

PRO BONO PUBLICO

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LAWYER MAKES HOUSE CALLS

By Brian Katkin
Legal Times

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John Graves is waiting by the door of his studio apartment when attorney **Vanessa NesSmith** arrives.

NesSmith sits down on the bed, the best place from which to share documents with Graves. NesSmith is there to help Graves, 88, prepare a power of attorney and a will. But first she has to get him to sign the authorization for representation.

“The reason for this form is that we’d like to make it real clear that what we’re helping you with is your will and powers of attorney because we could get in trouble ...,” NesSmith starts. Graves interrupts – loudly.

“PYA, it’s called – protecting your ass!” he says.

“Right, she answers. Then she goes back to her explanation.

But it isn’t long before Graves, a World War II veteran wearing a worn-out infantry division hat, changes the topic. He starts telling stories about a reunion with a Ger-

man POW he met during the war, the time he dated a general’s daughter, and his famous rum cakes. (He says there’s roughly a pint of rum in them.)

Nonetheless, by the time she leaves nearly three hours later, NesSmith has managed to draft a power of attorney to send to his nephew and gathered information to write up his will.

The length of the visit wasn’t surprising. She says her clients are often lonely and eager to talk to someone.

NesSmith is the sole full-time attorney for **Legal Counsel for the Elderly’s Homebound Elderly Project**, otherwise known as Project HELP. The program reaches out to homebound senior citizens in the District who can’t afford lawyers and advises them on wills, powers of attorney, and other legal matters.

Long-Term Needs

Project HELP, which began in April 2007, is an extension of Legal Counsel for the Elderly’s basic work. The group offers a range of legal services to seniors age 60 and over who have an income of less than 200 percent of the federal poverty guideline. It has 16 lawyers on staff, including NesSmith, and works with private practitioners

(House Calls, continued on page 2)

WilmerHale Associate Assigned to LCE for Six Months Under Pickering Fellowship

By Sheryl Miller
Staff Attorney-Pro Bono Project
Legal Counsel for the Elderly



John H. Pickering

Long-time LCE supporter, John H. Pickering, a founding partner of Wilmer Cutler Pickering Hale and Dorr, inspired generations of lawyers with his altruism and commitment to public interest law. He passed away in 2005 while serving as Chairperson of Legal Counsel for the Elderly’s Board of Directors. In tribute to his steadfast devotion to the District’s legal services community, WilmerHale established a public interest fellowship bearing his name. The fellowship enables two associate attorneys per year to devote six months to working at a legal services organization, while remaining employees of WilmerHale.



Bronwen Blass

Legal Counsel for the Elderly was selected as one of two host organizations in Washington, D.C. to receive Pickering fellows. We have been very fortunate to have Bronwen Blass, a fifth year litigation associate at WilmerHale, with us since April of 2008. During her six-month

(WilmerHale, continued on page 4)

(House Calls, continued from page 1)
doing pro bono.

Rawle Andrews, the group’s managing attorney, says that before Project HELP, it was not uncommon for the group to make house calls. But those efforts weren’t always very effective, says Andrews, because the rotating roster of pro bono lawyers had trouble forming lasting attorney-client relationships.

Adding NesSmith makes the approach more consistent, he says, though the program is still looking for lawyers willing to make a long-term pro bono commitment. So far, law firms have been slow to volunteer, though NesSmith says she thinks there’s interest and notes the program is still new.

Project HELP is funded by a D.C. Council grant of about \$80,000, made through the D.C. Bar Foundation. So far, the program has handled more than 120 house visits for more than 100 clients. Andrews says the project receives leads on those who need services from the courts, hospitals and other health care providers, and churches.

Jan May, the executive officer of **Legal Counsel for the Elderly**, says he’s pleased with the program, but wants to make sure it is indeed serving the right people. “We’re still feeling our way as to what kind of outreach we are looking to do,” he says.

The group has been trying to hold informational meetings with other organizations that deal with the elderly and reach out through hospitals and doctors, but sometimes the people referred are actually able to leave the house for appointments or have incomes that are too high. As May notes: “If we get referrals from medical offices about people who are able to come into the office, then we waste precious re-

sources going to visit their homes.

