throughout New York City, VJP advocates meet veteran clients. Our citywide hotline allows veterans and their family members to connect directly with Legal Services offices in the borough where they live. The Project has assisted veterans with a wide range of problems, including

stopping evictions, avoiding foreclosures, obtaining rent subsidies and other federal and state benefits, halting abusive debt collection, addressing child support challenges and applying for naturalization.

In just one example, the VJP brought a successful suit against the New York City Department of Housing Preservation and Development (HPD) on behalf of an honorably discharged decorated Marine who was illegally denied an apartment at a Mitchell-Lama housing development in Brooklyn. Pursuant to an amendment to New York Private Housing Finance Law, veterans on Mitchell-Lama waiting lists have priority for apartment placements. The apartment complex put the client's name at the top of the list and offered him an apartment. Before the client could actually move in, the complex had to seek approval from HPD. HPD rejected the client's application claiming that his mother, who had submitted the application while the client was deployed in Iraq, and not the veteran, was "head of household" thus making the veteran ineligible for

the veterans preference. The statute, however, and the HPD's own policy memorandums make no reference to a "head of household" requirement. Once the suit was filed, the Court issued a Temporary Restraining Order prohibiting the complex from renting the apartment to anyone else. HPD then agreed to settle and allowed the client to move into his new home.

In a case reported in the *New York Law Journal*, *McCormick -v- Resurrection Homes*, 38 Misc. 3d 847, 956 NYS 2d 844, the VJP represented a veteran who had been illegally locked out of her transitional home. The veteran had fallen into a cycle of homelessness since her discharge from the Army and in the month before Superstorm Sandy she received a HUD-VASH Section 8 voucher allowing her to find permanent housing. Just prior to the storm, the veteran was living in a transitional housing facility funded by the VA's Grants and Per Diem Program. Because of the storm, the veteran was unable to move into her new apartment when it became uninhabitable due to mold and other damages. The veteran, therefore, was forced to return to the transitional facility. Upon returning to New York after a Thanksgiving trip, the veteran discovered that she had been locked out of her apartment. Following a trial on the illegal lockout, the Housing Court Judge ordered the veteran restored to possession of the apartment. The court's decision established the right of residents of supporting housing programs to due process prior to termination of housing.

Income problems are also frequent issues facing low-income veterans and service members. Veterans often have their bank accounts frozen or their wages garnished because of unaffordable debt. The VJP assisted a veteran whose wages had been garnished by his employer to pay an outstanding judgment. The client had no knowledge of the lawsuit, because

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Onondaga County VLP Collaboration with S.U. Law Students Leads to Expanded Veterans Program

Sally Curran*, Executive Director, Volunteer Lawyer Project



Pictured left to right are Syracuse area attorneys Chris Todd, John Powers* and Bob Whitaker* who were recognized by the local Vet Center for providing on-going free legal assistance to veterans every month.*

Veterans and active military service members who return from service face a wide range of challenges reintegrating to civilian society, including facing broken homes, unemployment, difficulty seeking benefits, etc. For the past

four years VLP, under the leadership of attorney volunteer John Powers* of Hancock Estabrook, has worked to address these legal needs by providing a free legal clinic for Veterans and Military Service Members that is staffed by volunteer attorneys, many of whom are Vets themselves.

VLP was approached by a student group called VISION at S.U. Law. The student group was interested in meeting the legal needs of Veterans and wanted to create a day-long resource fair event at the law school for veterans. VLP enthusiastically responded and the result was VALOR Day, which took place on Saturday, March 23, 2013 at the S.U. College of Law.

The VALOR Day event featured a Talk to a Lawyer Program provided by VLP, with eight volunteer attorneys providing pro bono legal advice, information and referrals to thirty-nine veterans in one day. Other organizations participating in the event included a Veterans' Information Fair,

tax return preparation assistance, credit counseling, and the opportunity to meet with a veteran's benefits counselor.

