
NEWSLETTER

ProBonoNY

AN ACCESS TO JUSTICE PARTNERSHIP FOR THE POOR

For Local Action Committees

SPONSORED BY THE NEW YORK STATE UNIFIED COURT SYSTEM, OFFICE OF THE HONORABLE JUANITA BING NEWTON, DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES
Edited by John Ritchie, Esq. • 100 Centre Street, Room 549, New York, New York 10013 • Tel. 646-386-4712 • Fax 212-748-5085 • jritchie@courts.state.ny.us

Volume 3, Number 1 January-February 2009

From the Fifth District Committee . . .

COLLABORATION IN CENTRAL NEW YORK RESULTS IN EXPANDED PRO BONO BANKRUPTCY ASSISTANCE

By Jim Williams

Since January of 2008, many low-income people in Central New York in need of pro bono bankruptcy help have been able to access the assistance they need through a collaboration coordinated by the Fifth Judicial District Pro Bono Action Now Committee. The initiative brings together efforts of the Syracuse Bankruptcy Court, the Central New York Bankruptcy Bar Association (CNYBBA), the Federal Court Bar Association of the Northern District of New York, volunteer lawyers, Legal Services of Central New York, and the Legal Aid Society of Mid-New York. The initiative has also engaged the help of Syracuse University Law School Professor Gregory Germain and over 30 law student volunteers.

The project began with a free CLE program aimed at recruiting experienced bankruptcy lawyers, initiated by Syracuse-based Bankruptcy Judge Margaret Cangilos-Ruiz. "The training program was designed to fill an urgent need for bankruptcy-related advice for those who cannot afford to pay for counsel in Central New York," said Judge Cangilos-Ruiz. Compared to other Districts as well as other areas within the Northern District of New York, the court noted that there was little pro bono representation in bankruptcy proceedings. It was evident to the court that there were needs that were not being addressed.

Given mandatory CLE requirements in New York, the training program was designed to provide CLE credit free of charge to the attorneys in attendance, in exchange for their willingness to accept some cases on a pro bono basis. "With the

(Continued on page 2.)

BANKRUPTCY PROJECT IN THE NINTH DISTRICT

By Carol Neiditch

A season of education is underway, for both attorneys and clients. In the current economic climate, a large number of people are looking to file a Chapter 7 bankruptcy. Since we do not have enough *pro bono* attorneys to handle all our requests on a case-by-case basis, we have instituted a series of Pro Se Bankruptcy clinics in Dutchess County. This program is designed to guide the client through the process, step by step. A volunteer attorney presents a two-hour orientation, along with hands-on instruction on how to fill out the forty-page petition. An important component of this presentation is a discussion of whether this is an appropriate course of action for each individual. Many of our clients have only protected income, such as Social Security Disability, and may not need a Chapter 7 filing.

After the initial session, it is then up to the client to make an appointment for credit counseling, which is a necessary step before filing the petition. A list of agencies that handle this is provided. Clients must fill out the petition. Once these steps are completed, the client is eligible to meet with a volunteer attorney to review the petition and ask questions. The client is then able to file the petition with the Bankruptcy Court, and is advised that there will be a meeting of creditors of which the petitioner will be notified. In order to obtain a discharge, the debtor needs to complete a personal financial management course. Usually, it is then simply a matter of time until the bankruptcy proceeding is completed.

While a somewhat complex process, with the help of our Pro Se Clinics, it is possible for some clients to complete a Chapter 7 bankruptcy on their own. This frees up our limited pool of bankruptcy

(Continued on page 2.)

Fifth District Bankruptcy Project

(Continued from page 1.)

dedicated assistance and participation of the United States Trustee's Office and counsel who have undertaken pro bono representation as part of their regular practice willing to teach the course, together with the court staff, the program was the first of many programs which the court hopes to sponsor in the future," said Judge Cangilos-Ruiz. The CLE provider/sponsor of the program was the CNYBBA. The Northern District Federal Court Bar Association provided funds for the event.

Dawn Simmons-Norris of the CNYBBA said the bar was motivated to co-sponsor the pro bono training by its awareness of the number of debtors without legal representation and the association's ability and willingness to assist these debtors. CNYBBA was also motivated by the success of the pro bono training provided by Capital Region Bankruptcy Bar Association to its members. Using CRBBA's pro bono program as a template, CNYBBA fashioned its own program, which was well-received and successful.

The training resulted in over twenty experienced bankruptcy lawyers stepping forward to agree to take two pro bono cases annually. Attorneys taking cases get malpractice insurance coverage for the cases and pro bono CLE credits. Clients for the program are screened for eligibility through Legal Services of Central New York and the Legal Aid Society of Mid-New York. Volunteer lawyers have also referred clients to the program that they then represent pro bono.