NesSmith says she hasn’t yet visited a client who could have come into the group’s office. Though she says she shares May’s concern.

Grateful and Cranky

For now, NesSmith, who left Skadden, Arps, Slate, Meagher & Flom as an associate to join Project HELP this past April, makes all of the house visits and directs outreach. Without much help from pro bono lawyers, she relies heavily on Legal Counsel for the Elderly’s interns to serve as witnesses to legal documents and assist her on the visits.

That’s not to say that no one has volunteered. NesSmith has been joined by a Chadbourne & Parke associate and by Monica Gibson-Moore, a paralegal with Venable.

Gibson-Moore says the project “provides exactly what the city so desperately needs” – a need, she notes, she has also observed in visiting nursing homes through her church. She has notarized a will and a power of attorney for a Project HELP client.

Certainly, NesSmith’s clients are grateful for help with legal matters that have weighed on their minds.

Take Betsy Stanford, 104, who lives in a row house with a grandnephew in Northeast Washington. She ran the lost-and-found at the Madison Hotel before retiring more than 30 years ago. Now, she is bedridden and suffers from high blood pressure. She admits to being cranky.

“I don’t know why my children put up with me,” she says, referring to her five grandnieces and grandnephews.

Stanford says she needed her will updated but had mixed feelings about the pro bono attorneys who worked on it in the past. One wouldn’t do what she asked, she recalls, adding that it had something to do with her house.

I want my lawyer to make my will the way I want it,” she insists. “It’s my property. I’ll do with it what I want to do with it.”

Like so many of NesSmith’s other clients, Stanford obviously enjoys speaking her mind. “I can talk and defend myself. I just can’t walk around anywhere I want to go,” she says.



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**LIKE IT OR NOT,
GRANDMOTHER IS
ENTITLED TO HER
'SECRET ADVISER'**

By Benny L. Kass, Esq.
Kass, Mitek & Kass, PLLC
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Washington Post
November 10, 2007



Q Our Grandmother is 90 years old and lives alone in her house. The property is free and clear of any mortgage, we thought, and is worth about \$300,000. We believe she is financially well off.

However, a recent credit report indicates that she has a partner in a mortgage. This secret partner has been an "adviser" to her for some years. When we asked about this, our grandmother adamantly refused to discuss it but reaffirmed her trust in the adviser.

Our family is concerned. When she dies, we suspect that there will be financial consequences and that the house – and perhaps her entire estate – will be tied up in lengthy and expensive litigation. What should we do?

A The house belongs to your grandmother. Deciding how to dispose of it during her lifetime or upon her death is her right. It is not uncommon for elderly people to seek companions for comfort and safety and to want to give part of their estate to them.

It is also not uncommon for relatives to be concerned. Sometimes the motives are valid, and sometimes they are not. Why did

you obtain a credit report? Did you have permission to do so?

I recognize that you have a dilemma. On the one hand, you respect your grandmother's right to have an adviser and understand that if she wants to give her house to him, that's her decision. But on the other hand, you are concerned that this "secret" person may be taking advantage of a 90-year-old woman.

Did your grandmother prepare a power of attorney? That would be the first place to start your investigation. It is important for everyone – especially elderly people – to have such a legal document. One never knows when disaster may happen.

There are two ways these documents are drafted. One kind takes effect immediately on signing. The other takes effect only after a doctor certifies that the person no longer has the legal capacity to make valid decisions.

If you cannot locate any such document, find out whether your grandmother has a lawyer. While the lawyer cannot ethically provide you with any personal or financial information, he or she may want to investigate to make sure that the client is not being swindled.

If there is no lawyer, do you think you can persuade your grandmother to retain legal counsel to review her situation? She needs at least four legal documents: a will; a durable power of attorney; a durable power of attorney for health; and a living will, also known as an advanced health care directive. You have the right to contact a lawyer and to take your grandmother to the lawyer's office. However, if the lawyer is to represent your grandmother, you should not be present while the two of them are discussing these matters.

You should also obtain a title re-

port on the property. That will tell you whose name is on the title and whether there is a mortgage. You should not rely on credit reports. Sometimes they contain mistakes.

