

Pro Bono News

Spring 2021 Edition

A Message from President Scott M. Karson



As the President of the New York State Bar Association, I am proud to acquaint you with some of the access to justice initiatives currently being undertaken by our Association.

First, the COVID-19 Pro Bono Network is coordinated by the Association in partnership with the New York State Unified Court System. The COVID-19 Recovery Task Force oversees the Network and is chaired by New York's former Chief Judge Jonathan Lippman, currently of counsel at Latham & Watkins.

The mission of the Task Force is to facilitate the delivery of effective, comprehensive, and efficient pro bono legal services, in urgent civil and criminal matters, to all New Yorkers in need during and in the wake of the COVID-19 pandemic and beyond.

To facilitate this delivery of needed legal services in this time of crisis, several working groups and active pro bono programs have been established within the Network, including the areas of unemployment insurance, small estates administration, housing / landlord-tenant and life planning.

The unemployment insurance initiative, which was announced by Governor Andrew M. Cuomo on April 11, 2020, connects volunteer

attorneys with New Yorkers who are trying to better navigate the unemployment insurance system and the application process, and to specifically help with unemployment insurance denials and with administrative hearings and appeals. Over 2,130 clients have been assisted through the unemployment insurance initiative since late April 2020, in addition to countless more who have visited the NYSBA informational website or otherwise contacted staff or the network for guidance. 570 of these clients were referred to nine legal service organizations (Legal Aid Society of Northeastern NY, Legal Services of the Hudson Valley, Mobilization for Justice, Erie County Bar Association, Frank Hiscock Legal Aid Society, Services of Central New York, Volunteers of Legal Service (VOLS), Volunteer Legal Services Project of Monroe County, and Brooklyn Law School); the remaining 1,600 clients were assisted by volunteer attorneys through the coordination of the New York State Bar Association using an innovative client intake and referral system created by Clio and Paladin.

The small estates administration initiative connects the families of New Yorkers who passed away due to COVID-related causes with volunteer attorneys who will provide free legal representation on probate and estate proceedings in New York's Surrogate's Courts for those who cannot afford a lawyer in these cases. Over

Inside:

ADR in the Courts in 2020 and Beyond **4**

One Year Out: Tales From the COVID-19 Epicenter – Westchester County **5**

Expanded Pro Bono Appeals Program Provides Needed Representation Entering Its Second Decade **7**

We Want You, We Want You, We Want YOU as a New Recruit! **8**

Call to Action: Transactional Pro Bono Lawyers Critical to Small Business Recovery **9**

Legal Aid Society of Mid New York and Legal Services of Central New York Join Forces to Expand Tenant Services **11**

Westchester County's new Faith-Based Court Access Initiative Supports Access to Justice **12**

Cultural Humility and Model Practices for Engaging With Volunteer Attorneys and Pro Bono Clients **13**

DLA Piper Attorneys Assist Rural Upstate Clients Through Remote Clinic **14**

Legal Services of Mid-New York, Inc. Receives Pro Bono Innovation Fund Grant To Expand Pro Bono Bankruptcy Assistance **15**

The Legal Aid Society of Northeastern New York Welcomes New Private Attorney Involvement Director **16**

Lawyers Alliance for New York's COVID-19 Response and Recovery Initiative **17**

Anne Sargent Arcano named 2021 Empire State Counsel Outstanding Pro Bono Volunteer **18**

Legal Services Corporation **18**

The Legal Aid Society and Milbank LLP Fight for Access to WiFi for Students at Local Shelters **20**

A Resource for Clients with Small Claims-Sized Problems **27**

The Pro Bono Newsletter is available online at [NYSBA.ORG/ProBonoNews](https://www.nysba.org/probono)

130 New Yorkers have been helped by this initiative.

Over 500 individual attorneys have volunteered through NYSBA on these two endeavors.

Additionally, the Network has produced CLE training for attorney vol-

continued on page 3

Pro Bono Opportunities Guide

www.nysba.org/probono

Want to volunteer?

This easy-to-use guide will help you find the right volunteer pro bono opportunity. You can search by county, subject area, and population served.



Questions about pro bono service?

www.nysba.org/probono
(518) 487-5641
probono@nysba.org



Views expressed in published articles are those of the authors alone and are not to be attributed to the Pro Bono Newsletter, its editors, or the New York State Bar Association, unless expressly so stated.

Article authors are responsible for the correctness of all information, citations and quotations. Articles may be edited for clarity and length.

Editor: Thomas Richards, Esq.

NEW YORK STATE BAR ASSOCIATION

VOLUNTEER FOR FREE LEGAL ANSWERS™

Free Legal Answers™

- Online version of a pro bono walk-in clinic model where clients request brief advice and counsel about a specific civil legal issue from a volunteer lawyer.
- Lawyers provide information and basic legal advice without any expectation of long-term representation.
- Increase access to advice and information about non-criminal legal matters to those who cannot afford it.
- There is no fee for the use of the system or for the advice and information provided by the lawyer.

Sign up to be a volunteer
Learn more | www.NY.freelegalanswers.org



Upcoming Free Webinar

Managing Debt in Public Interest: How to Repay Your Loans and Earn Public Service Loan Forgiveness

Monday, April 19, 2021 | 4:00 – 5:00 p.m.

Informational Webinar – No CLE Credit

Equal Justice Works provides resources to help law students and lawyers understand the student loan programs that are available, and shares information about how individuals can better manage debt. This presentation is designed to help you make more informed decisions about paying your student loans, and will outline how to afford your public interest career by taking advantage of programs like income-driven repayment plans, Public Service Loan Forgiveness, and Loan Repayment Assistance Programs

Speaker:

Brooke Meckler

Director of Law School Engagement and Advocacy, Equal Justice Works

Welcomes

T. Andrew Brown, Esq.

Founder, Attorney, and Managing Partner; Brown Hutchinson, LLP
President-Elect, New York State Bar Association
Co-Chair, NYSBA President's Committee on Access to Justice

Leah Horowitz, Esq.

Assistant Dean for Public Interest and Social Justice Initiatives, Fordham Law School
Chair, Student Loan Public Interest Repayments Subcommittee, NYSBA President's
Committee on Access to Justice

Sponsors:

President's Committee on
Access to Justice

Young Lawyers Section

Committee on Legal Education
and Admission to the Bar

*The program is free for NYSBA
members and non-members.
However, preregistration is required
on the NYSBA website.*

Register:

<https://nysba.org/events/managing-debt-in-public-interest-how-to-repay-your-loans-and-earn-public-service-loan-forgiveness>

President's Message

continued from page 1

unteers and legal aid staff, including on drafting life planning documents for low-income clients, representing victims of domestic violence, advising non-profits, and fostering diversity and inclusion within firms and legal aid organizations. In tandem with these trainings, NYSBA has recruited volunteers to assist on commercial lease mediations, housing / landlord-tenant matters, and life planning for low-income clients. These volunteers, once recruited and trained, are then referred to legal service organizations to assist in this time of need.

NYSBA has also launched a separate program to assist New York State military veterans obtain benefits under the Restoration of Honor Act and will partner with the NYS Work-


ers' Compensation Board on a pro bono program to help injured workers obtain medical treatment.

The NYSBA Committee on Legal Aid and President's Committee on Access to Justice have been focused on efforts to ensure full funding of statewide legal services, including the Liberty Defense Project, to promote student loan debt relief advocacy, to encourage pro bono service by government attorneys, to work with OCA to develop implemented guidelines for limited scope representation, and to foster greater efforts at diversity, inclusion, and cultural competency within the legal services community.

One final comment: When I appeared before the NYSBA Nominating Committee in 2018 as a candi-

date for the office of President Elect, it occurred to me that one way to encourage pro bono participation by our members is to lead by example. Therefore, I promised that, if elected, I would take on a pro bono matter during my term as your President. Accordingly, I am now representing a client as pro bono counsel in connection with an appeal to the Appellate Division, Fourth Department. It is my hope that many of you will be inspired to follow suit.

Thank you,



ADR in the Courts in 2020 and Beyond

By Lisa M. Denig, Special Counsel for ADR Initiatives for the Courts Inside NYC

In 1665, the Great Plague was ravaging its way across London, forcing Cambridge to send all of its students home. One of those students was Sir Isaac Newton who, while waiting out the pandemic at his mother's estate, formulated his theory of gravity. Thus, it was a pandemic and an early form of 'social distancing' that led to this great discovery.

The same can be said for the year 2020 and ADR in the New York State Court system! This past year brought incredible strides forward in the use of ADR, particular roster mediation programs, in the Courts inside New York City and we have a pandemic and social distancing to thank for that. Were it not for Covid-19, the court system might never have pivoted to virtual court appearances and an even heavier reliance on judicial settlement conferences. The havoc that the virus wreaked on how the courts do business is also at least partly responsible for encouraging attorneys, litigants and judges—who may have been resistant in the past—to try roster mediation programs.

The growth in roster mediation has been most evident in the Courts in New York City, most notably in the Bronx. The Bronx Commercial/PI Mediation Program, initiated by Administrative Judge Doris Gonzalez, began September 8, 2020, and since then, more than 100 cases have been sent to mediation. The roster for this program has grown to over 80 mediators and the success rate for closed cases hovers at an incredible 50%. More and more judges in the Bronx are starting to participate in this program and its success has spawned copycat programs in other counties across the state.

Another illustration of the explosion in mediation in the Courts can be found in the Small Claims Court. Faced with an enormous backlog of cases, Administrative Judge Anthony Cannataro began a presumptive mediation program in that court, directing that all cases filed before the pandemic were to be presumptively sent to mediation before receiving a court date. Since the summer of 2020, all five Small Claims Courts in New York City have collectively sent more than 550 cases to mediation. This enormous undertaking could not have been possible without the commitment from our Community Dispute Resolution Centers, our law school mediation clinics, and a large army of volunteer mediators. These three groups have combined to provide free mediation services for all small claims litigants.

These two new programs join the ranks of our well-established mediation programs such as the New York County Commercial Division mediation program, the Queens County Matrimonial mediation program and the Kings County Matrimonial mediation program. Due in large part to the professionalism and tech-savviness of our mediators, these programs were able to seamlessly pivot to virtual mediation to accommodate the needs of the litigants and attorneys who were already accustomed to having the option of mediation in their cases.

Another hugely successful mediation program is that of our Bronx Surrogate Court. There, Surrogate Nelida Malave-Gonzalez began a roster mediation program early in 2020 and it has seen continuous use throughout the year. With a small but expert roster of trusts and estates mediators, the program has been able to mediate

specific issues designated by Surrogate Malave-Gonzalez as amenable to mediation. This program also works hard to pair relatively new mediators with experienced mediators in a very effective mentorship program.

We are currently looking to expand mediation to other areas and counties, as well. In early 2021, we expect to begin two new matrimonial mediation pilot programs in Richmond County and the Bronx. These programs will be limited to those cases that the presiding judge deems eligible but we anticipate that the numbers will only continue to grow as the demand for mediation services continues to increase.

Finally, 2020 brought about a new and innovative program in New York County. During the summer, the courts held an Early Neutral Evaluation (ENE) training for more than 80 attorneys who are experts in their fields. ENE, another form of ADR, differs from mediation in that the trained evaluator provides the litigants with a legal assessment of the case, thus facilitating settlement discussions and early resolutions of disputes. This roster is up and running in New York County and we hope to expand it to other counties in the near future.

So while I may be stretching the analogy a bit to say that the progress and use of ADR in the Courts in 2020 is akin to the discovery of gravity in 1665, I think it is at least fair to say that we are moving forward at lightening speed in our implementation and creation of new ADR programs. Out of great crisis often comes great innovation and invention and we have seen that in the realm of ADR in the past year. I look forward to an even greater use and expansion of these types of programs in 2021.

One Year Out: Tales From the COVID-19 Epicenter – Westchester County

By Natalie J. Sobchak, Director of Pro Bono Programs, Pace Women's Justice Center

Over the past year, time has passed at two alarming rates simultaneously: as fast as Secretariat at the Belmont, and as slow as molasses. It is a phenomenon we had not quite experienced before but is perfectly descriptive of how the last twelve months have felt like as we process all that has happened.