Susan Esce, one of the participating volunteers, has always felt that attorneys should do pro bono work. "While we often find ourselves time-crunched, and money may be short, we have to recognize how truly lucky we are to have become professionals," Esce said. "I believe we should pass along a little of our good fortune. About five years ago, I had reached a point in my practice where I had to decide if I was going to continue practicing and, if so, in what areas of law. I enjoyed bankruptcy practice and often felt a sense of accomplishment working with my clients. I have also gotten a lot of positive feedback from bankruptcy clients over the years who appreciate

(Continued on page 3.)

Ninth District Bankruptcy Project

(Continued from page 1.)

attorneys to help those who for one or another of many reasons are unable to proceed by themselves.

The need for bankruptcy advice and representation is obviously not limited to Dutchess County, and we are planning to expand this program into other counties. On March 19, we will be having a program to train volunteer attorneys in Westchester County on how to present a Pro Se Bankruptcy Clinic.

Other programs on our horizon for this spring also relate to the economic situation. A CLE program on how to be an advocate at Unemployment Benefits hearings is scheduled for March 9 in White Plains, and a CLE program covering frozen bank accounts, creditor harassment, and related issues will be held in Orange County in June.

SEVENTH DISTRICT NEWS

By Linda Kostin

On February 12, plaques honoring the recipients of Volunteer Legal Services Project's William E. McKnight Volunteer Service Award were installed in Rochester's Telesca Center for Justice, the building where the Monroe County Bar Association, VLSP, and other legal service providers are located. The plaques were installed in the public space between VLSP's offices and the bar association's education center. This location will afford the greatest public recognition of the volunteer attorneys' efforts as the bar association regularly holds CLE programs and meetings in its education center, and attorneys and clients coming to VLSP will be able to see them as well.

These plaques were provided by ProBonoNY, on the initiative of the Seventh District Pro Bono Committee, as part of our program to publicize pro bono needs and achievements by pro bono attorneys. We hope the plaques will not only recognize the excellent work that has been done, but also help prompt attorneys to respond to the equally great needs of poor people now and in the future.

(Continued on page 3.)

ProBonoNY Newsletter for Local Action Committees

January-February 2009 Page 3

Fifth District Bankruptcy Project

(Continued from page 2.)

what we are able to do for them. They often express how much relief they feel and that they believe they can now get back on track financially. I have found that bankruptcy pro bono work is not as time consuming as I initially assumed and can be fit into our busy schedules without affecting our bottom line. And, with pro bono work, I find the sense of relief from clients is even greater, since their financial stress overall is greater. Some of the pro bono clients are judgment-proof, but even they feel incredibly harassed by some creditors, so discharging their debt is beneficial to them. My bankruptcy pro bono experience has been a very positive one.”

Professor Gregory Germain teaches bankruptcy law at Syracuse University Law School and was a participant in the January 2008 training. He suggested to me the idea of recruiting and supervising law students to assist in representation. Professor Germain and his thirty volunteers took on ten cases beginning in the fall of 2008. “I was surprised we had so much interest. I was very heartened by it,” Germain said. “It is an opportunity to do something good, and to learn things you normally wouldn’t learn in school. It’s a great experience in a lot of ways—students learn about a new area of law, they’re dealing with a level of society they probably have not dealt with before, they have a chance to see first hand how the court system works.”

I and the Fifth District Pro Bono Committee have been very impressed by the student volunteers. They are doing this on their own time and not getting law school credit. They are also getting the opportunity to learn more about the community in which they live, and where they may work after graduation. We are hoping that this experience will help them see how they can make pro bono a permanent part of their professional lives.

Seventh District

(Continued from page 2.)

The steering committee for the Seventh District’s “Ethics in the Afternoon” program, a four-credit ethics CLE presentation, welcomes the Hon. Juanita Bing Newton as a member. The Hon. Henry J. Scudder, Presiding Justice of the Appellate Division, Fourth Department, will make a presentation on the new Rules of Professional Conduct. Other topics include the following: Ethical Violations Seen in the Fourth Department; Conflicts of Interest; Lawyers Behaving Badly—Dealing with Uncooperative Adversaries; Difficult Judges—Dealing with them Ethically and Effectively; Dealing with Self-represented Parties; Settlement Ethics; Communication, Documentation, and Retention; and Things You Never Say in Court and Why. Andrew T. Brown, President of the Monroe County Bar Association, will serve as moderator. A reception will follow the program, to be held at the Rochester Plaza Hotel on April 16, from 1:15 to 5:30 p.m.

NOTES and COMMENTS

By John Ritchie

I’m glad to report that a ProBonoNY “Statewide” web site will be up and running as part of the court system’s public web site within the next week or two, joining the present Fifth and Eighth District Committees’ sites.

The new “Statewide” site will include all issues of this Newsletter. It will also include a section called “ProBonoNY Reports and Plans, 2007-2008.” That section will include an overall status report as of February 2008, with a summary of individual committees’ plans and achievements during the prior year; and all committees’ 2007 end-of-year reports will be attached.

That leads me to say, if your committee has not yet provided its 2008 end-of year report (covering 2008 activities and results, plus some indication of plans for 2009), please provide the report within the next couple of weeks. It need not be long or elaborate. These reports will be added to the website. Many thanks.