Not only was the response to VALOR Day overwhelming, but the awareness about VLP's ongoing Veterans' Clinic has increased dramatically. Since March, VLP's monthly Veterans' clinic has consistently seen over ten clients a night during a two hour period, making it necessary for multiple attorneys to be present at each clinic.

VLP and VISON conducted a second VALOR Day on Saturday, September 28, 2013. In the second VALOR event, twelve attorneys and twenty-five law students teamed up to provide legal advice, information and referrals to twenty-seven veterans. Plans are already under way for a third VALOR day in March 2014.

To volunteer on VALOR Day or any other VLP pro bono project contact Sally Fisher Curran, Esq., scurran@onbar.org or (315)579-2576.

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he had been sued while he was serving overseas for a credit card debt he never owed. In addition, the creditor had filed suit in the Bronx, where the client had never lived. Given that the lawsuit violated federal law designed to protect active duty military personnel from suit while overseas, the VJP successfully got the suit dismissed and the client's money returned to him. In addition, the plaintiff agreed never to bring another suit against the veteran.

Besides our direct service work, the VJP provides training to both veterans and VA social service staff and health care providers to help them identify and address problems that can be

solved without a lawyer. The Project is now extending its work to include assisting veterans with discharge upgrades and with VA and other related veterans' benefits, as well as developing a veterans' pro bono component for the VJP.

During the week of Veterans Day 2012, the Project hosted the first Veterans Legal Rights Symposium at New York Law School. The Symposium drew on the expertise of LSNYC and our advocacy partners to provide an overview of veterans' legal rights and the legal services available to veterans. The Second Annual Veterans Symposium is planned for November 14, 2013. The theme for this year's Sym-

posium centers on the housing option available to veterans.

By forging partnerships with many public and non-profit organizations serving veterans and educating hundreds of social workers, case managers, medical providers, and other lay advocates about veterans' legal rights, the Veterans Justice Project has already made a significant impact on the lives of New York City's veterans and their family members.

Veterans, service members and their families requiring legal help can contact the Veterans Justice Project at (347) 592- 2409.

Representing America's Warriors

Kara L. Campbell, Esq. and Nancy Y. Morgan*¹, Esq., Finkelstein and Partners, Veterans' Services Group



Campbell



Morgan

United States Veterans who were injured or disabled while in service are entitled to benefits from the Department of Veterans' Affairs (VA). Eligibility for most VA benefits is based on discharge from active military service under "other than dishonorable" conditions. Active service means full time service as a member

of the Army, Navy, Air Force, Marine Corps, Coast Guard, or as a commissioned officer of the Environmental Services Administration, the National Oceanic & Atmospheric Administration or the Public Health Service.

Veterans are eligible for compensation for service-connected disabilities if they were wounded, injured or became ill while on active duty, or have been diagnosed with a disease such as post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) relating to their service in the armed forces. Pre-existing injuries that were aggravated while in service are also covered.

In June of 2007, Congress issued regulations permitting attorneys to receive compensation for assisting veterans at both the Regional Office (RO) and the Board of Veterans Appeals (BVA). This gave veterans the absolute right to retain an attorney to represent him/her with respect to his/her claim(s) at the VA. Whether or not you wish to get paid you must be accredited.

Getting Started

In order to represent veterans, attorneys, agents, or representatives of service organizations, must become accredited with the VA. 38 C.F.R. § 14.627(a). Accreditation with the VA will enable such an individual to represent a veteran at the RO or BVA with respect to his/her claims. In order to represent a veteran at the U.S. Court of Appeals for Veterans' Claims, (CAVC) attorneys must be admitted to practice before that court. Obtaining accreditation before the VA requires the submission of a Form 21-22 (if representing a service organization) or a Form 21-22a (if attorney or claims agent). These forms can be accessed at: <http://www.va.gov/ogc/accreditation.asp>.² Attorneys seeking admission to practice before the CAVC, must apply for admission. Application forms may be accessed at: http://www.uscourts.cavc.gov/forms_fees.php.