Monday, March 2, 2020 was a typical sort of day in our Main Office on the Pace Law School campus in White Plains. The staff went about their business, meeting with clients, drafting legal documents, preparing for Court appearances, and chatting in the kitchen while making coffee. I was in the conference room at our Main Office conducting a training for our newest volunteer attorneys and our 4 Pro Bono Scholars – they had taken the February bar the week before, and were spending their last semester in law school working full-time at PWJC. That afternoon, three of the students were going to Family Court and Supreme Court to observe our attorneys in action. The fourth student was scheduled to participate in three consultations with clients at our office. Little did we know that on that very same day, a lawyer in Westchester was diagnosed with COVID-19. Within a week, over 100 cases surfaced in Westchester. Some of our attorneys received calls from the Court to inform them that they had appeared in courtrooms on the same day in which someone who later tested positive and was in the hospital had also appeared. On March 10th, The Governor established a “containment zone” in New Rochelle, a mere half-mile away from local Family Court in which we practice. On Wednesday, March 11th, PWJC's Management Team, made the call to shut our physical doors and scheduled a “deep clean” of the office. We also arranged for each staff member to go into our office to grab files and supplies think-

ing we would be back to work in a week or two. We never had the chance to return to the office, because the Governor effectively shut down the state the next week.

PWJC provides legal services to victims and survivors of domestic violence, sexual assault, elder abuse. Until last March, all our services were “in-person”, meaning we met with clients face-to-face at our offices, at the courthouse, at a client's home, and at community-based spaces like libraries, senior centers, and partnering agencies. Once we closed our physical doors, we – like many of our colleagues across the state – were faced with a number of challenges at once: how to provide services remotely, how to ensure people who needed our services could access them, how to enable staff to work from home, how to keep our volunteers and students engaged, and how to enable our volunteers and students to work from home.

Secretariat at the Belmont: Setting Up a Remote Practice

First, we all agreed that it was imperative that our services remain open and accessible to the public and our clients. The idea of shutting down, even temporarily, was simply never an option. But we needed a plan of action and we needed it immediately. As luck would have it, we had been experimenting with connecting to our office computers from home and converting our paper files to digital files. Westchester's rich history of snowstorms and power outages had already prompted us to set up processes for remote work. Working with Pace University and the Law School, we outfitted every employee with everything they needed to ensure their home office virtually mirrored their actual office, including purchasing equipment, setting up remote

phone service, and accessing client files. Simultaneously, we researched and beta-tested platforms to allow us to safely and confidentially video chat with clients and e-sign documents. We also created procedures and trainings for operating those platforms and for e-notarizing.

Communication with our government and community partners was key in ensuring the public knew we remained open for business. This not only included on-going conversations with the Courts, local police departments, other government agencies, other legal service providers, shelters, social service providers, hospitals, medical facilities, and houses of worship, but also included a social media campaign, virtual outreach events, and virtual know-your-rights seminars.

Next, we focused on our volunteers. Until we were able to integrate our team of volunteers fully into our new remote model, it was important to keep them engaged. We took this opportunity to provide a series of trainings on substantive law issues presented by our staff, and social service issues presented by our community partners. To be as transparent as possible about our intentions, we scheduled regular team meetings to keep them updated on what we were doing, how we were doing it, and when we could onboard them. Some of the volunteers readily agreed to be part of our beta-testing process, and we enlisted our students to role-play as clients so we could practice using the new platforms. It was important to ensure that the volunteers had the tools they needed to set up a confidential workspace in their homes, to access our systems remotely, to train them on our new protocols and the new platforms, and to provide them with the support they needed to safely and efficiently work with our clients and our staff. Happily, nearly all of our volunteers continued to work

continued on page 6

One Year Out: Tales From the COVID-19 Epicenter – Westchester County

continued from page 5

remotely with us and our clients during the pandemic. In fact, we even onboarded a half-dozen new volunteer attorneys and a dozen new law students since last March!

Molasses: Getting Back to Normal

While transitioning to a remote practice was done in the blink of an eye, the process of returning to anything resembling our pre-COVID life has been as slow as molasses. Except for a few weeks in October when our staff was able to return to our offices at reduced capacity, we have

all been working from home for the past year. We are hopeful that as the positive cases in the county decreases, and the number of people vaccinated increases, our office doors will open once again.

The Silver Lining

Clearly this pandemic has changed us forever. It has also changed our profession forever. But the silver lining is that it has opened our eyes to new possibilities. For our clients, being able to video chat with us from their home, means they don't need to arrange for childcare, change their shift at their job, miss their class, use

public transportation, or leave the safety of a domestic violence shelter to get to our office. It also means that clients in the more remote areas of the state can access our services easily. This pandemic has forced us to quickly modify our service delivery and to see the benefits of a remote model. Whenever and however, we return to the office, we are committed to keeping this remote practice as a viable option for clients, as we have seen first-hand how it provides an increased access to services, and therefore an increased access to justice for our clients.



 **CLE**

Review our upcoming LIVE WEBINAR schedule

We're offering dozens of brand new webinars every month on a variety of topics, including COVID-19 related programs, so be sure to register today!

Visit us online at [NYSBA.ORG/CLE](https://www.nysba.org/cle)

Expanded Pro Bono Appeals Program Provides Needed Representation Entering Its Second Decade

By Elisa Lackey, Program Administrator, Pro Bono Appeals Program for the Third & Fourth Departments

The Pro Bono Appeals Program, a novel experiment by a State Bar pro bono program, has endured for more than a decade and while evolving and expanding, continues to boast successful litigation outcomes.

In 2010, the New York State Bar Association's Committee on Courts of Appellate Jurisdiction (CCAJ) launched the Pro Bono Appeals Program (PBAP) to provide representation to appellate litigants of modest means seeking representation in a variety of urgent civil matters. Areas of representation include family and matrimonial law as well as unemployment insurance benefits. The program was inspired by an American Bar Association (ABA) report revealing that only a few states offered pro bono appellate representation despite pressing needs for such representation for litigants who could not afford appellate counsel but might not be eligible for assigned counsel. The NYSBA Executive Committee approved the program. With that support, the program has received generous funding throughout its history from the State Bar's philanthropic arm, The New York Bar Foundation. Over the years, the PBAP has been administratively supported by several partnering agencies including: The Rural Law Center of New York (RLCNY) and the Legal Project. Initially, the program focused on appeals in the Appellate Division, Third Department, but quickly expanded to the Fourth Department in 2013. During that same year, two CCAJ members spearheaded the publication of a [national manual on pro bono appeals programs](#). The publication, now in its second edition, continues to be distributed by the ABA Council of Appellate Lawyers.

In late 2017, the University at Buffalo School of Law's Clinical Legal Education Program took over as the

agency administering the program for the Fourth Department, alongside the Rural Law Center of New York in the Third Department. Together, both organizations administered their respective departments while maintaining a close relationship building the Pro Bono Appeals Program. In 2020, after dealing with the COVID-19 pandemic and increased demands facing their appellate section, the Rural Law Center handed over the administration of the Third Department to the UB School of Law's Clinical Program, who now runs the program as one cohesive program. The hard work and dedication by the many administering agencies has allowed the program to grow and flourish, and their commitment will not be forgotten. Because of the work that has gone before, the PBAP remains a successful model for coordinated pro bono assistance supported by the NYSBA.

As of January 1st, the PBAP expanded its offerings. People who otherwise would be without access to justice can seek short-term, limited scope representation through the *Pro Bono Appeals Program – Appeals Virtual Help Desk*. The virtual help desk will aid PBAP applicants that the committee feels would benefit from short-term expert analysis and advice. These brief (30–60-minute) consultations will not only multiply the reach of the PBAP, but they will also reduce the burden of unnecessary appeals without merit that come before the court. This additional service will, at the same time, allow volunteer attorneys the chance to offer their services and expertise to applicants who may not understand the appeals process, have questions on whether their appeal has merit, and/or if their case can be appealed. The program receives many applications each month that would benefit from a conversation

with an attorney to understand what is actionable. We also know that many volunteer attorneys want to be part of the program but cannot take on a full appeal. By creating the help desk, we are giving attorneys the ability to provide pro bono assistance with appeals in their interest area. Recognizing that the legal profession has been hit hard over the last year, which for some has led to a cut back on some pro bono work, it is PBAP's hope that by creating this project, we can keep the door open to volunteer lawyers who want to do meaningful pro bono work.

While we are thrilled to be offering this new opportunity, we still have plenty of applicants searching for a pro bono attorney to assist with their full appeals (both as Appellants and Respondents). Building on our history, full appellate representation will continue to remain at the **core of our mission** – to help meet the needs of the many litigants who require legal representation in state appellate courts, but who cannot afford to hire an appellate attorney.

In closing, throughout the program's history, participating CCAJ members have donated their time and appellate expertise to carefully review all applications that come through the PBAP; their expert appellate analysis and devotion to the program is unmatched. Our list of experienced appellate attorneys from throughout New York State who volunteer to handle appeals accepted by the program is growing... we consider ourselves very fortunate to have the volunteer base that we do. Nevertheless, the need is growing exponentially each week. Our most pressing area of appellate law is within the family and matrimonial law arena; however, we also frequently receive requests from

continued on page 10

We Want You, We Want You, We Want YOU as a New Recruit!

NYSBA's Committee on Leadership Development is Training a New Cohort of NYSBA Leaders

By Hon. Helena Heath and Hon. Edwina Frances Martin, Co-Chairs, The NYSBA Committee on Leadership Development

The NYSBA Committee on Leadership Development ("CLD") was created to research and develop information and provide periodic updates on leadership opportunities within the Association, as well as provide resources on developing leadership skills that benefit the profession. In keeping with this mission, Committee Co-Chairs the Hon. Helena Heath and Hon. Edwina Frances Martin have been focused on gathering together current and future leaders from throughout NYSBA's membership to help them learn more about the different "pathways" to leadership

within the Association, and to connect them to areas of interest – a committee appointment or chairpersonship, opportunities available within the many NYSBA Sections, as well as opportunities in the House of Delegates and on the NYSBA Executive Committee.

The work of the CLD, and its mission, is very personal to Judge Heath and Commissioner Martin. Both shared at their first CLD meeting following their appointments how their involvement with NYSBA has benefited them personally – in friendships, and in experiences unique to NYSBA,

such as the 2020 Gala at the Museum of Natural History – and professionally, through leadership training, the cultivation of professional connections, the opportunities to promote policies and legislation beneficial to the legal profession as well as to all New Yorkers, and in fulfilling the state's mandatory Continuing Legal Education requirements.

Please visit <https://nysba.org/committees/committee-on-leadership-development/> to learn more about the NYSBA Committee on Leadership Development and leadership opportunities with NYSBA.

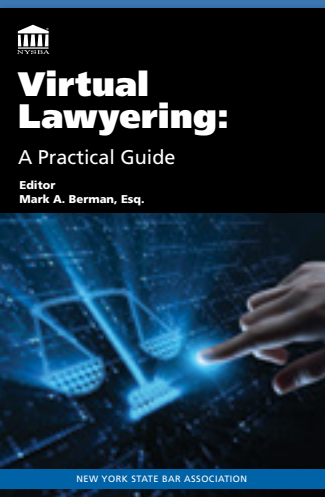


PUBLICATIONS

Virtual Lawyering: A Practical Guide

Editor: Mark A. Berman, Esq.

As a result of the public health crisis created by COVID-19, the legal profession is operating virtually more and practicing in person less. The legal profession will never be the same: attorneys will be litigating, arguing, closing transactions, and counseling individuals and corporate clients over virtual platforms, from the most commonplace tasks, such as a virtual notarization or executing a will, to holding virtual hearings before a court or closing on multi-million dollar transactions. Whether you are a litigator, transactional attorney or in-house attorney, *Virtual Lawyering: A Practical Guide* will provide you with practical advice as you navigate through the virtual legal world and confront new issues.



Now Available!

eBook (413720E)
NYSBA Members \$45.00
Non-Members \$60.00

ORDER ONLINE: [NYSBA.ORG/PUBS](https://nysba.org/pubs)
ORDER BY PHONE: 800.582.2452

Call to Action: Transactional Pro Bono Lawyers Critical to Small Business Recovery

By Mai Toyohara, Microenterprise Project AmeriCorps VISTA & Arthur Kats, Microenterprise Project Director

When disasters strike, New Yorkers have time and time again stepped up to the challenges facing our community. For NYC's small businesses, the impacts of COVID-19 were immediate and tangible. Public safety measures abruptly shuttered non-essential businesses, leaving many New Yorkers, their employees, and their families without a source of income. Even small businesses that were permitted to operate have struggled to stay afloat amidst massive economic and public health uncertainty while their accumulating financial obligations like commercial rent swelled. In June of 2020, a VOLS Microenterprise small business client warned: "We're not in the clear. This is just the beginning."

