LEGAL COUNSEL FOR THE ELDERLY: A CHAMPION OF DIGNITY AND RIGHTS FOR 40 YEARS

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In 1975, the idea of a free legal service for older, vulnerable adults in Washington, D.C. became a much needed reality with the establishment of Legal Counsel for the Elderly.

A lot has changed in 40 years. Bell bottom jeans are no longer “where it’s at.” However, Legal Counsel for the Elderly’s (LCE) ever expanding ability to serve seniors in the nation’s capital who are in the throes of being swindled, disenfranchised,

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THE PROFOUND SIGNIFICANCE OF PRO BONO LEGAL WORK

By Ronald S. Flagg, Esq.
Legal Services Corporation
July 10, 2015

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Ron Flagg delivered this keynote speech at the 2015 Vincent F. Prada Pro Bono Awards Ceremony, an annual event that honors lawyers and staff members at Sidley Austin's Washington D.C. office who have devoted at least 60 hours to pro bono work in the previous year. Close to 100 Sidley professionals received this award in 2015, and the D.C. office devoted almost 26,000 attorney hours to pro bono work in 2014. The award is named for Vincent Prada, a Sidley partner who died tragically in a traffic accident in 2002. During his career at Sidley, Mr. Prada devoted himself to pro bono work, including representing a death row inmate for 14 years. Although Mr. Prada and his Sidley colleagues did not succeed in overturning their client's death sentence, their tireless work on his behalf illustrates the difference that a dedicated pro bono attorney can make in even the most difficult circumstances. by Professor Jana Singer, University of Maryland School of Law (Vince Prada was her first husband).

Thank you. It's always a pleasure to return to Sidley, my longtime professional home and the source of many of my best friends and many of my fondest memories. And, it's great to see so many of those friends here today. It is an

(Profound Significance, continued on page 5)
abused or in some way mistreated is totally where it’s at. The number of programs has grown over time, as has the financial means to support them, meaning far more people can be reached and far more needs can be met. That’s powerful. LCE’s mission remains the same. It still exists to empower, defend and protect vulnerable seniors in Washington, D.C., through free legal and social work services.

How Have D.C. Seniors Been Helped?
The stories are bewildering. Without LCE, many outcomes could have been devastating. Take the 90 year-old woman—a non-driver with no license—overseen by a court-appointed guardian, who was coerced into signing for a car loan by her son, who worked at the car dealership. The woman was sued after the car was repossessed. LCE got the suit dismissed and her name off the loan.

Or consider the man, mobile only by wheelchair, whose request to his landlord to be relocated to a handicapped accessible unit was denied. His landlord then attempted to charge the man for wheelchair scratches on the doorframes and walls, and refused to address the apartment’s insect and rodent infestations. The result wasn’t immediate, but LCE staff persevered. Ultimately, the gentleman was moved into a clean, handicapped-accessible unit.

Efforts by family members to creatively steal loved ones’ homes—or by predators through unscrupulous loan practices—are all too familiar to LCE attorneys. Stories of seniors who don’t realize they’re eligible for benefits and who suffer in silence are common, too. If there is a way for seniors to be taken advantage of or denied their financial well-being, LCE staff and volunteers have likely seen it.

LCE Leadership
LCE is a part of States & Community Engagement (SCE) and celebrates its 40th anniversary under the steady leadership of Vice President Jan May, who has held leadership positions at LCE for much of this time. LCE also has a 9-member board of directors, chaired by Sarah Kropf, and a 16-member advisory committee.

LCE’s Areas of Expertise
- Legal Hotline
- Pro Bono Project
- Alternatives to Landlord Tenant Court
- Consumer Fraud & Financial Abuse
- Public Benefits & General Services
- Homebound Elderly Project
- Active Intake
- Self-Help Offices
- Long-Term Care Ombudsman
- Senior Medicare Patrol

Looking back over the decades, Jan says he’s gratified by the significant and ongoing difference LCE has made in the lives of D.C. seniors and in the lives of people, like himself, who’ve been privileged to serve them.

Innovation has been crucial to LCE’s success. “We’ve been able to serve Washington’s seniors more and more effectively through the years,” says Jan, “and I believe LCE’s greatest contributions have stemmed from four major areas: 1) Innovative programs utilizing volunteers, 2) Innovative outreach, programs and services responding to emerging community needs; 3) Innovative systems, such as legal hotlines, and 4) Innovative programs utilizing pro bono attorneys.”

Looking ahead to the next five years and beyond, there are also four points Jan believes are significant to maintaining or improving clients’ well-being:
1) Continue to identify and address critical emerging legal needs of older people, and resolve them through individual cases and systemic activities,
2) Maximize effective use of technology to bridge the digital divide and make technology work for the client community,
3) Develop new and better ways to ensure that clients remain in their communities as long as possible, and
4) Develop holistic and sustainable programs that both address clients’ basic needs and empower them in their communities.

**LTC Ombudsman Program: Advocate & Ally**

One of LCE’s most innovative programs is the Ombudsman Program. Ten years after LCE was established, the D.C. Government awarded a grant to LCE to operate the D.C. Long-Term Care Ombudsman Program. It’s been a critical component ever since. But what is an ombudsman? In general, an advocate who helps resolve concerns and provide recourse and protection to people with limited authority or power in their given circumstance. LCE’s ombudsmen advocate for people residing in nursing homes, assisted living facilities or private homes to resolve complaints and improve the individuals’ quality of life and care.

Another grant resulted in the Senior Medicare Patrol, which helps educate Medicare beneficiaries and shows them how to detect, avoid, report and prevent health care fraud for themselves and others, including the Medicare and Medicaid programs.