Is your grandmother able to handle her own affairs? If not, you could try to have a guardian and a conservator appointed. That would require filing a petition with the appropriate court in the county where your grandmother lives.

But judges and legislators know that in many such cases, the person petitioning the court is not interested in the welfare of the proposed ward, but rather is trying to take advantage of a wealthy elderly citizen. Over the years, there have been many such scandals.

Accordingly, most guardianship and conservatorship laws require that the court carefully investigate each case, to be absolutely sure that the ward really needs assistance and that the petitioner is properly motivated and capable of providing such assistance.

The court would appoint a lawyer to represent your grandmother and a medical professional to determine her mental capacity. These court-appointed parties would investigate the situation, talk directly to proposed ward (your grandmother), and also have the authority to discuss medical and money issues with doctors and financial institutions and obtain information from them. After the court receives the reports of these investigations, the judge would hold a hearing to determine whether to grant the petition.

Unless your grandmother is physically unable to do so, she would be required to attend the court hearing. If the judge were satisfied that your grandmother does not have the capacity to make rational decisions,

('Secret Adviser,' continued on page 4)

(‘Secret Adviser’, continued from page 3)

an order would be issued making the appointments.

Incapacity is defined in the District this way: “An adult whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that he or she lacks the capacity to manage all or some of his or her financial resources or to meet all or some essential requirements of his or her physical health.”

The fact that one has a mental illness does not automatically mean that the court will appoint a conservator or a guardian. Unless the judge determines that the proposed ward is unable to provide for her personal and financial needs, the petition will be denied.

A guardian is charged with handling all of the personal needs of the ward, while a conservator deals with the financial issues. If you are appointed conservator, you will stand in the shoes of your grandmother, and will have the authority to seek court approval to nullify any arrangements that you believe are not in the best interests of your ward.

If the conservator finds – after an investigation – that the secret adviser has been stealing money from your grandmother or has somehow persuaded her to sign (or has forged) a mortgage in favor of the adviser, the matter will be presented to the court. If the judge agrees, the mortgage can be expunged from the land records.

But the court might not appoint a family member to be the conservator. Often, judges appoint independent lawyers to serve in that capacity. Legal fees can be high, which can reduce the value of your grandmother’s estate.

And if your grandmother is com-

petent and clearly demonstrates to the judge that she does not want or need the protection of a guardian or a conservator, the judge will deny the petition.

If you pursue all these avenues, you should satisfy your curiosity and your concerns. Clearly, if there has been fraud or mismanagement of funds or property, there are legal options.

But if at the end you learn that your grandmother really likes that secret friend of hers and understands that she may have given him money – or even her house – there is nothing more that you can do other than to say, “Well, that’s Grandma.”

* * * *

(Wilmer Hale, continued from page 1)

fellowship, Ms. Blass has been working exclusively on LCE matters, providing direct legal representation to LCE’s low-income elderly clients, and her services are all being donated *pro bono* by WilmerHale.

Under the direction of LCE’s Supervisory Legal Aid Attorney Jennifer Berger, Ms. Blass focuses her practice on landlord/tenant matters. Ms. Blass represents older D.C. residents in proceedings before the D.C. Superior Court’s Landlord & Tenant Branch and the D.C. Superior Court’s Civil Division. She also represents low-income D.C. seniors before the District of Columbia’s Office of Administrative Hearings and has settled other matters outside of court through mediations and negotiations. At a recent mediation over a tenant petition regarding an illegal rent increase, Ms. Blass persuaded a housing provider to roll back the past year and a half of illegal rent increases and convinced the housing provider to make needed repairs to her client’s apartment.

In her short tenure at LCE, Ms.

Blass has attained impressive legal victories on behalf of the vulnerable and disenfranchised in our city. For instance, Ms. Blass assisted a blind, 88 year-old client in avoiding eviction after a police raid on her apartment, by helping her obtain a transfer voucher to move into another apartment, and then assisting her with a payment plan for the security deposit for the new apartment. In another instance, Ms. Blass succeeded in vacating a default judgment entered eight months earlier against a subsidized tenant who had been ill and unrepresented at the time the judgment was entered. Recently, she also argued and obtained a preliminary injunction on behalf of a 79 year-old client who had been seeking to have her landlord make repairs to her apartment for over two years after it was damaged by flooding.