As we approach the first anniversary of the pandemic's grip on New York, the challenges facing small business owners are as great as at any point during the crisis. According to a recent survey by the NYC Comptroller's office, 85% of minority- and women-owned small businesses fear imminent closure absent intervention. A Partnership for NYC [report in July 2020](#) estimated that up to a third of NYC's small businesses will close permanently as a result of the crisis because most carry less than three months in cash reserves – the length of the government's emergency closures of most small business operations.

The VOLS Microenterprise Project levels the economic playing field for NYC's small business owners, especially as the economic crisis has disproportionately impacted small business communities historically marginalized from pro bono legal services such as communities of color in outer boroughs. All of our clients are low- to moderate-income, over 75% of are people of color, two-thirds are women, and many are immigrant business owners. From providing crit-

ical legal information and resources to increasing capacity for direct legal pro bono advice and representation, the VOLS Microenterprise Project team has mounted an ongoing response to the pandemic's potentially disastrous effects on New York's smallest businesses.

As the COVID-19 pandemic unfolded and business closures began in March 2020, the VOLS Microenterprise Project Team became a vital resource for small business owners to stay up to date on fast-changing rules, laws, and programs that affect their business. To better assess these needs, we surveyed 51 of our participating small business clients during March and April 2020. At that time, only three of these businesses reported as "fully operational," and over half reported as "fully closed." Many requested legal information and assistance on how to meet their financial obligations, application assistance for governmental benefits, a guide for negotiating a rent reduction or deferment, or guidance on other critical business issues. Although many reported that their businesses had some of their best revenues in late 2019 and early 2020, by April a majority of these business owners already forecasted an inability to meet financial obligations. Nearly all respondents reported some level of confusion and frustration regarding closure rules and regulations, stimulus program eligibility details, and how to best safeguard their business and personal assets in the face of an unprecedented crisis.

In response, the Microenterprise Project called upon our partner law firms and corporations to help save NYC's small businesses by compiling small business guides covering topics including legal and government resources, bankruptcy, financial aid, and insurance; and conducting legal

research on critical topics like avenues for supporting low-income and immigrant entrepreneurs excluded from

federal CARES Act stimulus support, including assessing the viability of claims and defenses for small business tenants facing contractual default of rental obligations under commercial leases, such as theories under *force majeure* and frustration of purpose. We collaborated with a law firm and the VOLS Unemployed Workers Project to create an unemployment insurance guide bridging the knowledge gap for sole proprietors, gig workers, and freelancers eligible for newly expanded benefits under the CARES Act. In addition to legal research and guides, we have collaborated with community partners to present on topics such as federal stimulus programs, commercial tenant rights, and other small business issues. We continue to update our informational guides and workshops to ensure awareness among our clients as conditions change so that small business owners feel empowered to make informed decisions about their businesses.

In addition to community legal education, VOLS has worked tirelessly to deliver direct representation support through on-staff and pro bono attorneys to meet the tremendous, urgent need for small business owners. Fortunately, funders like corporate and non-profit foundations are committing to equitable economic recovery. A grant from the New York Community Trust, for example, has allowed the VOLS Microenterprise Project to expand both our attorney staff and volunteer management capacity.

As a legal service provider under the NYC Commercial Lease Assistance ("CLA") Program, VOLS staff attorneys and pro bono volunteers have directly represented small business

continued on page 10

Call to Action: Transactional Pro Bono Lawyers Critical to Small Business Recovery

continued from page 9

tenants in negotiating rent payment reductions, deferments, and lease terminations with their commercial landlords since 2017. CLA is an eviction prevention program during the most challenging commercial rent crisis in the city in a century. Alongside our partner legal service providers Brooklyn Legal Services Corporation A and TakeRoot Justice as well as pro bono volunteers throughout the City, VOLS has directly served over 278 small business tenants with transactional dispute resolution to obtain critical relief and avoid eviction litigation. The traditional model of full representation pro bono services is sorely needed in the small business community as NYC struggles out of crisis and into recovery.

Of course, novel crises also require novel solutions. At a time when VOLS saw a sustained surge of urgent requests for assistance, at times reaching ten times pre-pandemic volumes, creating capacity was critical. That is why VOLS co-founded a new pro bono network entirely dedicated to rapid response consultations for small business owners in crisis. In conjunction with our partners Stroock & Stroock & Lavan LLP, TakeRoot Justice, IMPACCT Brooklyn, Brooklyn Legal Services Corporation A, New York Lawyers for the Public Interest, and over 20 other law firms, companies, and nonprofits — the Microenterprise Project launched the Small Business Legal Relief Alliance (“SBLRA”) rapid-response initiative. Volunteer lawyers working within the Alliance advise small business owners facing crisis situations related to accessing and navigating financial stimulus aid, assessing tax liability, weighing options in commercial lease disputes, pandemic-related contracts and employment issues, and maximizing business insurance benefits.

Together with our pro bono partners, the free, high-quality transactional pro bono legal assistance made possible by the Project will continue to

be a source of empowerment for low-income business owners when they need it most.

Message from Mai Toyohara: My AmeriCorps VISTA service term with the Microenterprise Project began in June of 2020, when the economic consequences of the COVID-19 pandemic began rippling through the City. The AmeriCorps VISTA program is a national service program which places members at nonprofit organizations across the country, with the mission to eradicate poverty by building volunteer and organizational capacity. In this role as a VISTA member, my objective is to address economic inequity through pro bono volunteer and community partner engagement. In the beginning, our response was frenzied, motivated by an immediate desire to mitigate each and every emergency situation. Our staff attorneys and pro bono volunteers worked tirelessly balancing a rapidly growing and unrelenting docket of urgent requests for legal assistance while facing uncertainty in a rapidly changing legal, economic, and public health environment. Now almost one year into the pandemic, the path forward is clear: pro bono engagement not only works, but it is decisive in the recovery of individual businesses and the collective New York Community alike.

Message from Arthur Kats: Despite the all-in commitment and recommitment of our staff, pro bono partners, and community partners, there remains vast unmet and shifting need for the small business community. NYC’s underserved small business owners are in the throes of an economic and public health crisis that threatens economics stability and has the potential to entrench systemic poverty in minority communities. As we think about the shuttered storefronts in our streets and neighborhoods, please consider applying your expertise by engaging in pro bono work in support of small business owners to ensure that they survive

and thrive beyond this incredibly difficult year. Now more than ever, the corporate, contract, real estate, employment, and other transactional skills that you may have as a pro bono volunteer are mission-critical to the small business owners who cannot afford an attorney. We must continue to come together as one community and do our part to ensure the recovery and resiliency of the New York we know and love.

If you would like more information about the VOLS Microenterprise Project or how to get involved in pro bono to support NYC’s small business owners, please contact us at: (347) 521-5729 or microenterprise@volsprobono.org.

Expanded Pro Bono Appeals Program Provides Needed Representation Entering Its Second Decade

continued from page 7

other civil matters. If you are interested in joining the volunteer list for the Pro Bono Appeals Program or have questions about how you can become involved with the Pro Bono Appeals Program, please email law-pbap@buffalo.edu. While this is a volunteer pro bono program, through the generous donation of The New York State Bar Foundation, we are able to offer financial assistance/reimbursement for some costs incurred when taking on these cases, including transcript or filing fees, copying/ mailing fees because we know how expensive representation is at this level. Scan the code for more information about the program!

Legal Aid Society of Mid New York and Legal Services of Central New York Join Forces to Expand Tenant Services

By Todd Marks, Staff Attorney, Legal Aid Society of Mid-New York, Inc.

The Legal Aid Society of Mid-New York, Inc. (LASMNY) and Legal Services of Central New York, Inc. (LSCNY) have joined forces to enhance services to a growing number of eligible clients facing eviction, caused by the COVID-19 pandemic. The effort is funded through a grant from the Office of the Attorney General's Covid-19 Tenant Legal Assistance Initiative, and will expand legal services, pro bono resources, and information to tenants in several rural upstate counties. Legal services are being expanded by pro bono attorneys, who are recruited from both law firms and those throughout the state for remote representation, offering advice and brief service through the helplines, in-court and remote representation through "Attorney of the Day" programs at local courts.

Attorneys are assisting low-income tenants who would otherwise be pro se as they are unable to afford private counsel, and are often without knowledge of their rights and defenses. This is of particular importance in the justice courts throughout our service area where justices often times are not attorneys, and rely heavily on legal interpretations from the landlord's attorney. Pro bono attorneys will serve to address those service gaps and identify those systemic issues confronting tenants from the pandemic in light of the economic downturn, changing landlord tenant laws, and changes to court operating procedures. Such issues to be identified and addressed include unlawful evictions in violation of moratoriums, constructive eviction through utility shut offs and other lack of services, attempts to circumvent tenant protections by claiming a nuisance eviction, tenant accessibility to the courts during remote proceedings, and judges comprehensive knowledge of the new laws and procedures, to name just a few.

To further increase awareness and understanding of changing rights and obligations pursuant to the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020, and the many subsequent executive and administrative orders, LASMNY and LSCNY will conduct CLE trainings on housing/COVID topics offered to the private bar and organized with bar associations and/or pro bono committees within the service area, and Tenant

"Know your Rights" and "Know your Resources" brochures, which will include any relevant COVID information, will be disseminated to housing agencies and courts in the service area, and be available on our websites.

If you are interested in helping to protect housing rights during these uncertain times by offering pro bono services virtually, please contact Todd Marks, Staff Attorney at Todd.Marks@LASMNY.org.

NEW YORK STATE BAR ASSOCIATION

QUALIFIED. CONSISTENT. TRUSTED.

LAWYER REFERRAL PROGRAM

In the age of online marketplaces, the legal profession is experiencing a moment of opportunity. By deeply embedding these tools in our program, we have laid the foundation for seamless connection between our Lawyer Referral Service members and the public.

Better yet, NYSBA's Program meets the ABA Standards for Lawyer Referral. You can trust the growth of your practice to a top-notch referral service.



- NEW, QUALITY REFERRALS
- WEB & MOBILE BASED
- COST EFFECTIVE
- TRUSTED

FOR MORE INFORMATION
www.FindalawyerNYS.org | LR@nysba.org | 800.342.3661



Westchester County's new Faith-Based Court Access Initiative Supports Access to Justice

By Natalie J Sobchak, Director of Pro Bono Programs, Pace Women's Justice Center

In the midst of a pandemic, how does someone who is living with an abusive family member access legal services safely? How does someone with limited or no internet service at home attend a remote court appearance? How does someone without a smart phone or computer navigate online services? These are the challenges faced by many Westchester residents during the past year. Recognizing that during the state's PAUSE, members of the public could not appear in court in person, seek assistance at legal services or government offices, or access technology at local libraries or community centers, a public/private partnership was created in Westchester to provide access to the courts and to services in the communities. Announced by Chief Judge Janet DiFiore on October 2, 2020, the Faith-Based Court Access Initiative (FCA) under the leadership of the Ninth Judicial District Administrative Judge Kathie Davidson, is a partnership with Westchester County Execu-

tive George Latimer's Office, service providers, and houses of worship throughout the County.

FCA's mission is to provide a safe haven for unrepresented persons who do not have access to personal home computer equipment. Under this new pilot project, five houses of worship were fully equipped with computers, video cameras, microphones, scanner, printers, telephones, and Wi-Fi connections specifically designed to provide confidential and safe access to draft legal documents, participate in remote court proceedings, and access free legal services. A congregation point person is also available to provide tech support to facilitate access.

From the designated houses of worship, members of the community may access assistance for their pressing legal needs relating to landlord/tenant matters, foreclosures, guardianship, wills, trusts and estates, custody/visitation, child support, adoption, and domestic violence. Eight service providers volunteered to launch this

project: Pace Women's Justice Center, Legal Services of the Hudson Valley, My Sister's Place, LIFT, LawHelpNY, Ask a Librarian, the 9th Judicial District Foreclosure Clinic, and the Westchester County Executive's Office – Department of Social Services Liaison for pre-eviction matters.