**Kudos to More Than 700 LCE Volunteers**

Yet another innovation: The program could not function without volunteers. LCE staff members stand under a banner of excellence, but the program would be quickly overwhelmed if it operated solely on the efforts employees.

An enormous group of volunteers—both pro bono attorneys and non-lawyer advocates—donate their time to help LCE clients. They sift through thousands of heart-wrenching cases annually to help resolve issues that compromise their clients’ ability to live freely, without debilitating burdens imposed on them by others.

Other volunteers interview clients coming into LCE offices, help coordinate client visits, take calls, visit nursing homes, manage paperwork, act as community outreach ambassadors and a host of other tasks. Together, they provide a huge portion of the muscle that keeps LCE strong and addressing client needs. And their tenacious efforts to protect seniors are appreciated and recognized throughout the city.

**Well-Deserved Recognition**

Earlier this year, D.C. Councilmember Anita Bonds presented the Community Cornerstone Award to LCE, which recognizes individuals and organizations who’ve had a positive impact on the District of Columbia.

The *Catalogue for Philanthropy* named LCE one of the best small charities in the Washington region. The *Justice Potter Stewart Award* was bestowed for LCE’s work, especially its reform of the city’s tax sale system, which had placed a significant number of low-income seniors at risk of losing their homes. While these awards are recent, LCE has been honored with many awards too numerous to mention after 40 years of exceptional work.

**2014 Closeout Statistics**

There’s a lot to be proud of at the four-decade mark, demonstrated by LCE’s accomplishments in 2014. LCE closed out last year with astounding figures, providing an excellent example of the strides being made. More than 6,000 older D.C. residents were served by LCE last year, including:

- 3,230 clients served as 5,459 new legal cases were opened,
- 1,900+ seniors served through community education programs and public outreach activities,
- 864 residents served by LCE’s Long-Term Care Ombudsman Program
- $13,162,292 in financial benefits secured for LCE clients, and
- 375 outreach events in the community

**Moving Forward**

LCE marches forward as the “go to” organization for meeting and serving the needs of people 60-plus. It remains an integral part of AARP’s work. A servant and advocate for many of D.C.’s most vulnerable citizens in need of protection.
LCE CELEBRATES ITS 40TH ANNIVERSARY

On October 22, LCE celebrated its 40th anniversary with many supporters and pro bono law firms at Crowell & Moring LLP. We were honored to present the LCE Individual Award to LCE Board member and past chair, Bill Isaacson, Esq., a partner at Boies, Schiller & Flexner LLP. He received this high honor in recognition of his steadfast advocacy on behalf of Legal Counsel for the Elderly for several decades. LCE’s Law Firm Award was presented to Crowell & Moring LLP for the firm’s outstanding pro bono work throughout the years and for graciously hosting LCE’s 40th anniversary celebration.

Jan Allen May of LCE

Bill Isaacson of Boies, Schiller & Flexner LLP and Lynne Person of LCE

Bill Isaacson of Boies, Schiller & Flexner LLP, Karen Hermann, and Todd Rosenberg of Crowell & Moring LLP
honor to be invited on this occasion when the firm recognizes those lawyers who have devoted their time to the service of others in our community, around the country and around the world. It is particularly fitting that Sidley’s recognition of your pro bono work bears the name of Vince Prada, a dear friend of mine, who, as Mark Hopson described, devoted thousands of hours to pro bono work over his all-too-short career here at Sidley.

I would like to put into context and highlight today the profound significance of the pro bono work you do. Access to justice is a core national value, articulated as early as the Mayflower Compact, stated profoundly in our Constitution and above the entrance to the Supreme Court, and repeated daily in our Pledge of Allegiance—justice for all. Unfortunately, America’s follow-through has not matched the grandeur of our pledge. For millions of Americans who cannot afford a lawyer, justice for all remains an unfulfilled promise. Unmet civil legal needs in the country are at an all-time high, while the resources we make available to address those needs have dwindled in recent years.

Roughly one in three Americans—around 100 million people—qualified for LSC-funded services last year. These people had annual incomes below 125% of the federal poverty line: this is NOT a substantial sum, just over $14,000 for an individual; and just over $29,000 for a family of four. The number of people eligible for civil legal aid from LSC-funded programs is up over 20% since the start of the recession in 2008.

While the number of Americans eligible for civil legal assistance has steadily increased, funding for civil legal services has been declining. Funding for the legal aid programs supported by LSC is down over fifteen percent since 2010. If LSC’s funding had merely kept pace with inflation since 1995, LSC’s 2015 appropriation would be more than $620 million. Instead, in 2015, LSC’s appropriation is $375 million, about 40% less than inflation adjusted funding for 1995. With rising numbers of people in need, and declining funding, federal funding per eligible client has dropped to an all-time low. Let me put the $375 million the federal government appropriates for LSC into context: Americans spend $350 million annually for Halloween costumes – for their PETS!! As, I said, our follow through on the pledge of justice for all has not been good.

With fewer resources available to them, LSC funding recipients have to turn away thousands of low-income Americans seeking civil legal assistance. Approximately 50% of all those who seek legal assistance from LSC grantees are turned away because of lack of adequate resources. This requires legal aid programs to make stark, hard choices. For example, in recent years:

- over one-third of LSC’s grantees reduced family law cases, for example, eliminating specific types of cases, such as contested divorces or custody cases.
- over one-quarter reduced services to victims of domestic violence, for example, restricting services to cases where the victim had children. In other words, if you were subject to domestic violence, some of our funding recipients do not have the resources to represent you unless you also had a child. If you’re childless, you’re on your own.
- over 20% of our grantees reduced representation in housing matters, for example, evictions and foreclosures.
- over 20% reduced services in consumer cases, for example, bankruptcy, predatory lending, or consumer debt.