Ms. Blass has been astounded by enormous need for free legal representation for landlord and tenant matters among D.C.’s low-income elderly. Ms. Blass remarks:

It’s so sad to see so many individuals who have worked hard all their lives, often taking care of others, to now have their homes in jeopardy. Several of my clients fell behind on rent after diverting funds from their limited incomes to pay for medical care and/or funeral expenses for a spouse or other family member. When all your income comes from a small social security payment and you’re living month to month, it’s terribly easy to fall behind quite quickly.

In addition to defending clients in suits for nonpayment of rent, Ms. Blass has represented clients in enforcing D.C. rent control provisions, in defending against notice to quit cases, and in seeking reasonable ac-

(Wilmer Hale, continued on page 6)

Making a Difference in the District: Special D.C. Bar Foundation Matching Funds Challenge Grant Means Your Donation to LCE Will Be DOUBLED

By Aaron Knight
Development Director
Legal Counsel for the Elderly

Frank M., a longtime D.C. resident in his mid-80's, recently wrote us a thank you letter that began, *"The Legal Counsel for the Elderly has literally saved my life."*

Frank's story is quite similar to many of LCE's clients. He is a low-income senior who worked hard at jobs with modest pay throughout his life. Now, he is trying to get by on a limited, fixed Social Security income. A few months ago, Frank came face-to-face with an unexpected crisis. He was almost evicted from his home because he fell behind in paying his rapidly escalating rent. Frank explained, *"I was on the verge of panic when almost accidentally, but fortunately, I was directed to the Legal Counsel for the Elderly."*

Each year, hundreds of vulnerable D.C. seniors—people like Frank—seek LCE's assistance to prevent the painful and traumatic prospects of eviction and homelessness. *"They [LCE] helped me in dealing with my landlord, whose rental increases grew faster than my Social Security payments,"* Frank proclaimed.

And now, thanks to a very generous **\$25,000 challenge grant from the D.C. Bar Foundation (DCBF)**, LCE has an opportunity to double the impact of all new donations and

double the number of attorneys working to solve these kinds of affordable housing problems at LCE. You are invited to consider making a special gift to LCE that will be applied toward this challenge grant. The D.C. Bar Foundation will match, dollar-for-dollar, all new gifts as well as gifts that exceed 2007 contributions.

This special "matching challenge" from the DCBF will enable LCE to expand its legal advocacy services for low-income seniors throughout the District who confront eviction, homelessness, and harassment from their landlords. In recent months, we all have seen the extensive *Washington Post* coverage of some D.C. landlords' failure to remedy major housing code violations in deteriorating low and moderate income housing in the District. Our city's vulnerable seniors need LCE's help now more than ever. As you can imagine, the number of people seeking our help is climbing rapidly because seniors with limited incomes cannot make ends meet in this unstable economy.

This matching gift challenge is so timely because, right now, all charitable gifts go twice as far. Contributing is fast and easy @ www.aarp.org/lcedonate or you can mail your donation to LCE at 601 E Street, NW, Washington, DC 20049. The sentiments in Frank's letter are typical of LCE's clients:

"I was able to avoid a humbling eviction and real spiritual and physical damage. With help from Jennifer and Karen and their qualifications, [sic.] background and working structure within the Legal Counsel for the Elderly, my whole life has taken a new good turn for the better. I hesitate to think what my present life would be without that help."

Thankfully, Frank's story has a happy ending. **LCE's Supervisory Legal Aid Attorney Jennifer Berger** succeeded in her negotiations with the landlord. **LCE's Licensed Clinical Social Worker Karen Currie** assisted Frank in finding a new apartment with a much lower monthly rent. They both helped him make this transition. But we need to do more. With so many vulnerable seniors in our city facing similar difficulties, LCE has a surge of new cases like Frank's. That is why we are inviting our *pro bono* partners—both individual attorneys and area law firms—**to join us in our efforts to expand our capacity to handle this vital work here in our community.**

Since launching the DCBF's challenge grant on July 1, 2008, LCE already has raised over \$15,000 toward the \$25,000 match. We are now within reach of our goal, which will enable LCE to bring on board a new, full-time staff attorney to provide direct civil legal services to vulnerable, low-income elderly residents of D.C. and serve as a *de facto* tenant "ombudsman" at public and subsidized housing for seniors. This special initiative brings legal services directly to those in our community who would not otherwise have access to justice, with particular emphasis on serving those in Wards 1, 5, 7 and 8.