Community members may access FCA at the following locations: St. Andrews Episcopal Church in Yonkers, the Roman Catholic Church of the Assumption in Peekskill, the Bethesda Baptist Church in New Rochelle, the Grace Baptist Church in Mount Vernon, and the Mount Hope A.M.E. Zion Church in White Plains. Although created as a response in part to a public health crisis, this innovative program will help narrow the justice gap in Westchester's underserved communities. Chief Judge DiFiore and Judge Davidson are hopeful this pilot project will expand within Westchester County and beyond.



*You Are Invited to
Join the Legacy Society of
The New York Bar Foundation*

Legacy donors provide a better tomorrow for generations of New Yorkers in need. Your gifts help the Foundation fund charitable and educational law-related projects in perpetuity – safeguarding access to justice and the rule of law in New York State.

A Legacy Gift is the greatest honor that a donor can bestow upon the Foundation. Please join these guardians of justice by making a bequest or establishing a planned gift to the Foundation of \$1,000 or more.

Call the Foundation at 518/487-5650 for more information or download the form at www.tnybf.org/legacysociety.



THE NEW YORK
BAR FOUNDATION
Advancing Justice and Fostering the Rule of Law

Cultural Humility and Model Practices for Engaging With Volunteer Attorneys and Pro Bono Clients

Reflections from the Attorney Emeritus Program February 24, 2021 Host Organization Virtual Convening

By Ella Shlonsky, Attorney Emeritus Program Coordinator / AmeriCorps VISTA, Greater New York City Area Feerick Center for Social Justice, Fordham Law School

The Attorney Emeritus Program (AEP) hosted a virtual convening for AEP host organizations centered around understanding cultural humility, embracing a culture of institutional accountability, striving for organizational accountability, implementing model practices for AEP volunteer management, and cultivating skills for cross-cultural lawyering. Fordham Law School's Feerick Center for Social Justice and the New York State Unified Court System's Office for Justice Initiatives sponsored the convening. By holding the event virtually due to the constraints caused by the ongoing Covid-19 pandemic, participants from 39 host organizations from across the state joined.

Fordham Law School's Feerick Center for Social Justice Executive Director Dora Galacatos welcomed the participants and introduced the Hon. Edwina G. Mendelson, Deputy Chief Administrative Judge of the New York State Unified Court System's Office for Justice Initiatives, who delivered opening remarks. The program featured presentations by Caprice R. Jenerson, President and Attorney-in-Charge, Office of the Appellate Defender, Lillian M. Moy, Executive Director, Legal Aid Society of Northeastern New York, and Michelle Smith, Chief of Staff, Office for Justice Initiatives, New York State Unified Court System. The convening agenda can be accessed [here](#).

This convening is part of a larger trend toward promoting cultural humility, cross-cultural lawyering, and institutional accountability across the New York State legal community.

In June 2020, Chief Judge DiFiore appointed former U.S. Secretary of Homeland Security Jeh C. Johnson to examine and report on racial bias in the New York State Court System. Chief Judge DiFiore has tasked Judge Mendelson and her Office for Justice Initiatives with implementing the recommendations. Michelle Smith outlined the recommendations in her presentation, emphasizing that the highest priority for the Chief Judge is the zero-tolerance policy for harassment and discrimination. Included in the recommendations are trainings on bias, race, and equity for every member of the court system and promoting institutional accountability. The report can be found [here](#).

As Lillian Moy and Caprice Jenerson stressed during the convening, understanding and working towards cultural humility is a lifelong learning process and it is critical to honor differences and have conversations about them to improve one's awareness and practice. Cross-cultural lawyering encompasses the respect a lawyer has for the client's dignity, voice, and story, and the lawyer's understanding of how one's own biases and ethnocentric world views can influence the attorney-client relationship.

The convenors and planning committee members hope that attendees will bring the knowledge and training resources shared back to their organizations and AEP volunteers. The model practices are designed to advance a keen understanding of how cultural differences and power imbalances affect the attorney-client relationships and interactions with the

court and other governmental entities.

The convening built on the New York State Bar Association's (NYSBA) COVID-19 Network's "Cultural Humility Sessions to Build Competency Training of Pro Bono Attorneys to Represent Diverse Low-Income Clients." The convening and the NYSBA training are part of a growing collection of resources and opportunities for organizations and individuals to better understand cultural humility and model practices.

Below are links to a collection of training resources to build knowledge and facilitate future training sessions. For more information about the convening or the Attorney Emeritus Program please contact AEPCoordinator@fordham.edu.

- New York State Unified Court System (UCS) Anti-Discrimination and Anti-Harassment Policy
- Attorney Training: Cultural Humility: The training will help pro bono volunteers learn the skills to better serve diverse low-income clients. The training begins with three 20-minute on-demand modules (available now) covering an introduction, intersectionality, and language access.
- Module 4 – Skill Building: This live session aims to build skills in cross-cultural representation of diverse low-income clients by building on the learning, lessons, and questions from the previous modules.
- Register for March 11th Module 4 (12:00 – 1:00 PM)
- Register for April 15th Module 4 (12:00 – 1:00 PM)

continued on page 14

DLA Piper Attorneys Assist Rural Upstate Clients Through Remote Clinic

By LawNY Staff

It's no secret that providing legal services to rural populations has its challenges – clients lack transportation, knowledge of their legal rights, and there is only a small pool of available rural attorneys. Those challenges were only exacerbated by the pandemic.

LawNY's rural pro bono clinics heavily relied on in-person services, inviting volunteers and clients to be in a shared space with technology and support provided.

LawNY staff ensured that clients had access to the technology needed to attend the virtual clinic and helped

the main meeting room to quickly respond to the needs of clients and volunteers.

The remote clinic offered clients a safe, low-cost way to empower clients and allow them to access services from pro bono attorneys located outside of their area. Clients were



DLA Piper, a global law firm with lawyers located in more than 40 countries, contacted LawNY about expanding pro bono legal assistance to rural communities. As a result, LawNY hosted their first ever virtual uncontested pro se divorce clinic with the assistance of DLA Piper. The project was a remote adaptation of a clinic model that utilizes law students and graduates together with pro bono attorneys to assist pro se litigants with drafting uncontested divorces. Prior to the pandemic,

them to set up Zoom prior to the clinic. Volunteer attorneys and law students received training, templates, a sample workflow guide, and tips for working with legal services clients. LawNY tapped into our vast network of law students and graduates to complete the pleadings prior to their clinic appointments. The volunteer attorneys reviewed the facts of the case and advised participants about obtaining a pro se uncontested divorce. LawNY staff was available for the duration of the clinic in

surveyed about the clinic, and the responses were extremely positive. Volunteers were also surveyed about their experiences, and the comments received included "Thank you for... the opportunity to participate in this very worthwhile pro bono matter" and "I enjoyed the clinic and I hope my contributions were helpful to the clients."

LawNY hopes to continue to collaborate with the phenomenal attorneys at DLA Piper.

Cultural Humility and Model Practices for Engaging With Volunteer Attorneys and Pro Bono Clients:

continued from page 13

- Washington State Pro Bono Equity Training Guide: Race Equity & Cultural Competency Curriculum for Volunteer Lawyers
- Framing Questions on Intersectionality: A resource provided by the US Human Rights Network and the Rutgers Center for Women's Global Leadership
- Five Habits for Cross-Cultural Lawyering; Clinical Law Teaching Materials from Sue Bryant and Jean Koh Peters

Legal Services of Mid-New York, Inc. Receives Pro Bono Innovation Fund Grant To Expand Pro Bono Bankruptcy Assistance

By **Karlene Archer, Staff Attorney**

The Legal Aid Society of Mid-New York, Inc. (LASMNY) is pleased to announce it was chosen for a Pro Bono Innovation Fund Project Grant, provided by the Legal Services Corporation, through which they will be able to expand the availability of bankruptcy representation and assistance to individuals in the Syracuse area, and to develop the case law surrounding dischargeability of student loans. The two-year grant began in October 2020 and continues through the end of September 2022.

LASMNY has historically assisted clients with bankruptcy needs through the Utica and Binghamton offices, but the demand for bankruptcy in the Syracuse area has not been adequately met. Through the grant, LASMNY has hired and trained an experienced bankruptcy attorney and paralegal to help recruit pro bono attorneys, manage intake, and screen cases for eligibility for chapter 7 bankruptcy discharge.

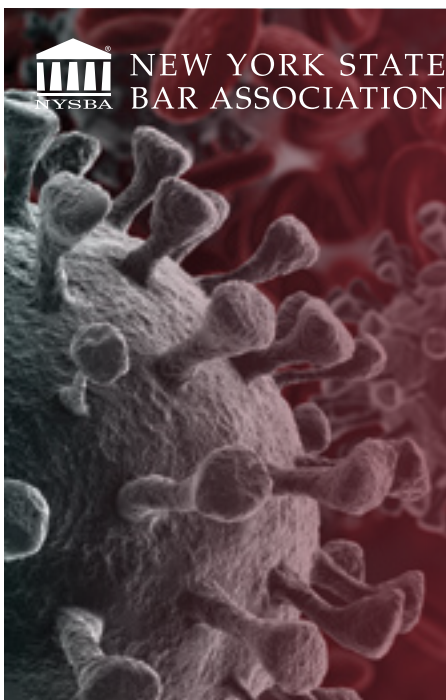
LASMNY has already begun taking bankruptcy cases and referring

them to some area bankruptcy attorneys and the Syracuse Law School bankruptcy clinic, led by experienced bankruptcy attorney and adjunct professor Lee Woodard, Esq. In preparation for the inevitable deluge of bankruptcy filings we are hoping to recruit more attorneys to assist with screening and advice clinics, and to take on referrals as needed. These attorneys may also be tasked with assisting debtors as they navigate a pro se filing using a platform created and serviced by a company called Upsolve. Upsolve uses technology to make it easier for individuals to file pro se, but those individuals may need assistance themselves if there is a technology barrier.

Another goal of the grant is to better develop the case law for the discharge ability of student loans. For many years it has been next to impossible to discharge student loans in bankruptcy, due to a standard that was established before the current version of the bankruptcy code

was enacted, in *Brunner v. New York State Higher Education Corps.*, a case from 1982. There is now a common misunderstanding that student loans are barred from discharge entirely. While the standard itself is indeed difficult to meet, the misunderstanding may gatekeep some debtors from the bankruptcy process itself if they only have student loans to address. The tides have now begun to turn in favor of more accessible discharge ability, but it is an uphill battle. Our goal is to develop a screening tool to implement through the Upsolve platform to identify debtors who may be good test cases to further develop a more appropriate standard for student loan discharge ability.

Attorneys who would like to assist with either representing debtors, assisting with Upsolve, or working on student loan discharge litigation can contact Karlene Archer, Staff Attorney at Legal Aid Society of Mid-New York, Inc. at: karlene.archer@lasmny.org.



Visit the Coronavirus (COVID-19) Information Center

Get the latest

Courts

News and Information

CLE Programs

Informational Webinars (Non CLE)

NYSBA Updates and Cancellations

Wellness

[NYSBA.ORG/COVID-19-INFORMATION-UPDATES](https://www.nysba.org/covid-19-information-updates)

The Legal Aid Society of Northeastern New York Welcomes New Private Attorney Involvement Director

By Mallory Gibson, Private Attorney Involvement Director



It's hard to believe that the first couple of months of 2021 are already behind us. The past year brought tremendous changes nationwide, but despite the challenges created by the pandemic, the Legal Aid Society of Northeastern New York remains dedicated as ever to providing much needed pro bono services to our clients. It has also been a season of change for LASNNY's Private Attorney Involvement (PAI) department. I began my tenure as the PAI Director in December 2020. Just a few months prior to my joining the department, Ryland Wiseman was promoted to be the department's Paralegal, and Francisco

Cruz was hired as the department's Coordinator.

Accepting this position included added layers of changes for me. I am a Missouri native with almost ten years of experience practicing law in Missouri. Immediately out of law school, I joined a civil litigation firm as an Associate Attorney. After four years in private practice, I joined the Missouri Attorney General's Office and served as an Assistant Attorney General for the past five years. As I progressed in my career, I knew I wanted to intertwine my legal practice with my passion for ensuring equal access to the justice system. I am thrilled to join an esteemed organization that is dedicated to that mission.

