



Committee to Ensure Quality of Mandated Representation Awards Brochure

New York State Bar Association

One Elk Street

Albany, New York, 12207

June 5, 2015



Message from the Chair of the Committee to Ensure Quality of Mandated Representation



The Committee to Ensure Quality of Mandated Representation (CEQMR) of the New York State Bar Association has been a vigorous advocate for the provision of high quality legal services for the indigent in criminal and family court proceedings. In 2005, the CEQMR developed standards of representation that reflect best practices for handling criminal and family court cases. The standards have been improved and revised several times over the course of the past several years, most recently in March, 2015. The CEQMR also has been in the forefront developing model proposals which would allow counties to share resources and reduce the cost of providing training for institutional

mandated representation programs, 18-B attorneys and conflict defenders.

The Committee believes that the quality of legal representation a person receives should not depend upon whether s/he can afford to hire an attorney. Since 2007, the CEQMR has been committed to providing free training opportunities for attorneys who represent low-income individuals in criminal and/or family court matters. On-going training helps to ensure that low-income and indigent clients will consistently receive competent high-quality legal representation from the attorneys who represent them for free.

Continuing legal education programs were provided in 2009, 2011, and in 2013. This year, the Committee is proudly offering a free 5.5 credit MCLE program for mandated providers who represent adults in Family Court Article 10, termination of parental rights (TPR) and other related proceedings, entitled: "Focus on Family Court: Holistic & Effective Family Representation". The Committee is confident that the training will be stimulating, enlightening and full of practical guidance which will enhance the effectiveness of attorneys who provide mandated legal representation.

Part of today's program will be devoted to presenting the Denison Ray Award and the Excellence in Mandated Representation Awards. Named

in memory of Denison Ray, a career legal activist, who led legal services programs in New York and other states, the Denison Ray Criminal Defender Award recognizes a criminal defense attorney who exemplifies the highest level of professionalism in providing zealous representation to indigent clients in criminal proceedings. The 2015 Denison Ray Criminal Defender Award honoree is Gregory A. Kilburn, First Assistant Public Defender in the office of the Wyoming County Public Defender. Mr. Kilburn is truly deserving of this recognition as he has been a zealous advocate for his clients and has always conducted himself with the highest level of professionalism.

The Excellence in Mandated Representation Awards recognize an individual attorney and/or organization who has “demonstrated consistent adherence to the highest professional standards in providing mandated representation,” has “engaged in innovative efforts to improve the overall quality of mandated representation,” or has “promoted steps by the legislature, executive branch or judiciary to ensure the provision of high quality mandated representation.”

The distinguished recipients of the Excellence Awards are Joanne Macri, The Center for Family Representation, and The Justice First Project of the Center for Appellate Litigation. Ms. Macri was selected as an Excellence honoree on account of her tireless innovative efforts to improve the overall quality of mandated representation. The Center for Family Representation was selected for consistently demonstrating adherence to the highest professional standards in providing mandated representation to parents in abuse, neglect, and termination of parental rights proceedings. The Justice First Project of the Center for Appellate Litigation was chosen as an Excellence Award honoree for its innovative efforts to improve the quality of post-conviction representation afforded clients who were either wrongfully convicted or actually innocent.

The CEQMR is pleased to recognize the outstanding contributions each honoree has made to enhance the quality of mandated representation. Each honoree is truly deserving of special recognition. Congratulations to the 2015 Award Recipients!

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Kossover'. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping underline.

Andrew Kossover

2015 Denison Ray Criminal Defender Award



Gregory A. Kilburn, Esq.

Wyoming County Public
Defenders Office

Warsaw, NY

Nominator

Norman P. Effman, Esq.

Wyoming County Attica Legal
Aid Bureau Inc.

Warsaw, NY

Greg Kilburn is employed as a full time assistant public defender in the Wyoming County Public Defenders Office. He is the first assistant public defender and is the primary felony trial attorney. Greg graduated from Canisius College in Buffalo in 2002 and, thereafter, received his Juris Doctor from the University of Notre Dame Law School. He began his legal career in 2005 as a law clerk for the Superior Court of New Jersey. From 2006 to 2010, Greg was a law clerk for the Arizona Court of Appeals, serving 2-year terms with two different judges.

Following his time with the Court of Appeals in Arizona, Greg, born and raised in rural Wyoming County, New York, applied for and was hired as a full time assistant public defender in September, 2010.