With your help, LCE can continue to ***"make a difference in the District"*** by meeting our monetary goal. Whether your gift is \$100 or \$1,000, every gift will make a difference in the lives of the seniors we serve. If you have any questions, or if you would like to add your name—and your firm's name—to our growing roster of supporters, please contact LCE's Director of Development Aaron Knight at 202-434-2107.





Legal Counsel for the Elderly Publication Wins APEX Award

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The AARP Legal Counsel for the Elderly (LCE) newsletter, *Pro Bono Publico*, won an APEX Award for Excellence in the category "Printed Newsletter." It is the publication's ninth consecutive APEX award.

Pro Bono Publico highlights achievements and legal victories of LCE's volunteer lawyers working in private practice and the government, who agree to handle cases for low-income, older residents living in the District of Columbia.

Shirley Williams, Sheryl Miller and Shawna Banks produce the newsletter and are staff of LCE's Volunteer Lawyers Project.

See the latest issue of *Pro Bono Publico* (pdf). E-mail Shirley Williams at smwilliams@aarp.org, if you'd like an electronic or hard copy of the newsletter, or have any questions.

Legal Counsel for the Elderly provides free legal services and advocacy for D.C. residents age 60 and older. LCE serves as the city's long-term-care ombudsman and operates initiatives such as training non-lawyers to help older residents with legal matters. It is affiliated with AARP and is supported by AARP and the District of Columbia Office on Aging, the Administration on Aging, the District of Columbia Bar Foundation and private contributions.

The APEX annual awards program recognizes excellence in publications work by professional communicators. APEX Awards are based on excellence. This year's program had close to 4,500 entries, which made the competition exceptionally intense.

IMPACT PROJECT UPDATE

Mayer Brown Performs Stellar Legal Research on Cutting Edge Topics

By Sheryl Miller, Esq.
LCE Staff Attorney



Under the guidance of **Adrian L. Steel, Jr.**, partner with **Mayer Brown**, the firm agreed to undertake several pro bono research projects this summer on cutting-edge legal topics for Legal Counsel for the Elderly. Summer associate **Steve Art** produced a comprehensive memorandum of law regarding due process standards for *pro se* (unrepresented) tenants in the DC Office of Administrative Hearings. It is an unfortunate reality that many low-income seniors appear unrepresented in DC Superior Court's Landlord/Tenant Branch and at the Office of Administrative Hearings. The extensive legal research that Mayer Brown provided LCE will enable our advocates to identify legally-mandated due process rights afforded to unrepresented tenants.

Summer associate **Kathleen Connery** also furnished LCE an analysis of private landlords' obligations to make modifications for disabled tenants pursuant to the Federal Fair Housing Act, the Americans with Disabilities Act and the Rehabilitation Act. This crucial information will enable LCE's attorneys to effectively advocate for disabled seniors' rights in the District of Columbia.

Adrian Steel and summer associate **Benjamin Maro** wrote a memorandum of law regarding legal damages available to tenants in the District of Columbia resulting from harmful exposure to toxins and other hazardous materials. In recent years, LCE has noticed an increase in clients' complaints about exposure to harmful substances in their apartment unit, such as mold and fumes.

We thank **Adrian Steel** and the **Mayer Brown** summer associates for their pro bono legal research projects.

(*Wilmer Hale, continued from page 4*)

commodations for her clients. Ms. Blass reports that the fellowship has been an extraordinary and rewarding professional experience for her.

I've really enjoyed the direct legal services work and have found landlord and tenant matters to be excellent cases to handle on a *pro bono* basis. The law governing landlord and tenant work is manageable and the cases resolve much more quickly than the cases one usually handles at large law firms. Enabling seniors to remain in their homes or to obtain alternative safe and affordable housing also has been incredibly gratifying to me. You're able to improve the quality of people's lives in such a personal way.