Once you are accredited and are ready to represent a veteran, you must file a VA Form 21-22a, Appointment of Individual as Claimant's Representative, together with your Legal Representation Agreement, with the Office of the General Counsel, within 30 days of execution. Be mindful that the VA will only recognize the named representative on the forms. VA does not recognize law firms.

A veteran's claim or a claim to reopen starts at the RO level. If the RO issues an unfavorable decision, the veteran may seek counsel to assist with an appeal of the rating decision.

The veteran has one year from the date of the rating decision to file a Notice of Disagreement (NOD). Thereafter, the veteran may submit additional evidence and make oral and written arguments for the VA's consideration. If more than one year has passed, and the veteran does not timely file a Notice of Disagreement, the decision becomes final. Should a

veteran seek to continue pursuit of the matter after the decision has become final, he/she may make a claim to reopen at the RO on the basis of new and material evidence.

If, after a NOD is filed, the Regional Office or BVA issues a decision which operates to grant retroactive benefits to a veteran, the attorney may be eligible to collect 20% of past due benefits (or an otherwise reasonable fee). Therefore, the filing of the NOD is the trigger point for potential fees. Please note, that only if the attorney filed the NOD or contributed to the decision by submitting other evidence in support of the claim may the attorney actually be entitled to the fee.

If you are representing a veteran on an appeal to the CAVC, you must file a Notice of Appeal within 120 days of the date of a final BVA decision. The Notice of Appeal should be accompanied by a \$50.00 fee or, alternatively, a Declaration of Financial Hardship by the veteran in lieu of the same. The directions for appealing to the CAVC can be accessed at the CAVC website as follows: <http://www.uscourts.cavc.gov/appeal.php>. In order to be compensated for your work on an appeal to the CAVC, your veteran client must be a "prevailing party". Once a favorable decision becomes final, that is, once the Mandate is issued by the Court (typically 60 days after the Judgment is entered), you may apply for fees via E.A.J.A. by making the requisite motion to the court within 30 days thereafter. E.A.J.A. stands for "Equal Access to Justice Act" and fees are paid pursuant to 28 U.S.C.S. § 2412. If the court awards E.A.J.A. fees, the costs are paid by the VA.

Eligibility

In order to receive compensation for a service-connected disability, the veteran must meet three basic requirements:

1. The medical evidence/diagnosis of a current disability

2. Evidence of a disease, injury or event coincident with military service
3. A nexus between the current disability and the in-service disease, injury or event.³ (Some medical conditions are presumed to be service-connected. 38 U.S.C. § 1112; 38 C.F.R. § 3.309[a] – [e].)

Note: For PTSD, the rules are relaxed for adjudicating such claims pursuant to 38 C.F.R. § 3.304(f)(3). Service connection for PTSD requires:

1. Medical evidence diagnosing the condition
2. A link established by medical evidence between current symptoms and a credible in-service stressor. If a veteran served in combat and the veteran's claimed in-service stressor was due to "fear of hostile military or terrorist activity", then, a psychiatrist or psychologist must confirm that the claimed stressor is adequate to support the diagnosis of PTSD; that the claimed stressor is consistent with the places, types and circumstances of military service; and that the veteran's current symptoms are related to the stressor.

A veteran may also make a claim for an increased rating for a service-connected disability that has worsened. The VA must provide a medical examination to determine the condition's current severity.

The VA will also provide monthly compensation to a surviving spouse, or dependent child/ren of a deceased service member, who died while on active duty, active duty for training, or inactive duty training, or a veteran whose service connected condition(s) were the veteran's primary or contributing cause of death, or the veteran had a 100% disability rating for ten years prior to his death. This is referred to as Dependency and Indemnity Compensation (DIC).

Also, a surviving spouse may be entitled to accrued benefits if the veteran had been entitled to benefits before his/her death (i.e. had a claim or appeal pending), but had never

been paid. Many claims die with a veteran, however, a claim for accrued benefits allows the surviving spouse to pick up the battle where the veteran left off. An accrued benefits claim must be filed within one year of the death of a veteran whose pending claim is the basis of the accrued claim.