In the District of Columbia, more than 90% of tenants are unrepresented in landlord/tenant court. In New York City, 91% of petitioners and 92% of respondents do not have lawyers in child support matters in family court, and 99% of tenants are unrepresented in family law cases. 80% of litigants in family law cases are unrepresented in California and Massachusetts. These enormous volumes of unrepresented litigants in our nation’s courts fundamentally undermine the justice available to those litigants, as well as to other parties whose cases are delayed because of the time required to fairly address cases involving
unrepresented parties.

This justice deficit will not be closed by simply following the path our country has already treaded. It will require a host of new approaches and strategies. First, we must raise public awareness about the crisis in access to civil justice. Most Americans do not realize that you can lose custody of your child without a lawyer. That you can lose your home without a lawyer. That you can be denied veterans benefits without a lawyer. That you can be forced to face an abusive spouse or partner without a lawyer. Many Americans assume that this cannot be the case because every week in the television show *Law and Order*, people are told they have a right to a lawyer. I submit that any significant public policy debate that is largely informed by episodes of *Law and Order* is not off to a promising start. I believe it is the responsibility of the legal profession, including our judiciary, to raise public awareness of this critical issue.

Second, we must summon the political will to transform justice for all from promise to reality, by increasing the funds available to address currently unmet legal needs. While additional funding alone will not close the enormous justice gap we face, that gap will not be bridged without additional resources. Simply stated, we need to fund legal aid with amounts greater than we spend for our pets’ costumes on Halloween.

Third, we must better leverage civil legal aid resources, including by means of technology and by increasing the amount of pro bono work done by lawyers around the country.

Fourth, we must change our legal aid delivery systems. Such changes could potentially take a multitude of forms, such as limited-scope representation by lawyers or provision of services by non-lawyers. Given enormous and growing demands and resource constraints, we must be creative and innovative in considering potential changes. In late 2013, LSC released a report urging that we “explore the potential of technology to move the United States toward the goal of providing some form of effective assistance to 100 percent of persons otherwise unable to afford an attorney for dealing with essential legal needs.” In considering this proposal, it must be underscored that, in many cases, full representation by a lawyer is required if justice is to be realized. Nonetheless, the goal and vision set forth in the report “represents a much-needed rethinking of the traditional service-delivery model and points to a future where no one will get nothing, which is what happens all too often today.”

Finally, we need to examine potential changes to our courts and justice system. Our system was largely designed by lawyers, for lawyers and on the assumption that litigants would be represented by lawyers. That assumption is all too often false, and given that fact, we should examine what changes in our system could be made to make it more accessible to the millions of Americans who go to court each year without a lawyer.

These steps will require change. And change requires leadership, including from our legal profession and from our country’s leading law firms. As an alumnus of this firm, I cannot tell you how proud I am that, as it enters its 150th year, Sidley is known for its leadership in public service. For example, the firm has lent to this great cause, John Levi, the current Board chair of the Legal Services Corporation and a tireless warrior in seeking to raise public awareness of and funding for access to justice. Sidley has been generous in making direct financial contributions to legal aid programs. Apart from many other charitable contributions, Sidley contributed $2.1 million to legal aid organizations in 2014. Tellingly, when *The American Lawyer* recently asked 20 large, profitable firms to share data regarding such contributions, Sidley was one of only four firms to provide such data.

And of course, I have left for last, mention of Sidley’s most significant contribution to bridging the justice gap, the firm’s pro bono program. In-
cluded within the broad and deep volumes of Sidley’s pro bono work are four firmwide projects: the Capital Litigation Project, the Political Asylum and Immigration Rights Project, the Veterans Legal Services Project, and the Africa & Asia Agricultural Enterprise Program. I mentioned the need for leadership and these projects exemplify leadership. Each of them was initiated by a different group of firm lawyers who took the lead in designing and proposing the project. The firm’s management expeditiously approved each of these projects and did so knowing that collectively they involve a commitment of thousands of pro bono hours annually and hundreds of thousands of dollars of out-of-pocket expenses.

While all of these projects and all of the firm’s pro bono work speak volumes about Sidley, more importantly they make an enormous difference in the lives of the firm’s pro bono clients. At any given moment, you represent clients in capital cases, asylum cases, child custody cases, domestic violence cases, veterans’ benefits cases and scores of other matters, which are literally “bet the company” cases for those clients.

The statistics I cited about the justice gap are sobering. The prospect of bridging that gap in the aggregate is, at best, daunting. But, for the moment, I would ask you to share a more intimate view of the justice gap, the view from the perspective of an individual client. For the status of justice in America is depicted not only by numbers in the aggregate, but by an examination of the processes and resources available to each and every individual American.

From the perspective of an individual or a family, the prospect of losing custody of a child, losing a home, losing disability benefits, or facing domestic violence without a lawyer is bewildering, frustrating and enormously frightening. But viewing the justice gap from the perspective of unrepresented individuals or families does offer one potential silver lining—hope. Hope that a lawyer can be found to help one individual or one family.

The Prada Award honors you for helping to bridge the justice gap for each of your clients. When you helped dozens of veterans who served in Vietnam, Iraq and Afghanistan receive tens of thousands of dollars of benefits for combat-related disabilities, the justice gap was bridged. When, after five years of work, you secured permanent U.S. residence status for a Tanzanian woman who was the victim of severe abuse by her former husband, the justice gap was bridged. You helped bridge the justice gap when, after seven years of work, you won withholding of removal for a couple who had been subject to imprisonment and torture in Yemen. When eight of you worked for seven years to free David Housler from multiple lifetime sentences in Tennessee and succeeded in obtaining dismissal of his four felony murder convictions, the justice gap, at least for a moment, closed.