We send our heartfelt thanks to Bronwen Blass for her dedication and commitment to Legal Counsel for the Elderly over the past several months. We are also very grateful to WilmerHale for generously "loaning" us one of the firm's associates for six months. LCE (and our older clients) greatly appreciate Ms. Blass's work and we look forward to continuing to work with her through LCE's Pro Bono Project.



From the Docket



An Unbelievable Return to the “Miracle House”

By Thomas M. Haederle
Director of Public Affairs
The Catholic University of America
Columbus School of Law
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of the author
[redactions added by Pro Bono Publico]

Christmas of 2004 is not recalled by Ms. P. with a warm, nostalgic holiday glow. On Dec. 23 of that year, a fire broke out that caused severe damage to her southeast Washington, D.C. home of 40 years and sent her to the hospital for an extended stay.

Upon her discharge and still recovering from her injuries, Ms. P. went to live with her daughter in Maryland. She also hired a contractor to repair the substantial damage to her home. The contractor performed some of the work, but left the job incomplete, the work substandard and out of compliance with safe building codes. The client’s home was uninhabitable. Her insurance company stopped covering the dwelling because the repairs had not been completed.

Ms. P.’s story might have ended there, a depressing mix of bad luck, shady contracting practices and in-different bureaucracy.

Except, it didn’t. Salvation came in the form of Catholic University’s Columbus Community Legal Services and an exceptionally dedicated third-year general practice clinic student, Melody Eaton. [Legal Counsel for the Elderly’s Pro-

ject referred this case to Catholic University.]

Eaton took on Ms. P.’s case and filed a lawsuit against the contractor. In the best CCLS tradition, she was a tireless, creative and passionate advocate for her client.

In the course of preparing for trial, Eaton did superb work, according to Clinical Assistant Professor Faith Mullen, who supervised the process. Eaton drafted pleadings, researched the law, prepared for a deposition and presented the case to the court. Her efforts were rewarded when she obtained a judgment against the contractor in the amount of \$139,000 and \$17,000 in attorney fees. She successfully argued that the contractor’s conduct was fraudulent, thereby making it harder for the contractor to discharge the judgment in bankruptcy.

But winning the judgment did not solve all of Ms. P.’s troubles. Two major problems remained: Ms. P. was entering her third year of homelessness, and the property was uninsured and therefore at risk of total loss.

So, Eaton-the-attorney moved into a second phase: Eaton-the-assistance-coordinator. Working the phones and leaving no stone unturned in the search for local community service grants and other sources of help in the quest to return Ms. P. to her beloved home, Eaton succeeded in pulling together a coalition of volunteers and nonprofit organizations. They included Yachad, the Jewish Non-Profit for Affordable Housing and Community Development; Eichberg Construction; and the National Fair Housing Alliance.

The pieces came together as if by a miracle, leading the client’s supporters to dub her renovated address the “Miracle House.” Through Yachad’s Hard Hats and Helping Hands Home Repair Program, the nonprofit arranged for Eichberg Construction to finish the home and make it livable again. Within two weeks, the company and its subcontractors were able to finish all the repairs.

On May 8, 2008, after more than three years without a house to call her own, Ms. P. returned to her home on the aptly named Good Hope Road. With her supporters, friends and family looking on, Ms. P. cut a ceremonial ribbon and stepped across the threshold to behold her Miracle House for the first time.

“This is beautiful! Oh my goodness, it doesn’t look like the same place,” she marveled as she took in the sparkling new kitchen appliances, new windows, new carpets and fresh paint.

Moving in awe from room to room, Ms. P. shed tears as she absorbed the result of all the efforts made on her behalf.

“This is a great story of resourcefulness, diligence and problem solving,” said Faith Mullen. “Throughout this case, Melody Eaton never lost sight of the client’s dearest wish — to return to her home of 40 years. Her advocacy was extraordinary.”

Eaton’s dogged pursuit of justice for Ms. P. prompted Mullen to nominate her for the Clinical Legal Education Association Outstanding Student award, which was presented to Eaton on May 8th.