Total Disability Based upon Individual Unemployability, (TDIU) may be awarded to a veteran whose service-connected disability completely prevents him/her from securing gainful employment. He/she will receive compensation at a 100% disability rating level, even if the medical condition itself does not warrant a 100% disability rating according to the rating schedule.

In addition to service-connected disability benefits, the VA also provides pension benefits for needy veterans. Pension benefits are means tested and are only available to veterans who served at least 90 days of active duty including one day during a wartime period who are age 65 or older, or totally and permanently disabled. Surviving spouses and children of these veterans may also be eligible for this benefit if they also meet the financial criteria. The VA Pension Aid and Attendance Program was established in 1979 by 38 U.S.C. § 1521.

Aid and Attendance benefits are available to veterans who are blind, living in a nursing home, who are unable to dress, attend to wants of nature, or who suffer from a physical or mental incapacity that requires assistance to protect them from hazards. Housebound benefits are available to a veteran or a widow determined to be disabled and confined to the home.

VA's Duty to Assist

Interestingly, while a claim is pending at either the RO or BVA levels, the matter is considered to be non-adversarial. 38 U.S.C. § 5103(A) requires the VA to assist a veteran in his/her claim for service-connected benefits. The duty to assist includes providing the veteran with a free medical examina-

tion when such examination is necessary for the VA to make a decision on the claim. 38 U.S.C. § 5103(A)(d) (1). It also includes the review of the veteran's service military and medical records, or an adequate search for the same, in order to fully assess the claim.

Since the VA's Duty to Assist is mandated, failure by VA to properly assist a veteran with his/her claim, will cause a remand of the matter for further development from either the BVA or the CAVC.

At the CAVC level, the matter is considered adversarial and the appeal is made against the Secretary of the Veterans' Administration. VA General Counsel will be appointed to handle the matter. The appeal is based upon the record evidence (i.e. the record considered by the BVA) only.

This has been a general overview into the Veterans' Law practice. It is a developing area of the law and there are/will be many nuances to this area of practice as the law changes. Certainly, as more and more veterans seek legal representation with respect to their claims, they avail themselves of the benefit of ensuring that their claims are fully developed and properly adjudicated.

1. Nancy Morgan joined Finkelstein & Partners, LLP in 1987 and is currently Director of the firm's Legal Operations. In addition to overseeing the firm's veterans service group, she also supervises the firm's mentoring and continuing legal education programs. Ms. Morgan is a member of the State Bar's Committee on Veterans.

Kara Campbell handles all aspects of motion and appellate practice specializing in the areas of personal injury, product liability, Labor Law and Veteran's Claims. She provides consultation with the firms' trial counsel on legal issues relating to liability, damages, evidentiary issues and veteran's matters.

2. There are also mandatory CLE requirements to maintain accredited status.

3. A medical professional must find that the claimed disability was at least as likely as not caused by an event in service.

Judge Patricia D. Marks* – Attorney Emeritus Volunteer – Helps Develop a Clinic for Veterans

Tatiana Medina, Siena College Summer Legal Fellow, Feerick Center for Social Justice

The Honorable Patricia D. Marks*, served as an Assistant District Attorney for nine years and as a Family Court Judge for 26 years, is now an Attorney Emeritus who volunteers with Volunteer Legal Services Project of Monroe County, Inc. (VLSP). She has volunteered with VLSP's Family Law Clinic and is currently helping them develop a clinic for veterans. Judge Marks retired to spend more time with her family, but she also wanted to give back to her community during retirement. Judge Marks believes that one of the great benefits of being a lawyer is in knowing how to help orient people who are bewildered by the court system. Lawyers' understanding of the legal system can be used to help people make a positive impact on their lives.