When you did this work, when you helped to bridge or narrow the justice gap faced by your individual clients, you may have been reminded of the reasons you went to law school in the first place. For me, Atticus Finch, the central character in To Kill a Mockingbird, was an inspiration to attend law school. You probably remember Atticus, a solo practitioner in a small town in Alabama, drafted by the town justice of the peace to defend a black man, Tom Robinson, accused of raping a white woman. Atticus Finch inspired me, and I suspect scores of others, to become a lawyer. Atticus Finch remains for me a vivid—albeit fictional—embodiment of the duty and opportunity of an individual lawyer to address injustice, one client at a time.

In representing Rodney Parker, Vince Prada was the true-life embodiment of that duty and opportunity to serve. Vince continues to stand as an example of the best of our profession, not just this firm, our profession has to offer. I am certain that Vince would be honored to have his name recalled each year as Sidley honors you, who have lived up to this standard. Thank you for your work in helping to bridge the justice gap. Please continue to do that work and to step forward to help lead Sidley, our profession and our country to make good on our promise of justice for all. Thank you for permitting me to share this moment in honoring you.
THE TEN COMMANDMENTS OF INTEGRATING DELIVERY SYSTEMS

By Jan Allen May
Executive Director
Legal Counsel for the Elderly

*Reprinted with permission from the Management Information Exchange Journal (MIE), Summer 2015. This article was originally published in the fall of 1999 and was recently selected as a "classic" as part of the MIE's 30th Anniversary issue.

I recently conducted an MIE management workshop entitled "Integrating Delivery Systems" dealing with integrating hotlines, pro bono, staff attorney, pro se, and other systems. Here are the ten points I emphasized:

1. Thou shalt not worship any one delivery system to the exclusion of all others.

There is a tendency to be enamored with one delivery system to the exclusion of others. There are those who claim that the staff attorney model is the only “true” way. We all know of great staff attorney programs as well as poor ones. Pro bono programs are capable of incredible good but need a substantial staff component for screening, placement, monitoring, and support.

Hotlines can be very useful for advice but not for in-depth representation. Client problems run the gamut and thus require a variety of delivery systems to meet their needs.

2. Thou shalt achieve up-front buy-in from staff prior to implementing new delivery systems.

A number of delivery systems fail because the leader has failed to convince the staff of the need for such a change. It is necessary to at least bring key staff on board before implementing a new system. There are a variety of ways to do this: reviewing results of other programs; examining how much clients are likely to benefit; implementing the model on a trial basis; putting key staff in charge of issues like quality control.

3. Thou shalt honor thy client: All mission statements, objectives, priorities and measurements shall be focused on client needs and meeting same and not on staff convenience.

Too often the choice of delivery systems as well as objectives and priorities of a program are shaped by the convenience of the staff and not by how well it serves the clients. While the staff attorney may wish to simply represent clients individually, it may be in the client community's best interests to identify areas where resources would be better spent on systemic reform or on teaching clients how to handle some problems themselves.

4. Thou shalt not sabotage thy brother’s delivery system; thus thou shalt not dump all thy garbage cases into the pro bono unit.

Staff should view each delivery system in the program as an aspect of their program for which everyone is partially responsible. A key role for staff is to maintain quality control: does the pro bono at-

(Ten Commandments, continued on page 9)
attorney need help? Are the self help materials up to date? Clients care about having their problems resolved and not about which particular “unit” handles the problem.

5. Love good staff as thyself: Good staff can maketh the worst delivery model work relatively well; bad staff can trasheth the best delivery system.

Personnel decisions are still a key factor in making systems run well. One legal services director is fond of saying: “The only thing worse than high burnout and high turnover is high burnout and low turnover.” A pro bono initiative with staff who lack the zest for marketing cases will not work. Hotline attorneys lacking a good working knowledge of the relevant substantive areas of law simply will not provide quality services. A key function of a manager is to recruit good employees and maintain an environment in which good employees want to work.

6. Thou shalt evaluate existing delivery systems at least as rigorously as one evaluates new systems.

When a new legal delivery system is introduced, a thousand questions suddenly surface as to the efficacy of the new system. For example, in the hotline context, many skeptics raised questions about the accuracy of the legal advice given. With a daily computer printout of hotline cases, it is possible for a manager or expert to review contemporaneously advice given on all cases. In most staff attorney models, advice cases, if reviewed at all, are reviewed in only a cursory fashion.

7. Thou shalt develop procedures, training and protocols and thou shalt follow them.

For any system to work properly, it will be necessary to develop procedures and protocols for handling certain situations. For example, at Legal Counsel for the Elderly, our Hotline handles a number of calls from third parties seeking “help” for an incapacitated person. There are difficult ethical issues involved with handling these types of cases (e.g., who is the client?). Procedures are needed. Failing to develop them could adversely affect the client and the program. Each new delivery system presents its own unique set of such issues and opportunities for further training.

8. Thou shalt not worship graven cyberspace images; technology is a means to an end; not an end to itself.

It is easy to be caught up in the marvels of technology. Computers, the Internet, and videoconferencing all open up worlds of opportunity for our clients. As leaders, however, it is important to utilize these tools but not become so enamored with them that we have lost sight of the aims of the program. These days every program needs a computer responsible person but that person generally should not be the director of the program.

9. Thou shalt budget an adequate amount of shekels to each delivery system so that they all can function properly.
Failure to budget effectively will doom any delivery system. One time start up costs need to be budgeted as well as ongoing support. It is counter-productive to bleed one delivery system to provide funding for the “favorite.” Nothing is more revealing about the values of a program than the budgetary allocations.