From the Docket - Continued



ATTORNEY FAVORABLY RESOLVES AUTOMOBILE CASE

Legal Counsel for the Elderly interviewed this D.C. senior with an automobile sales contract dispute. The client and her son had signed an agreement to purchase a car at an area dealership, financing the purchase through a Retail Installment Contract. When payments could not be made, the car was repossessed and sold. The finance company sued this client and her son in D.C. Superior Court for a deficiency balance in excess of \$9,000.



The **Pro Bono Project** referred this matter to attorney **Mark Steinbach of O'Toole, Rothwell, Nassau & Steinbach**. During Mr. Steinbach's initial conference with the client, it became apparent she had been tricked into signing the purchase and finance documents. She had informed the salesman emphatically that she would not and could not co-sign for a car because she would be unable to afford it if her son stopped paying. The salesman told her that because of her low income, she did not qualify as a co-signer, but the dealership needed her signature anyway as a "second" signer. Client then signed the documents, having been misled as to the significance of her signature.

Mr. Steinbach filed an answer and discovery responses, asserting the misrepresentation defense, along with the dealer's alleged inflation of the client's income, and argued the contract was unconscion-

able. It was clear from the financial application submitted to the dealer that the parties' could not possibly afford the car. The son was unemployed; the client's sole source of funds was a modest Social Security check. Through negotiations with the plaintiff finance company, the case against the mother who co-signed was dismissed with prejudice.

We thank **Mark Steinbach of O'Toole, Rothwell, Nassau & Steinbach** for his excellent pro bono work on this matter.

JACKSON & CAMPBELL ATTORNEY SUCCESS- FULLY RESOLVES SUBROGATION CLAIM

An older, lower-income gentleman was involved in a car accident in December 2004 in Washington, DC. The driver of the other vehicle, as well as three passengers in the car, all sustained injuries. Subsequently, they sought medical care for these injuries. The insurance company for the driver of the other vehicle paid the resulting medical bills for the injured parties as well as costs incurred in repairing the damaged vehicle.

The insurance company then asserted a subrogation claim against Legal Counsel for the Elderly's older client in an attempt to recoup the money it had expended as a result of the accident. In December of 2007, the insurance company filed a lawsuit against the client in DC Superior Court, alleging that the client owed the insurer

a significant sum of money.

Although the client had automobile insurance, his insurance company declined to cover the claim on the ground that the client was an excluded driver under the policy. Facing the prospect of a large judgment, the client turned to **Legal Counsel for the Elderly's Pro Bono Project** for help. The Pro Bono Project referred the matter to **Christopher Ferragamo of Jackson & Campbell, P.C.**

After discussing the case with his client, Mr. Ferragamo discovered that coverage potentially existed under a separate insurance policy available to the client. Mr. Ferragamo reviewed the relevant insurance documents and tendered the claim to the second insurance company. Pursuing the claim for coverage vigorously, he contacted the insurance company and sent its representative additional correspondence and related information to support the client's claim for coverage.

Ultimately, the insurance carrier acknowledged that coverage existed for the claim and agreed to defend the client in the pending litigation. Mr. Ferragamo monitored the litigation and worked with defense counsel in their efforts to settle the claim. The parties ultimately reached a settlement and the case against our client was dismissed, with prejudice, in June 2008. Thanks to Mr. Ferragamo's intervention, the parties settled the case for about \$70,000, which was funded entirely by the client's separate insurance company. **Legal Counsel for the Elderly (and his very relieved client) thank Mr. Ferragamo for his extraordinary efforts in this pro bono matter.**

**CASES CLOSED
BY PRO BONO ATTORNEYS:
January, 2008 - June, 2008****LAW FIRMS****CROWELL & MORING**

William Flanagan offered to represent an elderly client with a pension matter.

DEWEY & LEBOEUF

Sonia Medonca & Ahren Tryon enabled a low-income senior to receive Supplemental Security Income (SSI) benefits.

DLA PIPER

Christia Pritts handled her client's income tax problem.

JACKSON & CAMPBELL

Christopher Ferragamo successfully defended an elderly couple in a lawsuit, which the judge dismissed with prejudice.

JORDEN BURT

Kristen Tremble favorably resolved an elderly client's insurance problem.