Even with many years of legal experience, beginning to do pro bono service can be daunting. Judge Marks was concerned about her ability to provide legal guidance, since she had limited experience directly assisting clients. For her and many senior volunteer attorneys, training and supervision are critical resources and supports, which she receives from VLSP's extensive volunteer program. VLSP of Monroe County provides free legal help to low-income clients through the efforts of nearly 1,500 pro bono volunteers. These volunteers work hard to ensure that clients gain access to the justice system when faced with a variety of legal problems. VLSP currently serves clients in a Debt Clinic, a Family Law Clinic, a Pro Se Divorce Clinic, a Wills Clinic, a Low Income

Taxpayer Clinic, and a Micro-Entrepreneur Program Clinic.

In the past, as Supervising Judge of the Criminal Courts in the Seventh Judicial District, Judge Marks observed that veterans faced many issues, such as child custody and employment, which were complicated further if they had a substance abuse problem or a criminal record. Based on these observations, Judge Marks initiated the Mental Health Court and the Veterans Treatment Court in Monroe County. She was eager to continue working on veterans' issues

ing that she and her colleagues are able to utilize their legal expertise to improve access to justice for people in need.

Attorneys who are 55 years of age or older, have at least 10 years in practice, and are interested in doing pro bono work may enroll as an Attorney Emeritus in New York State. The Attorney Emeritus Program (AEP) is an initiative of New York State Chief Judge Jonathan Lippman to engage active and retired senior attorneys in pro bono legal service on behalf of indigent New Yorkers. AEP volunteers

Judge Marks believes that one of the great benefits of being a lawyer is in knowing how to help orient people who are bewildered by the court system. Lawyers' understanding of the legal system can be used to help people make a positive impact on their lives.

after her retirement, because "veterans ultimately get frustrated and relapse, which gets their case diverted from being successful in Veterans Court." She explained, "I saw that one of my interests was finding a way to provide civil legal services to veterans, because of the desperate need in the Veterans Court and because it is a great experience that takes advantage of the Emeritus Program."

The new clinic for veterans is being developed with the assistance of a task force, of which Judge Marks is a member. Judge Marks finds it reward-

ing to provide at least 60 hours of pro bono service with approved legal service providers or court programs over a two-year period.

For more information about Volunteer Legal Services Project of Monroe County, Inc., visit <http://www.vlsp.org>. For more information about the New York State Attorney Emeritus Program, call (877) 800-0396, email AEP@nycourts.gov, or visit <http://www.nycourts.gov/attorneys/volunteer/emeritus>.

Father and Son Reunion

Kristie M. Cinelli, Director, Private Attorney Involvement Program
Legal Aid Society of Northeastern New York



O'Brien

The walls of Mike O'Donnell's living room are decorated with pictures of cities and stadiums.

He looks forward to collecting team pennants on trips with

his son, Derrick. The father and son did not always live together but that all changed thanks to the help of LASNNY PAI volunteer, Mike O'Brien.

O'Brien and O'Donnell are both veterans. O'Donnell served in the Army Airborne in Vietnam, and O'Brien served 34 years in the National Guard. O'Brien retired from the NYS Health Department in 2010. In July of 2011, he came to LASNNY with an interest in helping veterans. It was a synchronous moment, because the organization had just set up a counseling project for veterans. This put the two men in each other's path.

Mike O'Donnell volunteers at the Vet House and at the VA Hospital in Albany, where he counsels veterans. When Derrick moved from his mother's house to foster care, Mike lost contact with his son. In late 2011,

he approached Mr. O'Brien at the Vet House for help. O'Brien advised O'Donnell to stay in touch through letters and build rapport with the case-workers at his son's foster care facility. He also told him he would represent him. It was a long road, but worth the journey. "Last summer the boy started asking for his father to visit," said O'Brien. The two then began having regular visits, at least every other week, either at the Berkshire Farms facility where he was living or weekend visits in Mike's Albany apartment.

After almost two years of living in foster, group and residential homes, Derrick sent a letter to the Schoharie County Family Judge in December of last year. He requested that he be allowed to live with his father and attend Albany High. He wrote the judge that he realizes that no one can help him but himself, and is committed to self-improvement. "I kept telling him to work hard in school and he did," said O'Donnell, who is very proud of his boy's initiative. And, apparently so was the Judge: Mr. O'Connell was awarded custody in June of this year.