10. Thou shalt always remember that delivery systems are precisely that: processes or dynamic functions that need continual maintenance, monitoring, evaluating, redesigning, reimplementing and so on.

As a system, the job of creating, refining, and retooling delivery systems is an ongoing process that requires constant work. Achieving high quality is a continual process of designing, implementing, delivering, evaluating, and redesigning. By letting a delivery system stagnate you miss opportunities to both improve client services and develop staff potential.

Endnote
1. Jan Allen May is the Executive Director of AARP Legal Counsel for the Elderly (LCE). LCE is the primary provider of legal services to low and moderate income older people in D.C. LCE operates a legal hotline, a reduced fee panel, a brief services unit, a pro bono program, a consumer unit, a housing unit, a tax project, a home visit project, and serves as both the long-term care ombudsman and legal services developer for D.C. He has trained legal services staff nationally for thirty-five years and written well over 100 articles on legal services topics. He is a member of the MIE Board of Directors and Chair of the MIE Journal Committee. Jan may be reached at jmay@aarp.org.

LCE Recognized With Community Cornerstone Award

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A few weeks ago D.C. Councilmember Anita Bonds selected Legal Counsel for the Elderly (LCE) to receive a prestigious “Community Cornerstone Award.” When contacted about this honor, Councilmember Bonds’ staff noted that LCE had been nominated by several members of the local community. With LCE celebrating its 40th Anniversary in 2015, this was an especially fitting tribute for the organization. Each month, Councilmember Bonds lifts up the hard work and accomplishments of special individuals and organizations that make an extraordinary impact in improving the quality of life and wellbeing of District residents. Congratulations to LCE on receiving such a well-deserved award!
The Young Lawyers Alliance of Legal Counsel for the Elderly was launched in December 2014 to promote the organization’s mission and strengthen its impact. Young Lawyers Alliance (YLA) members serve as the LCE’s champions within their law firms and their professional networks, helping to raise LCE’s profile and grow resources—both financial and pro bono—to support its services to vulnerable D.C. seniors.

Two special YLA events were held in October 2015 to help LCE commemorate 40 years of service to our older neighbors in need: YLA Co-Chair Allison Foley organized a reception—generously hosted by her law firm, Venable LLP—at which D.C. Attorney General Karl A. Racine spoke; and a YLA-sponsored pro bono clinic was held at the office of Morgan, Lewis & Bockius LLP, with onsite logistics coordinated by YLA member Benjamin Klein.

LCE is very fortunate to benefit from the volunteer leadership of the following Young Lawyers Alliance members, and on behalf of our elderly clients we thank them for their ongoing service:

Allison D. Foley, Co-Chair Venable LLP
David L. Ridenour, Co-Chair Orrick, Herrington & Sutcliffe LLP
Zachary A. Avallone Kirkland & Ellis LLP
Nowell D. Bamberger Cleary Gottlieb Steen & Hamilton LLP
Morey Barnes Yost Alston & Bird LLP

Benjamin C. Bartlett Akin Gump Strauss Hauer & Feld LLP
Christina E. Buschmann Perkins Coie LLP
Tessa Capeloto Wiley Rein LLP
Laura J. Capotosto McDermott Will & Emery LLP

(Young Lawyers Alliance, continued on page 12)
THE YOUNG LAWYERS ALLIANCE IS MAKING A BIG IMPACT DURING LCE’S 40TH ANNIVERSARY YEAR (CONTINUED)

Jaclyn L. DiLauro
Hogan Lovells US LLP

Anjali Garg
K&L Gates LLP

Li Guo
Steptoe & Johnson LLP

Alexander S. Holtan
Sutherland Asbill & Brennan LLP

Aiysha S. Hussain
Miller & Chevalier Chartered

Elizabeth J. Karan
Feldesman Tucker Leifer Fidell LLP

Benjamin D. Klein
Morgan, Lewis & Bockius LLP

Sara R. Kusiak
Jones Day LLP

Jason R. LaFond
Mayer Brown LLP

Sasha Leonhardt
BuckleySandler LLP

Laura Bourgeois LoBue
Pillsbury Winthrop Shaw Pittman LLP

Suzanne M. Logan
Latham & Watkins LLP

Katie M.B. Marcusse
Baker & McKenzie LLP

Kendra Perkins Norwood
Blank Rome LLP

Kaihli M. Ross
Morrison & Foerster LLP

Jason S. Rubinstein
Gilbert LLP

Anne M. Rucker
Williams & Connolly LLP

La Toya Sutton
Manatt, Phelps & Phillips, LLP

Reid W. Swanson
Hunton & Williams LLP

Kaihli Ross of Morrison & Foerster LLP, Sheryl Miller of LCE, Allison Foley of Venable LLP, Tina Nelson of LCE, Karl Racine, D.C. Attorney General, Jan May of LCE, and Amy Mix of LCE at YLA reception at Venable LLP
LCE placed over 50 systemic reform pro bono projects in the first nine months of 2015. Between March and September 2015, over 30 were completed as described below. In addition, three firms held full day Schedule H property tax clinics, as noted below.

**AKIN GUMP STRAUSS HAUER & FELD LLP**

*Benjamin Bartlett* (former associate) analyzed the extent to which public housing authorities can prohibit tenants from smoking within their housing facilities. His memo also assessed tenants’ rights under the Fair Housing Amendments Act to obtain reasonable accommodations.

**BUCKLEY SANDLER LLP**

*Kimberly Bender*, Sally Braeuer, Thomas Dowell, Amy Magdanz Rose and Robyn Quattrone compared D.C.’s law regarding mental health advance instructions to laws in eight other states and recommended numerous ways to strengthen D.C. law to benefit seniors.