Greg handles a significant number of misdemeanors in the local criminal courts in Wyoming County and maintains a significant felony caseload. In 2013-2014, Greg was assigned 135 felony matters. A large number of these felonies involve allegations against state inmates accused of crimes while incarcerated. Wyoming County, a county of approximately 42,000 people is the home of approximately 4,200 inmates housed at the Wyoming and Attica Correctional Facilities. The population of Wyoming County is well over 90% Caucasian. In six felony trials conducted with Mr. Kilburn as defense counsel over the past two years, all involved black or Hispanic defendants. Five of those six felony trials resulted in not guilty verdicts on all counts. The sixth resulted in a finding of guilty on two of the three counts. These trials involved charges of

Aggravated Harassment of an Employee, Assault in the First Degree, Assault in the Second Degree against a correction officer, and Possession of Contraband.

Greg's success reflects his dedication, preparation, and the overall quality of his performance.

In addition to his overall duties as First Assistant Public Defender, Greg works with Wyoming County's program that provides counsel at first appearance throughout the 600 square miles of this county on a 24/7, 365 day program. Every other week, Greg is on call to provide counsel at first appearance after regular business hours in the 16 town and village courts in the county. In the past twelve months, Greg responded to approximately 120 arraignments during the first year of operation of this program, most of which were in the late evening or early morning hours. Many of these appearances resulted in defendants being released on their own recognizance or, where reasonable bail was set, resulted in release on bail within hours or days.

Not only has he gained the respect of his clients, but his high level of civility in the criminal justice system, has earned him the respect of judges, prosecutors and law enforcement officers.

2015 Award for Excellence in Quality Mandated Representation



Joanne Macri, Esq.

New York State Office of Indigent
Legal Services

Albany, NY

Nominator

Malvina Nathanson

Solo Practitioner

New York, NY

After practicing immigration law for over 10 years, Joanne Macri has used her expertise and skills to help countless attorneys providing mandated representation navigate the murky waters of the relationship between criminal law and immigration law. From 2006 to 2013 she was Director of

the Criminal Defense Immigration Project/Immigration Defense Project of the New York State Defenders Association. There she advised individual attorneys representing criminal defendants at risk of removal, supervised an externship program under which legal students provided hotline assistance and represented clients in removal proceedings, and conducted scores of training programs for attorneys, judges, and members of the public on the immigration consequences of criminal proceedings. She also worked with mandated representation providers to create a protocol for representation of non-citizen clients charged with crime while continuing to represent individual clients herself.

In 2013 Joanne moved to the post of Director of Regional Initiatives at the Indigent Legal Services Office. In that capacity she has continued to advise individual attorneys and lecture at CLE programs. In addition, she has spearheaded the effort to create regional Immigration Resource Centers in six locations in New York State. These Centers will provide advice and assistance to individual attorneys, offer education programs, help providers develop service plans and procedures for non-citizen clients, and encourage collaboration among providers, community-based organizations, law schools, and bar associations.

Joanne's goal has always been to help providers comply with effective representation standards. She has worked to achieve that goal with patience, good cheer, and the highest level of professional competence. She is truly worthy of an award for engaging in innovative efforts to improve the overall quality of mandated representation.

2015 Award for Excellence in Quality Mandated Representation



Center for Family Representation

New York, NY

Nominator

Karen J. Freedman, Esq.

Lawyers for Children

New York, NY

Founded in 2002, the Center for Family Representation (CFR) has guided statewide and national efforts to improve parent representation in family and dependency courts through its representation of thousands of parents in abuse, neglect, and termination of parental rights proceedings. CFR has significantly enhanced outcomes for its clients and their families by keeping nearly 50% of its clients' children from foster care; shortened the length of stay for those who do enter foster care; and has reduced children's re-entry into foster care.

Central to CFR's impressive success rate is its innovative interdisciplinary team practice model. CFR was the first organization in New York State to incorporate a parent advocate in its interdisciplinary team. Parent advocates have first-hand experience as former respondents in family court who were able to successfully re-unify their families. Parent advocates are paid professional CFR staff members. Each new CFR client is paired with a social worker, a parent advocate and an attorney who is knowledgeable in parent representation.

The CFR interdisciplinary team integrates social worker advocacy and service planning both inside and outside of court. In addition to vigorously investigating and defending allegations against parents, CFR also utilizes a "Cornerstone Advocacy" model that targets advocacy in four areas to speed safe reunification: frequent visiting arrangements organized around activities which mirror family life; placement arrangements that support

a family's connection to one another and community; uniquely tailored service plans that meaningfully build on parents' strengths; and leveraging opportunities at foster care conferences to advance all three. CFR has written about Cornerstone Advocacy and trained practitioners in New York and 12 other states on this advocacy approach; as well as judges, DSS staff, case planners and attorneys for children and parents.

CFR also it to be commended for their long-time advocacy for legislative and policy reforms to improve mandated representation.

CFR's nomination was strongly supported by Mimi Laver, Director, Legal Education and Director, National Parent Attorney Project, ABA Center on Children and the Law and by Jane Schreiber, Director of the Office of Attorneys for Children and Adults for the Appellate Division, First Department.