This PAI case was far more involved than most PAI cases. "I've been seeing vets with money issues, vets who need shelter, or need help applying for SSI or veteran benefits,"



Mike and his son Derrick

O'Brien said of his other work for LASNNY. He spent about 100 hours on this custody and visitation case, helping with bare logistics like transportation for O'Donnell, to the real meat of the matter, case management meetings and court sessions. The investment paid off, not just in terms of the connection the father and son have developed but also in knowing that it will continue to grow.

"Most of the cases you work on you don't see such a nice progression," said O'Brien. The satisfaction appears to be mutual. "I could not have done a thing without Mike," said O'Donnell.

To volunteer to provide free legal services to veterans or other low-income persons contact Kristie Cinelli, kcinelli@lasnny.org or (518) 689-6322.

A Pro Bono Opportunities Guide For Lawyers in New York State *Online!*



Looking to volunteer? This easy-to-use guide will help you find the right opportunity. You can search by county, by subject area, and by population served. A collaborative project of the New York City Bar Justice Center, the New York State Bar Association and Volunteers of Legal Service.

powered by **probono.net**

You can find the Opportunities Guide on the Pro Bono Net Web site at www.probono.net, through the New York State Bar Association Web site at www.nysba.org/probono, through the New York City Bar Justice Center's Web site at www.nycbar.org, and through the Volunteers of Legal Service Web site at www.volsprobono.org.



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Bridging the Gap For Albany's Veterans: Small Steps – Big Impact

Erica (Nic) Rangel*, Esq., M.P.A., Post-Graduate Pro Bono Fellow, Albany Law School



*(Left to right) Nic Rangel, Pro Bono Fellow, Waqar Sajid**, 2012 ALS Pro Bono Society president and Ben Pomerance**, 2012 Veterans Rights Project Director.*

Saturday, October 19th Albany Law School's Pro Bono Society Veterans' Rights Project hosted another successful day-long Veterans' Law Day program. Since its inception in 2011 the Veterans' Rights Project has hosted legal service programs or other veterans' events, twice a semester, every semester, for veterans and their families.

Veterans' Law Day programs provide veterans the opportunity to obtain free brief advice consultations with an attorney, with an option for full representation at the attorney's discretion. Veteran service organizations, non-profit groups serving veterans, and government agencies that provide an array of veterans' resources also are present on campus during the Veterans Law Day event. The law day programs are planned and coordinated by students leading the Veterans' Rights Project.

Usually serving approximately 50 veterans and their families at each law day program, students assist pro bono attorneys providing on-site brief legal consultations as well long term sup-

port to attorneys electing to provide full representation to a veteran. In preparation for the law day program, students respond to voice-mails left by veterans seeking assistance on the Pro Bono Society telephone help-line. Returning calls left on the Pro Bono Society help-line, students complete a brief intake questionnaire with callers and schedule the veterans for an appointment with a pro bono attorney to occur during the next Veterans' Law Day.

The recent Veterans Law Day project included an expanded service day, featured a full military color guard and an awards ceremony led by Congressman Paul Tonko. The Veterans Law Day program and the Senior Citizens' Law Day program took place during National Pro Bono Week. National Pro Bono Week is an American Bar Association sponsored celebration of pro bono service which the Albany Law School Pro Bono Program proudly participates in.

As the first Post-Graduate Pro Bono Fellow at Albany Law School I'm thrilled at the progress pro bono pro-

gramming at Albany Law has made over the last year. Since transforming the Pro Bono Society from a student organization into the institutional Pro Bono Program we have grown to nearly twenty (20) different pro bono projects that are student-led and community-based. The program also provides students with direct opportunities to assist private practice attorneys who have accepted pro bono cases, and faculty members doing pro bono work.