**COOLEY LLP**

*Nicholas Lockhart* and Erich Veitenheimer drafted a brochure to explain how to file a complaint against a guardian or conservator. The brochure has been submitted to the Steering Committee for the D.C. Probate Court.

**COVINGTON & BURLING LLP**

*Michael Caballero, Marianna Jackson, Caitlyn Jacobs, Elnaz Manoucheri, and Lauren Ross* staffed a full day Schedule H property tax clinic on April 8th. The clinic served 18 clients and produced applications for property tax credits totaling $22,000.

**DECHERT LLP**

*Mike Cowie, Paul Denis* and *Dina Kasper* compared the D.C. regulations regarding the administration of medication in assisted living facilities to the regulations in five other states. They also analyzed policy issues that arise in these regulations.

**DENTONS US LLP**

*Carl Bretscher* reviewed the appellate record and analyzed a new decision from the D.C. Court of Appeals regarding “super-priority” condominium liens and foreclosures. He also evaluated a decision from...
another state appellate court and other state statutes relating to this issue.

**Carl Bretscher** researched Medicaid spousal impoverishment rules and analyzed the consistency of D.C.’s long-term care application with requirements for income of the nursing home resident to be shared with the spouse living at home.

**DLA PIPER LLP (US)**
**Alexander Tuneski** drafted a flyer to explain to clients’ family and friends who serve as a financial power of attorney how to properly discharge their duties to manage clients’ money and property.

**GOODWIN PROCTER LLP**
**Laura Stoll** submitted a FOIA request to the Office of Administrative Hearings to ascertain whether there were any decisions that addressed a specific provision of D.C.’s assisted living law and whether there were any agency policies regarding that statutory requirement.

**HOGAN LOVELLS US LLP**
**Erin Weber** prepared a flyer to assist seniors considering moving to a Continuing Care Retirement Community. The flyer explains nine topics for seniors and their families to evaluate before buying into this type of housing.

**Peter Bisio** and **Yuri Fuchs** analyzed how D.C.’s ethics rules, opinions, and case law affect LCE’s ability to communicate with legally represented and unrepresented persons in three specific factual scenarios that LCE frequently experiences.

**Joseph Levitt**, and **Deborah Wei** drafted a flyer to explain to clients the differences between guardianships and powers of attorneys. They also drafted a second flyer informing clients how to obtain a guardianship and/or conservatorship for a loved one.

**Elizabeth Banks, Stacy Hadeka, Shee Shee Jin, Jamie Weaterby, Karla Aghedo, Danielle Humphrey**, and **Katherine Tyson** staffed a full day Schedule H property tax clinic on July 23rd. The clinic served 13 clients and produced applications for property tax credits totaling approximately $9,000.

(Merrily We Roll Along, continued from page 13)
Erin Koeppel, Catherine LaRose, and Yuki Sako filed a FOIA request with the U.S. Marshalls and obtained records regarding the quadrants in which D.C. evictions were carried out.

Keller and Heckman LLP
Gregory Clark researched the standards for ordinary wear and tear of a rental unit in D.C. and other jurisdictions.

Kirkland & Ellis LLP
Zachary Avallone and Patrick Philbin wrote an appellate brief for a client to preserve the favorable decision of the trial court regarding tenants’ rights under the Tenant Opportunity to Purchase Act. The D.C. Court of Appeals was persuaded by their brief and dismissed the appeal as moot.

Zachary Byer wrote a memo explaining how the United States Department of Housing and Urban Development (HUD) sets the schedules for fair market rent to calculate payment standards and housing assistance payments. The memo then analyzed the fair market rent calculations in D.C. To obtain greater information, he submitted FOIA requests to the D.C. Housing Authority and HUD.

Tia Trout-Perez and Jessica Martin drafted a flyer entitled, "Safeguarding Your Legal Documents." The flyer informs clients how to properly store and handle wills and financial and health care power of attorney documents. The flyer includes a chart that explains how to handle sharing copies of wills, financial power of attorney documents, and health care power of attorney documents.

Marin Boney, Brian Gross, Mark Kovner, and Lily Rasel researched utility termination payment plan statutes and regulations in twelve states and found that they had more robust protections for vulnerable consumers than D.C. The team identified several state statutes that could serve as a model for D.C.

Jason Gott drafted a summary of the special mediation order utilized in foreclosures to help low-income seniors understand the court process and the steps they must take to prevent foreclosure.

Manatt, Phelps & Phillips LLP
Anne Karl, Michael Kolber, and Mark Ustin researched statutes and cases regarding supported decision making, including limited guardianships, in seven states.
MORGAN, LEWIS & BOCKIUS LLP
Lauren Burke, W. Andrew Lewis and Albert Shay reviewed the laws and regulations of selected jurisdiction pertaining to housing code violations, the imposition of fines for housing code violations, and the accessibility of housing code inspection reports. Their memo offered suggestions for improvements in policies and procedures in D.C.

Katelyn Hilferty and Christian Mixter summarized the legislative history of the D.C. Rental Housing Act’s eviction protections addressing tenants’ opportunity to cure minor lease violations. They also evaluated case law regarding evictions predicated on minor lease violations, assessing a possible due process claim.

Elizabeth Bierman, Heather Dorsey, Jacob Harper and Ky Kirby evaluated 35 state statutes regarding adult foster care or family care. They wrote a memo and created a spread sheet comparing the different features in the laws.

MILBANK LLP
Nicholas Bassett and Benedikt Mertens drafted a bench card and guide for D.C. judges to alert them to laws that provide protections to seniors, including housing, tax, and anti-discrimination statutes. The bench card and guide will be presented to the local judges in the near future.