My predecessors each have worked diligently to establish and build up programs that address the growing needs of our clients. This past year presented unique challenges to ensuring those needs were met in a virtual forum. Ryland Wiseman has been integral in transitioning our pro se divorce clinics to a virtual platform. With Ryland's promotion, Francisco Cruz has assumed a larger caseload,

and undertaken new types of cases. Francisco has assumed this transition tenaciously. Both Ryland and Francisco truly make our department smoothly, and we are fortunate to have them. Last year, we hosted our first virtual transgender name change clinic with great success, with a second clinic scheduled in the Spring. We have also revitalized our PAI Advisory Committee, which consists of local volunteers, legal aid providers, and judiciary members of the 3rd and 4th judicial districts. We hope to use this forum to identify gaps in the delivery of legal services and develop innovative approaches to filling those gaps through pro bono work.

It has been a very rewarding few months, and everyone I've had the privilege to meet has been both welcoming and incredibly helpful. I look forward to working with our current and future pro bono attorneys to ensure that the needs of our clients are addressed and cared for. If you have a suggestion for me or are interested in joining our team of volunteers please contact me at MGibson@lasnny.org or (518) 533-5932.



Lawyer Assistance Program

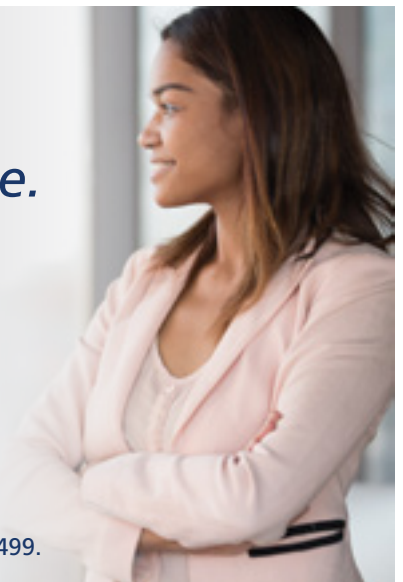
You are not alone. There is help available.

NYSBA's Lawyer Assistance Program offers no-cost confidential services to help you or a loved one suffering from a mental health struggle or alcohol or substance use problem.

Confidential Helpline 1-800-255-0569

For self-assessment tools and additional resources go to **[NYSBA.ORG/LAP](https://www.nysba.org/lap)**

Information shared with the LAP is confidential and covered under Judiciary Law Section 499.



Lawyers Alliance for New York's COVID-19 Response and Recovery Initiative

Lawyers Alliance for New York has been at the forefront of the legal sector's efforts to assist New York City's community-based and other resource-constrained nonprofits with their COVID-19-related legal needs. At the start of the pandemic, we drew from our experience with September 11th and Hurricane Sandy Disaster Relief to get practical information up and out quickly. We created new and updated legal alerts, coordinated with other capacity builders, and mobilized volunteers to be part of the solution to a terrible public health problem, with far-reaching effects. Lawyers Alliance staff and pro bono counsel represented clients on a full range of advisory, transactional, regulatory, and other non-litigation legal projects that organizations needed to improve operations, manage finances, preserve and enhance programs, and serve communities. With the help of our dedicated pro bono volunteers, Lawyers Alliance provided critical direct legal services, consultations, educational resources, and related assistance to nonprofit organizations serving New York City during the pandemic.

As our City and nation faces major public health, income inequality, racial justice, and human services challenges, we each can be part of the solution. At Lawyers Alliance, this means doing what we do best: strengthening the nonprofit sector through quality pro bono legal assistance. Several elements are critical to the success of nonprofits, especially now: mission, people, funds, facilities and equipment, and relationships. Thanks to Lawyers Alliance's staff, Board, volunteers, and donors, nonprofits can receive guidance on legal strategies in each of these areas. Our COVID-19 Relief and Recovery Initiative is serving the evolving legal needs of organizations that are: (a) working with low-income and disadvantaged populations hard hit by the pandemic;

and/or (b) struggling to preserve and retool their programs because of the pandemic's far-reaching effects. With virtual programming, social distancing, and remote work, nonprofits are paying greater attention to technology and the legal issues associated with new communication channels.

Assisting Nonprofits Providing Pandemic Relief for Low-Income New Yorkers

The Restaurant Workers' Community Foundation addresses quality-of-life issues that disproportionately affect restaurant workers. Over the last three years,

Lawyers Alliance has helped them from incorporation to, most recently, reviewing their structuring and fundraising vehicles so that they could better assist restaurant workers who have been sick, quarantined, or unemployed during COVID-19. This has included counsel on becoming a fiscal sponsor to an organization raising money to donate to Brooklyn restaurant workers who are staying home because they are sick or quarantined. The client reported, "Our pro bono lawyers helped us through the long, complicated process of obtaining legal status and creating our founding documents and structure; when the COVID-19 Crisis came, we had a solid base for our Workers' Relief Fund."

YM & YWHA of Washington Heights & Inwood (the "Y") is a multi-service community center providing innovative educational, recreational, and social services. When the Y suspended in-person camp last summer, pro bono counsel drafted an agreement for a virtual camp in partnership with twenty other organizations. This creative collaboration led to a virtual summer camp for children in grades K through 6 called "Summer in the Cloud." While the agencies had

initiated discussions about the terms, lawyers were needed to memorialize the agreement.

The team worked quickly and diligently to guide the organizations through the deal terms so that "Summer in the Cloud" could be launched as targeted on July 6, serving children from 20 camps across the City. The Chief Operating Officer of the Y, said, "During a challenging time for families, our community centers wanted to be there to provide stimulating experiences for children with amazing instructors teaching activities ranging from digital comic design to martial arts to podcasting. Lawyers Alliance provided us with the necessary legal support to achieve our goals."

The COVID-19 crisis hit nursing home residents particularly hard, both in fatalities and isolation from family and loved ones. Music & Memory trains nursing home staff and other elder care professionals, as well as family caregivers, to create and provide personalized music playlists using digital audio systems. These programs enable those living with Alzheimer's, dementia, and other cognitive and physical limitations to reconnect with the world through music-triggered memories. A volunteer attorney assisted the organization with questions regarding its Music & Memory Tablet Engagement program. The client shared, "We're so grateful to our volunteer attorney for assisting us with the transition into broader services. With this guidance, we were able to launch our new program with no issues."

Summer after summer, people of all ages have enjoyed outdoor concerts in New York City parks sponsored by Jazzmobile, an organization that produces free jazz programs. Last summer, COVID-19 social distancing restrictions meant that Jazzmobile and the Central Park Conservancy

continued on page 18

Lawyers Alliance for New York's COVID-19 Response and Recovery Initiative

continued from page 17

(CPC) needed to produce their annual "Great Jazz on the Great Hill" concert for streaming online. To accomplish that involved amending the terms of Jazzmobile's agreement with CPC so that it could record the concert in Central Park. Lawyers volunteered on one day's notice to review Jazzmobile's contract with CPC in order to enable the recording. Thanks to the volunteers and the wonderful jazz musicians, jazz lovers enjoyed "Great Jazz on the Great Hill" and the beautiful Central Park setting safely from home. Jazzmobile's Director said, "Jazzmobile is pleased that we can always count on Lawyers Alliance for high quality pro bono legal counsel. Additional legal services open the door to prestigious firms. Their lawyers were easy to work with and fully knowledgeable in this ever-changing area of the law!"

PPP Legal Consultations Bring Financial Relief to Nonprofits

In late March 2020, Congress passed the Coronavirus Aid, Relief and Economic Security Act (CARES Act), which included the Paycheck Protection Program (PPP) authorizing an initial \$349 billion in potentially forgivable loans to for-profit and nonprofit organizations. Anticipating that the PPP application process would be a legal moving target, Lawyers Alliance created a portal through which nonprofits could obtain limited-scope virtual consultations with attorneys. Several New York City based law firm partners quickly mobilized teams of volunteers to assist.

Lawyers Alliance and the firms kept abreast of fast-moving changes in the law, guidance from the United States Small Business Administration (SBA) and Treasury, the addition of \$484 billion in lending authorized in April 2020, and PPP amendments in

June. They reviewed loan agreements and helped nonprofits understand complex issues related to loan eligibility, classification of employees, the impact of mergers or spinoffs on PPP, and loan acceptance. Compliance with the PPP provisions unlocks loan forgiveness, and our volunteers provided legal information to assist with the forgiveness process. As Congress passed a subsequent round of PPP funding in December 2020, and the Small Business Administration narrowed its focus to only the smallest employers in February.

2021, Lawyers Alliance has continued to assist small nonprofits with both application and forgiveness questions.

Virtual Consultations Enable Lawyers to Remain Engaged with Nonprofits during the Pandemic

In-house lawyers are a vital part of Lawyers Alliance's pro bono efforts. Many of these lawyers represent nonprofit clients on a full representation basis; however, Lawyers Alliance also offers limited scope opportunities that complement in-house schedules and practices. The COVID-19 pandemic has changed the method of service delivery but not the attorneys' enthusiasm for helping nonprofits.

Our virtual clinics are designed to balance structure and flexibility, as many volunteers and clients do not have predictability in their schedules that they may have enjoyed before the pandemic. Lawyers Alliance provides video training materials, opportunities to meet our staff and ask questions by video conference, and sample materials to in-house attorneys from financial services, technology, media, risk management, and healthcare sectors. Lawyers Alliance and our volunteers provide consultations and substantive reviews of forms of waiver and release and short contracts, as well as thorough assessments of financial reporting and corporate governance practices and policies.

Resource Call Hotline

Through our free Resource Call Hotline, the only service of its kind in New York City, staff attorneys answer questions and provide legal information. The Resource Call Hotline is the principal mechanism for many nonprofits and attorneys with time-sensitive questions to access our one-on-one services while New Yorkers continue to live and work in place. Lawyer Alliance handled hundreds of COVID-19 related inquiries on diverse topics such as:

- What laws apply to an organization that seeks to act as a fiscal sponsor for a group of people raising COVID-19 relief funds?
- What are the parties' contractual obligations if programs, services, and events are rescheduled or cancelled?
- Small Business Administration application and loan forgiveness.
- COVID-related employee policies and changes, including remote work policies and sick policies.

Educational Programs for Nonprofits

Lawyers Alliance presents information via our webpage and through webinars to assist nonprofit organizations. Written Legal Alerts also serve as an important resource. Even before the scope of the COVID-19 situation was known, Lawyers Alliance created a dedicated Coronavirus Information webpage to host new Legal Alerts, starting with "Protecting Your Nonprofit from COVID-19." Nonprofit associations, government agencies, legal services providers, nonprofit media outlets, and others frequent this page: <https://lawyersalliance.org/coronavirus-information>.

To volunteer to assist nonprofits with business and transactional legal matters, please visit our website at <https://lawyersalliance.org/lawyers>.

Anne Sargent Arcano named 2021 Empire State Counsel Outstanding Pro Bono Volunteer

By Natalie J Sobchak, Director of Pro Bono Programs, Pace Women's Justice Center

At the New York State Bar Association's Justice for All Awards Ceremony on January 21, 2021, Anne Sargent Arcano received the Outstanding Pro Bono Volunteer Award for her work with the Pace Women's Justice Center in White Plains, New York. The Pace Women's Justice Center is a non-profit organization that provides free legal services to victims and survivors of domestic violence, elder abuse, and sexual assault. We provide a variety of legal services to members of the community, including a Legal Helpline and three Walk-in Clinics.

Anne joined the team of dedicated volunteers staffing the Pace Women's Justice Center Legal Helpline four years ago. On the Legal Helpline, Anne provides information and guidance to callers on a variety of issues. While the vast majority of callers contact us with questions about family law, domestic violence, or elder abuse, one of the challenges of volunteering on the Helpline is that one never knows what kind of legal issues come your way. During the pandemic, that means also answering inquiries about the status of the court system, how to apply for unemployment benefits, stimulus check eligibil-

ity, and the eviction and foreclosure moratoriums. Anne's ability to gently speak with people in crisis and who have been traumatized by abuse has allowed her to understand the caller's situation and address the issues holistically giving a caller practical information about housing court, negotiating consumer debt, navigating the public benefits system, and understanding wills and advanced directives. She also has a keen understanding about domestic violence and elder abuse, which helps her understand the safety issues and lethality risks many callers face.