The Veterans' Right Project is one of our most active student-led, community-based pro bono projects. Joshua Bennett, class of 2014, a veteran of the United States Air Force, joined the Veterans' Rights Project team during his 1L year and is now its Project Director. The group has worked with the Legal Aid Society of Northeastern New York, the Albany Stratton VA Medical Center, the Albany Housing Coalition VET House, and dozens of law firms in the Capital Region to provide free legal assistance to veterans. The programs that the students in the Veterans Rights Project engage in include "Wills for Heroes" at the VAMC, a weekly Wills Clinic at the VETS house, and the Veterans' Law Day programs. Last year this project produced more than 700 hours of pro bono service to veterans in the capital region.

Approximately 15 attorneys and 20 student volunteers were able to provide more than 70 veterans and their families with free legal assistance during the Veterans' Law Day program held on October 19th. Most of those vets had scheduled appointments to meet with an attorney prior to the 19th, but several people walked in off the street. The attorneys who volunteered their services were able to provide every veteran who came in with free legal assistance. Additionally, Kristie Cinelli, the PAI Director for the Legal Aid Society of Northeastern NY nota-

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riized several wills which were drawn up during the course of the day, allowing veterans to leave the program with their notarized wills in-hand.

Not only does the work these students are doing help veterans directly, by connecting them with pro bono attorneys, but it also raises awareness in our community. People are becoming better informed about the myriad legal issues veterans face after they leave service. Often not poor enough to qualify for representation through free legal services programs, working-poor veterans remain a large section of Americans who rely on pro bono legal assistance in order to protect their basic human needs.

Students doing pro bono work through this project are able to shift

much of the burden of pro bono representation off of the attorneys who accept these cases. Students assist the attorneys by conducting in-take interviews, collecting pertinent documents from the clients, preparing forms or legal documents, and scheduling meetings with the clients and the attorneys, which allows attorneys to focus on the legal advice or representation. This model allows volunteer attorneys to accept more pro bono cases, while providing students with experiential learning opportunities, and exposing students to attorneys who are committed to pro bono service. Some of the legal issues veterans bring to our law day program include foreclosure, evictions, benefits denials, spousal rights, custodial matters, bankruptcy, estate planning and

advanced directives, and military record corrections.

Research shows that young people who do volunteer work during their developmental and educational stages are significantly more likely to continue doing volunteer work into adulthood. Law students are obviously adults, but there is much to be said about imbuing law students with a commitment to pro bono work before they are admitted to practice, and still learning the profession. The single most effective way to do this is for private practice attorneys to lead by example. If we want young lawyers to be committed to doing pro bono work, then attorneys at every level and every stage need to lead the way by doing pro bono work, and working with law students on their pro bono cases.

NYSBA'S Committee on Veterans Focuses on Legislative Efforts

Michael Lancer*, Esq., Co-Chair Committee on Veterans, Collins & Collins PC

The New York State Bar Association (NYSBA) will be setting its legislative agenda for 2014 in the coming days. The Association's Committee on Veterans is looking to focus the attention of New York's state legislators on veteran-related issues during the coming legislative term. The Committee is looking to advance proposed legislation that will facilitate access by the state's 1 million veterans to existing veteran treatment courts which are scattered around the Empire State.

Lead by co-chairs, Karen Hennigan*, Esq. and Michael Lancer*, Esq., the Veterans Committee was formed as a special committee in 2011 by then-President Vincent E. Doyle III. Its mission was to study veterans' legal issues in New York State and to inform NYSBA as to how veterans' legal needs were to be addressed. In November, 2012 the House of Delegates voted unanimously to make the committee a standing committee of the association and approved its Veterans Report and Recommendations. To read the Veterans Report go to www.nysba.org/veteransreport.

During the current calendar year, the committee's attention focused on

providing continuing legal education on veteran issues for attorneys. But, Hennigan and Lancer, in conjunction with the committee's more than 40 members, have set legislative issues as its main focus in 2014.

The nation's first veteran treatment court was launched in Buffalo in January 2008 by the Hon. Robert Russell, a Buffalo City Court judge. In the five years following that historic event, veteran treatment court has been studied by delegations from nearly every state and by many foreign jurisdictions. At present, there are well over 100 such courts nationwide.