MORRISON & FOERSTER

Barbara Zanotti advocated for her elderly client in landlord/tenant court.

O'TOOLE, ROTHWELL, NASSAU & STEINBACH

Mark Steinbach represented an elderly client in D.C. Superior Court in a lawsuit over a defective automobile, convincing the judge to dismiss the case.

PAUL HASTINGS

Matthew Dunne negotiated with his client's credit card company to reduce the unreasonably high interest rate on the client's accruing debt.

Roger Simon offered to assist an elderly client with a contract dispute.

SAUL EWING

William Mogel successfully represented an elderly client with a landlord/tenant matter, which resulted in the client's return to her apartment.

SUTHERLAND ASBILL & BRENNAN

Michael Koffler offered to represent an older client with a worker's compensation case.

WILLKIE FARR & GALLAGHER

Lisa Richard prepared a revised deed to her client's beloved home.

THE WILSON FIRM

Albert Wilson successfully settled an older client's dispute with a unscrupulous home repair contractor to ensure that the contractor remedied the defects to his client's roof. In a second case, Mr. Wilson filed a Chapter 7 bankruptcy petition on behalf of his client.

LAW SCHOOLS**AMERICAN UNIVERSITY, SCHOOL OF LAW**

David Chavkin and his law students prepared a quit-claim deed on behalf of their pro bono client.

LaShanda Taylor represented a client in D.C. Superior Court in an action for a divorce. In a second case, Ms. Taylor represented an aggrieved client in small claims court.

Richard Ugelow represented a needy client in a Chapter 7 bankruptcy case.

CATHOLIC UNIVERSITY, ADVOCACY FOR THE ELDERLY LEGAL CLINIC

Michael McGonnigal offered to assist an elderly client with a Social Security matter. In a second case, Mr. McGonnigal and his law students handled their client's Chapter 7 bankruptcy case.

Faith Mullen and her law students represented a client with a home improvement dispute. They secured a \$17,324.87 award, plus \$326 in costs. In a second case, Ms. Mullen and her law students handled a low-income senior's contract case, recovering \$10,000 for their client.

SOLE PRACTITIONERS

Mozart Chesson represented a disenfranchised senior in a disability benefits appeal, securing his client a lump sum disability payment from 2002-2005.

Bill Ehrlich filed a Chapter 7 bankruptcy petition on behalf of his pro bono client.

Meredith Graves offered to help a D.C. grandmother apply for benefits under the D.C. grandparents' subsidy.

Edward Hughes prepared a Chapter 7 bankruptcy petition for his client.

Thomas Willcox represented an older client in a home improvement case involving alleged violations of the D.C. Consumer Protections & Procedures Act. The case settled for \$43,290. In a second pro bono case, he represented a senior victimized by an unscrupulous home improvement contractor. The D.C. Superior Court ruled in his client's favor. In a third case, he handled a client's Chapter 7 bankruptcy filing.



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Pro Bono Wills & Powers of Attorney



The following members of AARP Legal Counsel for the Elderly's pro bono panel selflessly volunteered their services to prepare **Last Will & Testaments** and/or **Financial and Health Care Powers of Attorney** for low-income, older D.C. residents.

Legal Counsel for the Elderly greatly appreciates its dedicated volunteer attorneys. Without the altruism of our pro bono panel, scores of disenfranchised seniors would be unable to ensure their affairs were handled according to their express wishes specified in their wills.

Advance directives provide our low-income clients immeasurable "peace of mind" that a trusted family member or close friend will handle their finances and/or make critical health decisions for them in the event of incapacity. Older persons lacking access to pro bono attorneys to prepare free financial and health care powers of attorney could be subjected to costly, and often right-depriving, legal guardianship or conservatorship proceedings, if they should become legally incompetent.

Thanks to our pro bono panel, however, LCE's Pro Bono Project has the capacity to provide competent legal representation in advance directives cases. Congratulations and a hearty "thank you" to all of the attorneys and law firms listed below for their exemplary pro bono work.

Richard Aguglia, Hunton & Williams
Abrielle Anderson
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Rachel Burke, Sutherland, Asbill & Brennan
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