In June 2018, PWJC open our third Walk-In Legal Clinic, designed to provide immediate assistance to victims and survivors of abuse on a limited-scope basis by offering free consultations. Seeking additional ways to provide legal assistance to the vulnerable and underserved our community, Anne immediately volunteered to be part of the Walk-In Legal Clinic team, and staff this expansion of services. Anne works with our clients to make sure their legal decisions are informed, thought out, safe, and well-planned. Anne goes out of her way to ensure our clients understand the



process, manage their expectations, and get the type of services they need in order to live in safety.

In 2020, in the midst of a pandemic, Anne donated a total of 217.75 hours of work. As a PWJC pro bono attorney for the past four years, Anne not only has positively affected the lives of hundreds of victims and survivors of domestic violence, sexual assault, and elder abuse by helping our clients find a pathway to safety and start the new chapter in their lives, she also been a valuable colleague and mentor to our newer volunteers and law students.

Legal Services Corporation

Notice of Grant Funds Available for Calendar Year 2022

The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2022. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. The list of service areas for which grants are available, and the service area descriptions are available at <https://www.lsc.gov/>

[grants-grantee-resources/our-grant-programs/basic-field-grant/lsc-service-areas](https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant/lsc-service-areas). The Request for Proposals (RFP), which includes instructions for preparing the grant proposal, will be published at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant> on or around April 15, 2021. Applicants must file a Pre-application and the grant application through GrantEase:

LSC's grants management system.

Please visit <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant> for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to LSC-Grants@lsc.gov.

The Legal Aid Society and Milbank LLP Fight for Access to WiFi for Students at Local Shelters

By Andrew Childers, Pro Bono Administrator, The Legal Aid Society

This past fall, students living at local shelters found themselves without a way to go back to school. Access to reliable broadband WiFi created problems for students who needed to connect to their virtual classrooms.

In October, on behalf of the Coalition for the Homeless, The Legal Aid Society and Milbank LLP sent a demand letter to the New York City Department of Education and the New York City Department of Homeless Services, to raise the issue of widespread, systemic access to internet at local shelters. The City responded by switching cellular carriers for tablets students were using for remote learning, a solution that was inadequate

since it failed to address the underlying issue for all students and because some shelters are located in places with low or no cellular signal.

Legal Aid and Milbank LLP filed a lawsuit in the Southern District of New York against the de Blasio administration late last year on behalf of the Coalition for the Homeless and residents of shelters to compel the City to provide reliable internet access so students can remotely attend school. In December, the City of New York's attempt to derail the lawsuit was rejected as the Court declined to grant the City's Motion to Dismiss. The parties are currently engaged in the discovery process.

In a January 25, 2021 article in *The New York Times*, Susan Horwitz, who directs the Society's Education Law Project, told the reporter "there were many ways the City could speed up the project, including learning from shelter operators like HELP USA that installed Wi-Fi in buildings that lacked infrastructure, hiring more installers and scaling back from wiring each apartment." <https://www.nytimes.com/2021/01/25/nyregion/wifi-home-shelters.html>

Susan also expressed her dismay at the City's slow response: "It's such obvious stuff," she said. "I just keep shaking my head and saying, 'Really, that's what they're doing?'"

Thank You!

For your **dedication**,
For your **commitment**, and
For recognizing the **value** and
relevance of your membership.

As a New York State Bar Association member, your support helps make us the largest voluntary state bar association in the country and gives us credibility to speak as a unified voice on important issues that impact the profession.

Scott M. Karson
President

Pamela McDevitt
Executive Director



NEW YORK STATE
BAR ASSOCIATION

Coviction: Covid-19 and the Housing Crisis

By Sateesh Nori, Esq., Attorney in Charge – Queens Neighborhood Office



Sateesh Nori, Esq.

This is the text of a talk given at Fordham Law School's Feerick Center for Social Justice, as part of their Social Justice Leaders Speakers Series. It was presented on February 25,

2021 to a virtual audience of approximately 300 people.

Evictions are the raw underbellies of our towns and cities. Seven eviction cases are filed every minute in America. Evictions should be anachronisms, like slavery, denying women the right to vote, or child labor, but they remain as vestigial pieces of a society in which profit is put ahead of people.

Covid-19 has exposed fundamental questions about the links between housing and public health, about the true disparities of race and class in employment, education, and access to justice. In New York City, Housing Court is a place where hundreds of thousands of people are sued for eviction each year. Many are sued over and over again. Others need to go to Housing Court to fight for basic needs like running water, heat, cooking gas, and to live without rats, roaches and bed bugs.

Housing Court is at the crossroads of life for many people. Being sued there means your life is likely to change for the worse. For many, Housing Court intersects with criminal court, family court, drug treatment, halfway houses, and the welfare bureaucracy. Housing is either the first or the last cookie to crumble, and once it does, for many, it can't be put back together. This past year, it has been Black and brown New Yorkers who got sick and died from Covid-19. This disparity extends to those who are getting vaccinated and those who

are not. In places like Queens, where I work, the hospital workers, nurses, MTA employees and others who live or work here, are mostly people of color, and they are at higher risk.

They live in substandard housing and they pay a greater percentage of their income for it. Over the past 4 years under Trump, we also witnessed an unprecedented persecution of immigrants. It is immigrant tenants who are relegated to dank basements, attics, and other unacceptable housing. We also learned that eviction increases the risk of covid transmission- thanks to scholars like Emily Benfer.

Evicted author Matthew Desmond described the epidemic of evictions in America and its generational impact on the lives of poor families. Eviction is a leading cause of poverty, part of a vicious cycle of poverty and displacement. Sadly, most evictions occur because of unpaid rent, and this is an economic issue more than a legal one. The "haves" never face eviction. There is a caste system in America, and landlords and tenants are on opposite ends of it. For each person who struggles to rise out of this unfairness, ten more are pushed back into line. In this way the system is recalibrated.

And yet, anyone can become a landlord through luck of birth and inheritance, or through a lucky bet on the stock market. A barber needs a license to cut hair, a taxi driver needs a permit to operate his cab, but a landlord can run a building without any qualifications.

Bryan Stevenson writes in *Just Mercy*:

The death penalty is not about whether people deserve to die for the crimes they commit. The real question of capital punishment in this country is, Do we deserve to kill?

Similarly, the dominant narrative question about housing has always

been, "Who deserves to stay in their home?" Our system takes as a given that people can be displaced, discarded and destroyed.

Today, I want you to consider whether this system represents our ideals of fairness, justice, and morality, and ask yourself, "Why, IN THE POST PANDEMIC WORLD, do we deserve to evict anyone?"

In part one, I will describe the struggle for housing through the stories of three tenants: Barbara Jiggetts, Pearline Rucker, and Eleanor Bumpurs. In part two, I will identify the seismic shifts in the housing landscape since March of 2020, because of the Covid-19 pandemic. In part Three, I will lay out a roadmap, lessons learned from the pandemic in the area of housing in New York City and elsewhere. Portions of this piece are drawn from my forthcoming book, "Sheltered: Twenty Years in Housing Court."

Part I

In 2019, Keisha Crump, (not her real name) twenty-three years old, with four kids, was facing eviction. She lived in the Rockaways in a large housing complex called Bay View. Her rent was \$1370 per month, but her only income was public assistance. Keisha came to our cramped courthouse office after she received an eviction notice from her landlord. She was in court to file an "order to show cause," which is a motion asking the judge to stop an eviction from going forward.

"I need Jiggetts," she said. "My mom had gotten it once and it helped her pay the rent. How do I sign me up for that program?"

"I'm sorry," said Mia, our intake paralegal, "but I'm not familiar with that program."

"She means FEPS," I said, eavesdropping from the next cubicle. This is the "Family Eviction Prevention Supplement," a State rental assistance

program for families who were facing eviction.

“Oh! We can help you. Let’s start with some basic questions,” said Mia. She continued the interview. Jiggetts and subsequent rental assistance programs have helped thousands of families avoid eviction. But “Jiggetts,” contrary to what many people think, was neither a program nor a place, but a person. For decades, urban renewal projects concentrated federally subsidized housing in the Rockaways. In 2012, the region was devastated by Hurricane Sandy and it was the very same low-income families who were cleared from the slums in other parts of the City who bore the brunt of the storm in the Rockaways. After Sandy, Far Rockaway was set back decades. Jobs were lost. There was a shortage of medical supplies. Electricity and Internet went out. The housing stock, available apartments and houses, was ravaged. Hundreds of buildings were destroyed, and with them, the homes of thousands of tenants. Even as Far Rockaway was rebuilt after the storm, little improved for many low-income families who lived there. This pattern will probably repeat.

As an aside, much of the detail in this section is drawn from an interview of Dean Matthew Diller conducted in the summer of 2020. Dean Diller, an attorney at the Legal Aid Society in the 1980s, was part of the small team that successfully litigated the Jiggetts case. Dean Diller, if you’re listening, thank you. Your work has inspired generations of lawyers. Barbara Jiggetts lived in federally subsidized housing called Section 236, through which low-income tenants were placed in renovated or newly built housing projects. Her rent was only \$264.85 per month, but she couldn’t afford it. She and her husband moved into the complex in 1980 with their kids, but he left in 1982. After he left, she applied for public assistance (welfare), which was called Aid to Families with Dependent Children (“AFDC”). She also received food stamps and Medicaid. In total each month, she received a shelter allowance of \$270, a “food and other” allowance of \$266, \$50 in monthly child support payments, and \$172 in

monthly food stamps.

For three years or so, Barbara made ends meet for herself and for her three kids. Unfortunately by 1986, her rent went up to \$381.15, \$111.15 more than her rent allowance. She was not permitted under the welfare rules to divert this \$111 shortfall from her non-shelter grant to her rent. Even if she could, she would be left with only \$155 per month to cover all expenses, other than food, for a family of four. If she bought nothing for herself, this amounted to just over \$50 per month for clothing, school supplies, toys, and any leisure activities for each of her children. Her food stamps would run out each month. This meant that her family ate meat, chicken, and fresh fruit for the first three weeks of each month and only rice, noodles and potatoes for the fourth week. Barbara couldn’t afford to buy new clothing for herself or adequate clothing for her children. Her son had only one pair of winter pants. The family didn’t have enough chairs around the kitchen table for everyone to sit down for a meal. There were no lights in her daughter’s bedroom and only a single bulb lit the living room. There were no curtains over the windows and only one set of sheets for the beds. Despite this hardship, Barbara paid \$270 to her landlord each month because that was her allowance, except for once in June of 1986. In that month, Barbara had surgery to remove part of her uterus after a cancer scare. For June 1986 she still paid \$155 in rent.

The other piece of the pincer was that there was no other affordable housing available to her. Despite calling landlords, consulting brokers, and enlisting friends, she could not find another apartment to house her family of four for a rent of \$270 per month. Barbara also tried to apply for other types of subsidized housing. In 1985 she applied for Section 8, a federal subsidy that covered all but 30% of a tenant’s monthly rent, but was still at the end of the waiting list in 1986. When she asked about her chances of obtaining a rent voucher through Section 8, she was told that the waiting list was opening for those who applied four years earlier, back in 1982.

In October 1986, Barbara was sued for back rent in Housing Court. She was sued for \$1,055.55, which represented her shortfall in rent for six months: \$666, late fees: \$235, and arrears from June 1986: \$115—the month she had her cancer scare. She appeared pro se, or unrepresented by an attorney, in Housing Court and entered into a stipulation for \$1401.70 (\$1020.55 of the amount demanded and \$381.15 for October 1986 rent). In November 1986, she paid the landlord \$540 in two-party shelter allowance checks from welfare. In January 1987, she asked the City Department of Social Services (DSS) for rent arrears, and was approved for \$666. This was less than she owed. It is into this type of “welfare math” into which many families are reduced. The numbers, falsely applied as if fixed and constant, impact generations of families.