MORRISON & FOERSTER LLP
Craig Fields and Nicole Johnson assessed applicable law regarding the denial of a D.C. property tax credit when taxes were paid utilizing gifts. Their memo set forth applicable case law regarding the presumption of fraud.

PERKINS COIE LLP
Mark Foster, Krista Hughes and William Malley researched legal strategies for asserting tenants’ rights to require an owner to prevent and control bedbug infestation. The memo included an analysis of defenses to eviction actions and possible civil rights claims.

STEPTOE & JOHNSON LLP
Sarah Leggin researched whether and what relief is available when a tenant’s covenant of quiet enjoy-
ment is breached by neighboring tenants due to interference by water leaks or noise. The memo provided extensive citations for cases involving interference with quiet enjoyment.

Irma Leon-Gonzalez, Li Guo, Stanley Kuo, Alfred Mamlet, and Rick Roberts staffed a full day Schedule H property tax clinic on June 11th. The clinic served 18 clients and produced applications for property tax credits totaling approximately $16,000.

VENABLE LLP
Laura Boorman, Michael Davis, Allison Foley and Mark Goodrich provided a detailed analysis of (1) the elements necessary to establish tenancy in D.C.; (2) the requirements a landlord must meet in order to evict a tenant; and (3) how D.C. courts have interpreted and applied the tenancy and eviction statutes, especially in relation to squatters.

Jonathan Havens and Claudia Lewis analyzed administrative and court rules and cases addressing whether a represented client needs to appear at an Office of Administrative Hearings status conference when the attorney is present.

WEIL, GOTSHAL & MANGES LLP
Annemargaret Connolly and John O'Loughlin, Jr. submitted a FOIA request to the D.C. Department of Consumer and Regulatory Affairs seeking policy documents regarding building inspections, closures and condemnations.

WILMERHALE LLP
Olga Tobin and John Valentine reviewed statutory authority and case law in eight states regarding whether a landlord must give notice to a tenant prior to eviction when a tenant has previously provided notice that he or she will quit the premises. The firm also analyzed pertinent HUD requirements.

Alex Boudreau and Matthew Chambers analyzed state and municipal statutes and case law relating to a landlord’s duty to repair ordinary wear and tear in residential rental units during the course of a tenancy. They recommended numerous improvements to D.C. law.

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**FROM THE DOCKET**

**VICTORY IN HOUSING LITIGATION FOR ELDERLY CLIENT**

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**Fried Frank** acted as pro bono counsel to an elderly client, known as Ms. H, in an affirmative litigation matter against Ms. H’s landlord. The landlord violated the District of Columbia Housing Regulations by failing to remediate pervasive mold and mildew in 80-year-old Ms. H’s apartment, despite her doctor advising against living in a mold-infested apartment. Ms. H sought rent abatement, costs incurred in moving to another apartment and damages for clothing and furniture ruined by the mold. The settlement reimbursed Ms. H for 100% of the rent she paid during the period in question, as well as substantially compensating Ms. H for her moving expenses and damaged goods. Ms. H expressed profound gratitude to the team she called her "miracle attorneys" for achieving a settlement far beyond what she had hoped to recover.

The **Fried Frank** team was led by litigation partner **Elliot Polebaum** and included litigation special counsel **Eugene Hansen**; litigation associate **Helene Gogadze**; and litigation law clerk **Brendan McNamara**.

**LCE AND FOLEY & LARDNER TEAM AVERTED A HUGE BUILDING-WIDE RENT INCREASE**

By Sheryl R. Miller  
Pro Bono Manager  
Legal Counsel for the Elderly

Supervising Attorney **Jennifer Berger** co-counseled a pro bono landlord/tenant case with **Erik Benny** and **Greg Neppl** of **Foley & Lardner**. An elderly tenant, who was a board member of the Tenants’ Association, came to Legal Counsel for the Elderly in despair because his landlord had increased his rent and those of 19 elderly residents by 43 percent. The housing provider attempted to justify this increase by claiming economic hardship. The elderly tenants could not possibly afford this astronomical rent increase.

The **Foley & Lardner** team and Jennifer came to the rescue. They challenged the rent increase as illegal on the grounds that, among other things, the older tenants qualified for D.C. Elderly and Disabled Status Rent Control, which prohibited D.C. housing providers from raising rents higher than the annual Consumer Price Index (CPI). Pro bono paralegals from **Foley & Lardner**, along with LCE staff **Kathy Ferger** and **Karen Greene**, were instrumental in investigating and documenting numerous D.C. Housing Code violations in the apartment building, and they helped the elderly tenants complete the rent control forms to
The following members of Legal Counsel for the Elderly’s pro bono panel selflessly volunteered to prepare Last Will & Testaments, Financial and Health Care Powers of Attorney and/or D.C. Transfer on Death Deeds (TODD) for low-income, older D.C. residents. Many pro bono attorneys handled multiple estate planning matters during this period. Legal Counsel for the Elderly greatly appreciates its dedicated volunteer attorneys and paralegals. Without the altruism of our pro bono panel, scores of disenfranchised seniors would be unable to ensure that their affairs will be handled according to their wishes expressed in wills and advance directives.

Advance directives provide our 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 who become incompetent and lack advance directives could be subjected to costly, and right-depriving, legal guardianship or conservatorship proceedings.