2015 Award for Excellence in Quality Mandated Representation



Standing (from left to right): David Klem, Amanda Rolat, and Robert Dean (CAL Attorney-in-Charge); Sitting (left to right): Nicolas Schumann-Ortega, Claudia Trupp (Project Director), Jennifer Roth, and Molly Ryan

**The Justice First Project of the
Center for Appellate Litigation**

New York, NY

Nominator

Robert S. Dean, Esq.

Center for Appellate Litigation
New York, NY

The post-conviction work done by The Justice First Project is especially important since traditional appellate practice cannot address cases where clients were wrongfully convicted or actually innocent. On appeal counsel is bound by the facts and evidence adduced during the trial and set forth on the record. In order to achieve justice it sometimes is necessary to look beyond the trial record and engage in the painstaking search for new evidence. The Justice First Project was created for this very purpose - to provide a post-conviction remedy for clients whom the traditional appeals process was not enough.

The mission of The Justice First Project is to ensure that wrongful convictions are detected and investigated as early in the appellate process as possible. Cases referred to the project typically involve issues such as mistaken identifications, unreliable confessions, ineffective assistance of counsel, and prosecutorial misconduct. Claudia Trupp is the Project's Director.

Through careful screening, those cases that warrant additional factual investigation are quickly identified so that effective strategies can be developed and implemented. Teams of attorneys, law student interns, and legal fellows work together to ensure that no possible avenue of investigation goes unpursued. This approach has been remarkably successful, resulting in numerous reversals.

Recent Justice First victories include:

- Robbery conviction vacated where Justice First client was convicted of robbing two commercial stores based on eyewitness identifications and surveillance videotape. Upon reinvestigation, it was learned that an uncalled eyewitness at one of the stores, who did not identify the client at a lineup, would have testified that the client was definitely not the perpetrator. Also, a closer examination of the surveillance videotapes from both robberies showed that the perpetrator had to have been appreciably shorter than the client. This was the first case ever presented to the New York County District Attorney's Conviction Integrity Panel. Upon review, the DA's office consented to vacate the conviction on the grounds of newly discovered evidence and prosecutorial misrepresentations at trial. The charges were eventually dismissed.
- Robbery conviction vacated where client was convicted based on a single eyewitness identification. Upon a re-investigation, documentary evidence was discovered indicating that the client had left New York City to go to Connecticut to visit his family on the weekend of the robbery. Further investigation showed that a distinct series of events occurred in Connecticut on the weekend of the crime that definitively placed the client in Connecticut on that particular weekend. This case was the second case ever presented to the New York County District Attorney's Conviction Integrity Panel. After a four-day hearing before Justice Bruce Allen, the court granted Justice First's motion to vacate the conviction and ordered a new trial.

- Robbery conviction vacated where the client was convicted based on a single-witness identification and the prosecution had failed to prosecute his alleged co-defendant. Suspecting a Brady violation, Justice First conducted an extensive investigation, which included interviewing the co-defendant and his attorney and determining that the client and the co-defendant were strangers to one another. Justice First asked the Bronx District Attorney's office to look into the matter. They conceded that a Brady violation had occurred: the complainant had told the trial assistant that he had wrongly identified the co-defendant. The conviction was vacated on consent, and the prosecution did not go forward with a retrial. The case was ultimately dismissed.
- Attempted murder conviction vacated based on ineffective assistance of trial counsel, who, among other things, failed to discover evidence of the client's mental retardation and illness. Following a hearing, the court vacated the conviction, and the client subsequently received a much-reduced sentence.

The Justice First Project's nomination was supported by Joel B. Rudin, Esq.; attorney Kevin Canfield; and a former client whom they successfully represented in a post-judgment motion vacating his conviction.

Past Award Recipients

Denison Ray Criminal Defender Award

2013

Appeals Bureau/Monroe County
Public Defender

Major Gold

2011

Jerome K. Frost

2008

Andre A. Vitale

2006

Mark J. Caruso

2004

Alfred O'Connor

2001

Robert E. Massi

Richard W. Rich

2000

Drew R. DuBrin

Michele Fox

1998

Raymond A. Kelly, Jr.

Timothy B. Rountree

1997

John H. Ciulla, Jr.

Susan Hofkin Salomon

1995

Thomas N. N. Angell

Allen Farbman

1994

Alexander Lesyk

Howard A. Pincus

Excellence in Mandated Representation Award

2013

New York State Defenders Association

New York Civil Liberties Union Foundation

Schulte Roth & Zabel LLP

2011

Office of the Appellate Defender

Charles F. O'Brien

2009

Joseph S. Damelio

Lawyers for Children, Inc.

The Family Court Project of Southern Tier Legal Services

2007

The Bronx Defenders



NEW YORK STATE BAR ASSOCIATION

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