In New York State, a dozen or so veteran-oriented legal forums exist to address criminal matters, stretching from Western New York to Long Island. Each court is specifically-tailored to meet the needs of its particular community. What works in Syracuse may differ from the factors bringing success to Brooklyn. A common element to nearly all such courts is the presence of a corps of veteran mentors who are trained to address the needs of veterans in the particular community. Lancer, who has served as a mentor in

Buffalo's veterans treatment court virtually since its inception, calls the mentor component the "secret sauce" that sets veteran treatment court apart from other problem-solving courts.

Unfortunately, veteran treatment courts do not exist in each of the state's 62 counties. Although the committee sees this as a desirable goal, according to Lancer, the proposal faces significant challenges right now. "Unless we obtain the necessary funding, similar to what was invested in drug treatment courts in recent years, it will be difficult to establish veterans courts in each jurisdiction," commented Lancer.

This leads to a less-than-perfect scenario for veterans as veteran treatment courts are currently clustered in areas that are often far from where veterans live. According to co-chair Hennigan, "New York's more rural counties are often home to large numbers of veterans. These counties tend to be veteran court-poor jurisdictions." Similarly, access to veterans courts varies within the five boroughs of NYC. Robust programs exist in Brooklyn and Queens, but no plans yet exist for treatment

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courts across the river in Manhattan.

Under current New York law, veterans in veteran court-poor jurisdictions do not have easy access to the nearest veteran court-rich county. The committee seeks to introduce and advance legislation enabling veterans to access veteran treatment courts across county lines which would allow all veterans charged with crimes to access valuable services tailored to their needs.

While it is hoped that NYSBA will incorporate this as part of its legislative agenda for the coming year, if not, the Committee on Veterans intends to

independently pursue this initiative. To this end, Committee representatives hope to meet with key legislators in the New York Senate and Assembly in order to influence both bodies to take up and pass the proposed enabling legislation.

Despite the apparent popular appeal of veteran causes in this day and age, Lancer and Hennigan anticipate the Committee on Veterans may face difficulties in light of limited funding available to New York's overburdened court system. Despite these challenges, veteran treatment courts in New York con-

tinue to thrive and expand. Frequently, administrative judges are finding creative ways to do more with less. Hopefully, with the weight of NYSBA and key legislators, efforts to improve the legal landscape for our vets through such legislation will be successful.

NYSBA members with special expertise in Legislative and/or public affairs are encouraged to join in this worthwhile effort. **If interested, please contact NYSBA's Director of Pro Bono Affairs, Gloria Herron Arthur, Esq.* at (518) 463-3200.**

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Name: Mr. / Ms. _____

NYSBA ID#: _____ # Pro Bono Hours: _____

Firm Name: _____

Address: _____

Phone Number: _____ Previous ESC® Honoree Yes / No

E-Mail: _____

I hereby certify that in 2013 I have provided 50 or more hours of legal services at no fee and without expectation of fee to one or more of the following: (1) persons of limited financial means; or (2) a not-for-profit, governmental or public services organization whose services are designed primarily to address the legal and other basic needs of persons of limited financial means; or (3) an organization whose primary purpose is to increase the availability of legal services to persons of limited financial means.

(Signature)

(Date)

(Optional) If you would like to be included in the **2013 Empire State Counsel® Photo Gallery**, please submit a high resolution photograph and a brief statement describing your pro bono service. The **Photo Gallery** will be prominently displayed during NYSBA's Annual Meeting, January 27-February 1, 2014 at the New York Hilton, 1335 Avenue of the Americas, New York City. To be included in the **Photo Gallery**, your photograph and comment must be received no later than **December 31, 2013**.

This form may be submitted by scanning and e-mailing it to probono@nysba.org, faxing it to (518) 463-4276 or mailing it to Pro Bono Affairs, NYSBA, One Elk Street, Albany, NY 12207. **Deadline date for enrolling in the 2013 Empire State Counsel® Program is February 28, 2014.** Please print your name legibly and exactly as you want it to appear on your certificate and provide only the address where you wish the certificate to be mailed.