On February 3, 1987 Barbara received a 72-hour eviction notice. She went to Court and asked the Judge for more time to pay. Unfortunately, after filing the papers for the extension and obtaining a court date, she didn’t have enough money to make it back to court. On the date of her motion, she was not present and it was denied. Barbara and her three kids faced homelessness. Until the 1960s, welfare grants were paid to families on an as needed basis. In other words, families on welfare would receive support in amounts that would cover their actual expenses. A policy that made sense! However, This policy faced scrutiny and backlash during the conservative Rockefeller era in New York. In 1969, the legislature passed a law that created a basic flat amount for public assistance in New York. Though even after these restrictions, rent, called the shelter allowance, was still kept as a variable amount based on need. This was because rent, unlike expenses like food and other necessities, is based on local market conditions and can vary widely across New York State. Rents in Buffalo are not comparable to rents in Brooklyn. However, the system under which rent grants were variable, it was argued, gave caseworkers too much discretion in how much would be approved and for whom. In light of these concerns, and perhaps

due to a general misperception that the poor were taking advantage of the system, assistance for housing was capped in the 1970s.

Discretion to do what is needed is the definition of humanity. But that's not how our system works. Barbara was desperate to keep her home and had no other options. Her kids were with her as she sat in the small waiting room of the office of The Legal Aid Society. Eventually, Legal Aid made her a plaintiff in a state-wide case. This was not easy for her. Her personal life was laid bare for all to see. Barbara had to describe embarrassing personal details about her marriage, her financial struggles, and the way she and her kids were getting by. But Her case was the best hope for many to change the grossly unfair rent assistance policy. Sometimes attorneys put the goals of the litigation—helping thousands of families—ahead of the needs of the client who might make achieving those goals possible. The stress and pressure of getting it right, of exploring every legal angle, of anticipating every counter-argument, and of facing the uncertainty imposed by the judge can be draining. But for the client, none of this may be apparent. Barbara just wanted to keep her home. She didn't know that this fight would take almost a decade.

Finally, the decision came down and Barbara had won. The term "Jiggetts" became synonymous with a rent assistance program to prevent evictions. To Barbara, it was simply her last name. But to Keisha and thousands like her, it meant a way to save their homes. But Jiggetts the rental assistance program was neither universal nor automatic. Instead, in a resolution of the case, the State established a new, lengthy and complicated application process for rental assistance, which in a different form, is still used today. Hence Keisha Crump, in 2019, was seeking our help on the brink of eviction just like Barbara Jiggetts had in 1987.

Next, a glimpse into the world of public housing and the story of Pearline Rucker. She moved into Public Housing in Oakland California in 1985. By the mid 1990s, she was living with her mentally disabled daughter

Gelinda, two grandchildren, and a great-grandchild. She was the primary source of support for her family. Pearline minded her own business and never had any run-ins with the law. Gelinda however, had struggled since birth with her mental health and self-medicated with street drugs and alcohol. On March 9, 1997, a Housing Authority officer observed Gelinda drinking alcohol approximately three blocks from the Rucker Premises; Gelinda was arrested for public intoxication. A search revealed one rock of suspected cocaine and a crack cocaine pipe. On September 19, 1997, Oakland police officers saw Michael, her son, loitering at a bus stop with a second man, approximately eight blocks from Pearline's home. Michael was contacted and subsequently arrested for an open warrant.

A search of him revealed a piece of rock cocaine. Because of her children's cocaine possession, The Oakland Housing Authority (OHA) served Ms. Rucker with a 3-day notice of termination of her tenancy. Ms. Rucker did not vacate- she had nowhere to go-so OHA filed an unlawful detainer action against her in Alameda County Municipal Court. The Complaint alleged that Rucker had violated paragraph 9(m) of her lease, "To Maintain a Drug-Free Environment." Ms. Rucker had no personal involvement in, knowledge of, or actual ability to prevent this drug-related criminal activity. She had warned the whole family that any drug use or criminal activity on the premises could result in eviction. Michael did not live with her, and she had no ability to control his actions. Ms. Rucker searched Gelinda's room regularly (once or twice a week), looking for evidence of alcohol and drug use. She never found any drugs or drug paraphernalia. Years before this incident, Ms. Rucker suspected her daughter was struggling with alcohol abuse, and placed her in a residential drug and alcohol treatment program. Ms. Rucker had never seen Gelinda physically manifest any sign of drug use. Gelinda completed a drug program after being found with cocaine. However, the legal case against her continued, and eventually the United States Supreme Court, in

HUD v. Rucker held that "the plain language of [the statute] requires leases that grant public housing authorities the discretion to terminate tenancy without regard to the tenant's knowledge of the drug-related criminal activity." In other words, it didn't matter what Pearline knew. She was going to pay the price for the conduct of another. She would lose her home.

Pearline, and thousands like her, are caught in the punitive web of public housing, with rules akin to imprisonment, for housing that is meant for the poorest and most vulnerable. The lesson of Rucker is that poor, black and brown people are held to stricter standards than middle-class white or wealthy people. As with sentencing disparities for crack and powder cocaine, poverty is criminalized. Public housing, which should be a benefit to the least privileged in our society, is instead viewed in punitive and moralistic terms.

We live by a broken ideal that only righteous and deserving people deserve assistance. No case illustrates this issue more than that of Eleanor Bumpurs. Eleanor Bumpurs was a sixty-six year old black grandmother who lived in a public housing apartment in the Bronx. She suffered from several physical disabilities and was emotionally reeling from the way she had been treated during her case in housing court, where the judge had ordered her eviction. That order was issued after an assessment by a city psychologist that Ms. Bumpurs was "psychotic" and needed to be evicted and then institutionalized.

But the eviction case was based on nonpayment of rent: Ms. Bumpurs had refused to pay because she thought she needed repairs in her apartment. She had dared to force NYCHA to treat her with dignity. She owed just \$400. On October 29, 1984, NYCHA (New York City Housing Authority) called the police department to assist in carrying out the eviction, telling the NYPD that she was violent and dangerous, and that she had been wielding a knife. Half a dozen police officers went to Ms. Bumpurs' door wearing helmets and bulletproof vests, and holding plexiglass shields. When she wouldn't open the door, they broke

it down by force. Amidst a struggle, during which Ms. Bumpurs was heard screaming, the police fired a twelve-gauge shotgun into her, twice. She died immediately. In the aftermath, the City, rather than call into question the need for evictions in public housing, or the need to evict the elderly, or the need to evict the disabled, or the reasons to evict anyone at all, saw the Bumpurs case as a flaw in the way the City handles vulnerable adults. In other words, the City, through “protective services for adults,” would aim to be “better” at evictions.

Ms. Bumpurs was blasted to death by shotguns in her own kitchen for owing \$400 in rent in a public housing apartment. That she paid her debt with her life was not enough to change the ways in which housing is doled out and taken back. Her case should’ve been a blaring reminder that violence, or the threat of violence, is just beneath the surface of all evictions. In fact, City Marshals, who conduct evictions, typically carry guns. Full evictions involve removing all traces of a family’s life in an apartment and placing them into garbage bags. Photo albums, children’s drawings, height charts on the walls, the kitchen table where the last holiday was spent, are all disposed of, often, never to be recovered.

Into this world of unaffordable housing, of the criminalization of the most vulnerable people in our society, entered a once in 100 year pandemic. In her book “The Alchemy of Race and Rights,” Professor Patricia Williams argued that Ms. Bumpurs and other Black people were “outside of the law” and that her death was technically a legal use of force under a literal reading of the law on use of force by police. But the law, according to Williams, is as much “lex” (“law” in Latin) as it is “jus,” the basis of our word “justice.” And it is justice that Black people like Ms. Bumpurs did not receive. Justice required context, such as the history of segregation, discrimination based on race, gender, and class.

The law rarely accounted for the institutional racism, history of redlining and housing segregation, and economic hardship that poor black

and brown tenants faced in New York City. Instead, they faced only the letter of the law and its consequences: eviction, and sometimes, even death. In a sad post script to this story, Ms. Bumpurs great granddaughter, also named Eleanore, and also a resident of NYCHA in the Bronx, is currently struggling to remedy a lead paint issue in her own apartment after her 7 year old son tested positive for elevated lead levels.

Part II: Covid-19 Hits

On March 17, 2020, Housing Court in New York suspended operations. On a recent visit to the Queens Housing Court, I saw the court calendars from that date still hanging on the walls outside the courtrooms, suspended in time, like in a movie about the end of the world. Early on, those of us who worked as tenant defense lawyers did not know what the coming days, weeks, and months would bring.

In this way we are like everyone else, gripped by the pandemic as it grew and spread. One seed was planted, and it grew into an oak tree in 2020- that housing and public health are linked. Housing advocates, and those who fight for housing as a human right, already understood the foundational importance of safe, decent, and affordable housing and its impact on quality of life, stable employment, education, and mental health.

For example, we already knew that children in substandard housing are more likely to develop asthma. Conditions like mold, peeling paint, and drafty windows make kids sick, and the lack of decent health care results in compromised immune systems. Toxic remedies, like bug spray, and rat poison make these health conditions worse.

We also knew that low-income families are under higher degrees of stress, sleep less, and are more likely to have other chronic illnesses. Many live month to month with the uncertainty of whether they will have stable housing.

But as the Covid-19 pandemic took root in places like Elmhurst Queens, we realized the horrors of its impact: it was killing black and brown people

at a higher rate. It was spreading in low-income neighborhoods. A big reason for this was the lack of safe, decent, and affordable housing, which is a bigger problem for marginalized communities. Families who do not have stable housing cannot safely quarantine. They live in overcrowded housing. They live with their extended families, like my own parents did when they immigrated from India.

There isn’t enough ventilation in the basements and attics which are the loci of apartments. Once evicted, such families are more likely to be in public spaces, emergency rooms, homeless shelter intake offices, welfare centers, and even the streets. Public housing residents were uniquely vulnerable to contracting Covid-19. NYCHA housing has been ripe with mold, lead paint, leaks, and other unhealthy conditions. And its population of tenants is among the most health-compromised in the City, with higher rates of asthma than people living elsewhere. Finally, many NYCHA developments, like the Queensbridge Houses, one of the largest public housing developments in the country, have high populations of elderly residents.

Many receive care from home health aides, who can transmit the virus from one patient to another. Despite these risk factors, NYCHA had no plan to protect its residents for many months into the pandemic. It had been reported that the product used to clean public spaces in NYCHA buildings, at least in the Bronx, contained no disinfectant. Between March 2020 and the present, evictions stopped, but the eviction machine sputtered and shook as numerous attempts were made to restart it. As in any bureaucracy, the bureaucrats worked to reclaim their functions. The governor issued executive orders. The Courts issued administrative orders. Statutes of limitation were tolled. Marshals were restrained.

At the Federal level, there was the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which contained a moratorium on evictions in properties where there was a federal subsidy. The CARES act protections expired on July 24, 2020, leaving only the State protections. Federal

Unemployment benefits were also granted, but limited. \$300 checks were hardly enough to cover rent in places like New York. In September, the Centers for Disease Control issued a moratorium on evictions through the end of 2020. This moratorium placed the onus on tenants to submit a declaration stating covid related financial hardship. It also required tenants to use their best efforts to pay the rent due.

The Cares Act also provided for rental assistance for New Yorkers through a 100-million-dollar fund, administered by the State Division of Homes and Community Renewal. However, this program was beset by administrative hurdles and a complicated application process. By December 2020, only \$40 million out of that \$100 million in rent relief funds had been distributed. Out of 94,000 people who sought relief through the program, only 15,020 were approved. The state ran the risk of losing the remaining available funds to the federal government if it could not distribute them by Dec. 30, as legally required by the CARES Act. So, the state agreed to loosen the requirements: Previously, applicants needed to prove they were “rent-burdened” -- defined as paying more than 30% of their income toward rent -- before the pandemic. After the changes, tenants would need to show that they were “rent-burdened” during the months of April through July, and that their pre-pandemic household income was at or below 80% of the Area Median Income to qualify for partial rent payments.

In New York State, on June 30, 2020 was born the Tenant Safe Harbor Act. The safe harbor refers to the period during the pandemic in which tenants cannot be evicted for nonpayment of rent. The rent, however, is still due, and the landlord is able to seek it in a non-possessory judgment. In opposition, landlords cried foul, claiming that without evictions as a threat, no rent would be collected. Calamity was predicted for the housing economy. But it never came. Many people paid rent. For those who didn't pay, the vast infrastructure of debt collection in civil court was ready to be utilized.

Finally, On December 24, 2020, on

the brink of the expiration of the CDC moratorium, New York State passed the Covid-19 Emergency Eviction and Foreclosure Prevention Act of 2020. This act automatically stayed evictions through February 26, 2021. It also allowed for a further stay through May 1, 2021 for all tenants who submit “hardship declarations,” just like the CDC declarations. However, this law allows landlords to move forward with cases in which the tenant is alleged to have persistently and unreasonably engaged in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, with a specific description of the behavior alleged. In another words, tenants who were an extreme nuisance, in proven, would be subject to eviction. Just today, I learned that this law is being challenged on constitutional grounds by a group of landlords.

Meanwhile, another shift in the landscape was occurring, and this one was separate from the laws and policies surrounding evictions. Housing Court was beginning to operate virtually. Filings were being done remotely. Landlords and tenants were able to call-in to court. Correspondingly, legal services providers were doing mobile intake, answering hotlines, and interacting with clients virtually. I was personally involved with one aspect of this, getting HP actions- cases for repairs or about harassment- to be accepted through remote filing via a platform called justfix.nyc. I am on their board. Before the pandemic, justfix allowed tenants to document conditions in their apartments and to prepare legal papers to sue their landlords- all from their smartphones.

However, at the time, tenants had to print the documents and file them in court in person. After the pandemic, we realized that many tenants were trapped in their homes, subject to serious conditions, and sometimes subject to harassment from their landlords, who wanted to evict but weren't able to use legal means because of the moratoriums. The need for HP actions to be filed, for repairs or for harassment, was clear, but making people file papers in person was not safe because

of the risk of covid transmission. So justfix created a remote HP action tool to allow tenants to file the documents prepared through Justfix through a portal (email) within the clerk's offices in each housing court.

This process was approved and accepted by the court system. Although this seems like a minor technical change, it represented a major shift in the way tenants access housing court. Like with E-Filing, virtual courts exposed a new issue for many, the digital divide. Simply put, for many low-income litigants in housing court, most of whom are tenants, the transformation of the courts from physical to virtual created a barrier because of their lack of technology or their unfamiliarity with it. Many don't have reliable internet access in their homes or the screens to participate in virtual proceedings. Many others don't know how to use the software like Microsoft Teams, Zoom, or e-signing tools. There is a great that a technological leap forward in the courts will leave many behind, stranded, and worse off than they were before the pandemic. But with proper forethought, and engaged planning, we might be in a brighter, more accessible, more just place in the coming years.

Part III – Housing Justice in the Post-COVID World

The pandemic served to expose deep flaws in our system of housing justice in New York. It also forced us to embrace a future in which technology would be a fundamental facet of the way housing courts work. So, what did we learn between March 2020 and the present?

First and foremost: Evictions are not necessary. We practically paused evictions for more than a year and our City has not collapsed into chaos. Landlords now have and have always had the remedy of seeking to collect debts in non-possessory judgments. This is how all other debts are collected, with consumer debt rules and protections built in. We now see that between 1974, when housing court opened, and 2020, we were operating a system of double punishment

against tenants: monetary and possessory judgments. This resulted in a debtors-prison, called homelessness, which trapped generations of families inside it. Instead of identifying and eliminating this mechanism--evictions in housing court--we periodically slowed it down, threw money at it, and focused on those who were already hurt by it- the homeless. In 2020, the Tenant Safe Harbor Act created a "Safe harbor" from evictions for rent owed. Why isn't this the default policy? Low-income tenants are in states of constant crisis- Covid-19 is only the latest and most serious one. From Hurricane Sandy to the crisis inside NYCHA, from housing discrimination to the steady loss of rent stabilized housing, and the permanent problem of having to pay 50cents of every dollar on rent, tenants need and have always needed a safe harbor. Let's be plain about that.

Second, we need permanent rent subsidies. Some believe that more than one billion dollars of rent was unpaid in New York City during the pandemic. This sounds like a huge sum of money, a gap that can't be filled. However, even this seemingly large sum is only less than 2% of the City's budget. NYPD's budget is more than \$11 Billion dollars. Hudson Yards, a public/private development, cost \$25 Billion dollars. So, in one of the worst year's in our City's history, the worst ever for rent collection, a year in which evictions were paused, in which housing courts were frozen, the total cost of the rent unpaid by all New Yorkers was less than 2% of the City's budget. This is a cost that we can, and should bear, and we can do it through rent subsidies. But the lessons of the pandemic are that rent subsidies must be easily accessible if not automatic. The tragedy of the Cares Act funds administered by HCR, unused because the eligibility rules were too stringent, cannot be repeated. Tenants like Ms. Jiggetts and Ms. Crump should not be made to suffer over a few hundred dollars per month in rent shortfalls. The vast bureaucracies of HRA should be tamed, streamlined, or eliminated. The Legal Aid Society recently sued the State to eliminate the requirement

that tenants face a lawsuit from landlords before being eligible for rent assistance, in an attempt to preempt the avalanche of evictions that are predicted. Many have identified that a permanent and automatic rent subsidy program, like Section 8, would help millions of tenants. This is a policy that landlords would support. The tragedy of Jiggetts is that we are still litigating the facts 30 years later. The rent amounts are different, but the problem is the same. Most people in New York pay a huge slice of their income towards their rent. They have few alternatives to the housing they have. Existing programs present bureaucratic challenges and labyrinthine channels before assistance is granted. The pandemic laid all of this bare, again, but with a clarity that came with life-or-death stakes.

Third, Courts can work virtually, but lawyers for tenant's matter. As Richard Susskind writes in his book, *Online Courts and the Future of Justice*, remote courts represent the idea of the courts as a service and not a place. Justice is not mixed into the bricks and mortar of courthouses, but it is delivered in the way litigants are serviced. Susskind talks about how email and fax were first rejected as a means of communication within the legal profession, but the ease of use and efficiencies of these technologies overwhelmed objections to their use.

The failure to address the digital divide is a deprivation of due process for many litigants. It deprives people of meaningful access to the courts. Technology is a language, and just as we cannot deny a litigant for whom English is a second language an interpreter, we cannot ignore the digital divide in housing court.

Virtual Courts are inevitable, as faxes and email were. Let's embrace the advantages now and work to overcome the digital divide. The advantages are numerous- virtual courts can increase access to justice for the elderly and disabled, who have great difficulty travelling to physical courthouses. They increase the ease of use of the services offered by courts for working people, parents of young children, who can participate in virtual proceedings or file papers

electronically. There are technological tools to overcome language access issues, like expert interpretation services. There are tech tools to assist the blind, and the deaf. Hearings could be live-streamed, so more people could watch, understand, and learn how the court process works, and hold the institutional participants more accountable. Courts could also operate virtually, after working hours, early in the morning or later in the evening, to accommodate the real-life schedules that many litigants deal with. Many file their Federal taxes online, but must travel to a state office building to file an answer in a nonpayment case.

My office in Queens, in partnership with Columbia Law School's *Lawyer-ing in the digital age clinic*, is piloting a tool, called the "Justice Tablet," We have built a platform, using an IPAD like device with a data connection, loaded it with simple messaging and document scanning apps, and with Teams and Zoom, and are testing its use by clients. Clients receive the tablet in the mail, use it to communicate with their lawyers, send documents and photos of repair conditions to them, and also prepare for virtual hearings. Clients can also use the tablets to appear at virtual hearings, from the safety and convenience of their own homes.

However, these measures don't level the playing field. They just address basic due process. For true balance in housing court, lawyers can be swords and shields. During the pandemic, lawyers and paralegals fought against tenant harassment, fought for repairs, and answered thousands of questions on the city housing hotline. Going forward, while we fight to expand access to housing and housing subsidies, we need lawyers to hold the line on the housing that we already have. Let's support and expand the right to counsel for tenants in New York and beyond. And as we attract and hire new lawyers, let's rethink the way we deliver services.

Our future as a profession- those who represent tenants- depends on us adapting. Our clients don't want to travel to meet us in our uncomfortable offices, waiting for hours to be seen.

Our staff don't want drab desk jobs, far removed from where our clients are. They want flexibility and responsibility. They want to be trusted to do the important work of representing tenants. The pandemic has, ironically and unexpectedly, forced us to keep what is essential and discard what is vestigial about the way we work. We don't need more desks, chairs, and cubicles. We need new ideas about how we deliver services to clients and how we support the next generation of lawyers.

Fourth, housing is a public health issue. Many believe that Covid-19 is the first of many similar events. Public housing in New York arose because of the efforts of giants like Eleanor Roosevelt and Mayor LaGuardia to protect people against the public health crises in the tenements across the City, where dozens of families shared a single toilet, where water-borne diseases killed thousands. Today, this refuge for the most vulnerable has become a pit of despair. Our NYCHA population, almost 600,000 people, are

exposed to this and to future pandemics. Similarly, hundreds of thousands of other New Yorkers are living in illegal units or in substandard conditions. We need to increase housing code enforcement, license landlords, and protect our most vulnerable neighbors.

In closing, the pandemic has been a cruel teacher, but we need to learn its lessons. Housing is a human right, and we are all in this together.

A Resource for Clients with Small Claims-Sized Problems

By Russ Haven, Esq., General Counsel, NYPIRG

Most attorneys will never set foot in small claims court. Although lawyers are not barred from practice there, the economics (\$10,000 max in NYC; \$3-5k elsewhere) rarely works out for lawyers or clients.

What can you do for those you won't represent? A good resource is the New York Public Interest Research Group's (NYPIRG's) Small Claims Court Action Centers. The Action Centers help New Yorkers resolve consumer disputes and navigate the small claims courts. Lay counselors – primarily undergraduate students and interns – offer information, assistance and counseling free-of-charge to all comers, but don't provide legal advice or courtroom representation. Please keep the Action Center number handy [1-800 566-5020] and check out a description of our services and some basics on using the small claims courts: www.nypirg.org/sccac.

After more than 80 years, the small claims courts remain an important forum for the tens of thousands of New Yorkers who file cases in this “do-it-yourself” court to recover money for withheld security deposits, property damage, unpaid wages and fees, botched contractor jobs, and myriad

other civil claims.

Promoted during the Depression by Gov. Herbert Lehman as a place to dispense “poor man's justice” and help clear up congestion in the civil courts, the state's first small claims court started hearing cases in September 1934.

With a filing fee of \$1.25 and a jurisdictional limit of \$50, by 1936 the “People's Court” heard almost 30,000 cases. The Legislature would go on to add small claims parts to the other civil courts, expanding small claims court access across the state. Over time, the dollar limits were increased, evening sessions were required, and provisions to help collect judgments were added.

In 2021, you can sue for \$10,000 in New York City's small claims courts; \$5,000 in Long Island's District Courts and in city courts outside the Big Apple; and \$3,000 in the town and village Justice Courts (where justices need not be attorneys). Service is done by mail, the rules of evidence are relaxed, and depending on the court, mediation and arbitration are available. Corporations are barred, but can use the Commercial Claims Courts, a small claims doppelganger for businesses.

Since lawyers don't generally practice in small claims and judges have

wide latitude to “do substantial justice between the parties,” appeals are disfavored and rare. The limited-remedy menu (money judgments) and small dollar amounts at stake don't grab headlines. As a result, the Peoples' Courts don't get much attention. This is not to say that the cases can't be complex. Moreover, the stakes are high on a personal level, and the amounts claimed are enormously significant for the parties, including the many lower and fixed income New Yorkers who use the courts.

The small claims court laws should be modernized and the courts deserve more resources. But they continue to meet the goals of being an inexpensive, fast, streamlined place for New Yorkers to seek justice without the help or cost of a lawyer.

Please consider referring prospective clients to the NYPIRG hotline when your office is not the right fit for their legal problem and our Action Centers may be of help.

NYPIRG Small Claims Court Action Centers: 1-800 566-5020.



NEW YORK STATE BAR ASSOCIATION
PRO BONO DEPARTMENT

One Elk Street, Albany, New York 12207-1002

ADDRESS SERVICE REQUESTED

Do You Have a Story to Share...

- **Have you worked on or do you know of a special pro bono project?**
- **Has a pro bono case made a difference in the lives of others?**
- **Has an individual attorney or firm gone above and beyond to provide pro bono assistance?**

We invite you to submit articles showcasing excellence in pro bono service for upcoming editions of the Pro Bono Newsletter. For more information, go to www.nysba.org/probono.