Thanks to our pro bono panel, the 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, with special thanks to those who visited homebound seniors.
Melissa Gomez Nelson
Sandeep Nandivada

DLA PIPER LLP (US)
Joseph Miller

FEDERAL COMMUNICATIONS
COMMISSION-OFFICE OF STRATEGIC
PLANNING AND POLICY ANALYSIS
Sherille Ismail

FEDERAL ENERGY REGULATORY
COMMISSION
Christine Powell

FOLEY & LARDNER LLP
Joseph P. Derrigo
Alima Joned
Michelle Leland
Emily Liu
Lori A. Rubin
Kiri Lee Sharon
Peng Sun

GEORGETOWN CENTER ON NATIONAL
SECURITY AND THE LAW
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Madelyn Healy
Adrienne Jack

HOLLINGSWORTH LLP
Tamara Fishman Barago
Elizabeth W. Chan
Julia M. Collison
Hilary L. Lewis
Rachel E. Paul

THE HUMAN RIGHTS CAMPAIGN
Remington A. Gregg

IFRAHLAW PLLC
Sarah Koch

KATTEN MUCHIN ROSENMAN LLP
Danna L. Horton
Julia E. Schmidt

KELLER AND HECKMAN LLP
Eric P. Gotting
Thomas B. Magee

KIRKLAND & ELLIS LLP
Christa Laser
Jessica D. Martin

LEGAL COUNSEL FOR THE ELDERLY
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MCCARTER & ENGLISH LLP
Denise C. Goulet

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<td>Tania S. Sebastian</td>
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<td>UNITED STATES DEPARTMENT OF THE AIR FORCE</td>
<td>Jennifer Miller</td>
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<td>UNITED STATES DEPARTMENT OF EDUCATION</td>
<td>Brian M. Stanford</td>
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Pro Bono Wills, Powers of Attorney & D.C. Transfer on Death Deeds (TODD): Closed Matters
January 2015 - October 2015

UNITED STATES DEPARTMENT OF JUSTICE
Michael Zoeller - Home Visit

UNITED STATES DEPARTMENT OF LABOR
Susan M. Noon

UNITED STATES DEPARTMENT OF HOMELAND SECURITY
Danny Fischler - Home Visit

UNITED STATES DISTRICT COURT
Addie Hailstorks

UNITED STATES OFFICE OF SPECIAL COUNSEL
Brian Critz

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Charise Naifeh
Bonnie M. Sanchez
Wendy Solovay
Maile Tavepholjalern
Eissa Villaseñor
Catherine Wakely
LAW FIRMS

ARNOLD & PORTER LLP
John Jacobsen, Eric Rey, and William Bosch prevented the repossession of a low-income senior’s boat, which served as his home, by negotiating a new payment plan with the seller.

BAKER & MACKENZIE LLP
Joseph B. Judkins negotiated very favorable settlements over a low-income senior’s federal, D.C. and Maryland tax liabilities from as early as the 1980’s, which had accrued high interest and penalties.

Kristyn A. Judkins and Joseph B. Judkins offered to help an elderly client with an income tax issue, but the client decided not to pursue the matter at this time.

Katie Marcusse and A. Duane Webber negotiated an offer-in-compromise concerning a low-income senior’s tax liability, which eliminated thousands of dollars of outstanding tax debt.

BLANK ROME LLP
Stefanos N. Roulakis and Kierstan Carlson offered to represent an elderly client in a home improvement matter.

Ross E. Coe issued demand letters to his client’s landlord and property manager regarding his client’s noise complaint against an adjacent tenant.

BRYAN CAVE LLP
Caitlin E. Downs and Ian L. Barlow represented a low-income senior in a foreclosure case with several consumer protection claims, achieving a global settlement in their client’s favor.

COOLEY LLP
Jill Switkin Parks researched and advised a client regarding a real property issue.

CROWELL & MOORING LLP
Jonathan Cone and Susan Hoffman brought an affirmative case in D.C. Housing Conditions Court, seeking essential repairs to their client’s apartment, which resulted in a favorable settlement.

Andrew Kaplan and April N. Ross offered to handle a landlord/tenant matter on behalf of an aggrieved senior.

DECHERT LLP
Brett Kohlhofer and Paul Friedman represented a low-income senior who was a victim of a consumer scam related to her utility bills. The Dechert attorneys secured a substantial monetary settlement for their client.

Steven J. Kolias negotiated a favorable settlement to resolve his client’s outstanding income tax liabilities by securing a waiver, and ensuring that the client’s Schedule H tax benefits were no longer subject to garnishment.

FOLEY & LARDNER LLP
Gregory Neppl, Erik Benny, and LCE Supervising Attorney Jennifer Berger represented aggrieved members of a tenants’ association whose rent increased drastically after a new owner bought the building. The attorneys secured a very favorable settlement, which

(Cases Closed, continued on page 24)
stipulated in part that the low-income seniors’ rents must be held at the level provided under the D.C. Rent Control Law (annual Consumer Price Index increase only) for elderly and disabled tenants, and that no rent increases could occur until the apartments were in substantial compliance with the D.C. Housing Code. (See full article in “From the Docket” on page 18 in this issue.)

GREENBERG TRAURIG LLP
Ashkon Cyrus filed a consumer protection claim against a home improvement contractor for failing to complete the agreed-upon waterproofing and other repairs to the client’s home. The parties reached a favorable settlement in which the aggrieved senior obtained a monetary award, and the contractor agreed to complete the repairs.

HUNTON & WILLIAMS LLP
Reid W. Swanson and Jeff Schroeder researched the legal issues regarding a drastic increase in a low-income seniors’ monthly co-op fees to cover the costs of a loan that the co-op board of directors borrowed to pay for capital improvements in the building.

Carter Coker and Christopher Dufek successfully defended a senior against an intentional tort action in D.C. Superior Court. The court dismissed the case.

KIRKLAND & ELLIS LLP
Jennifer Levy convinced a vulnerable senior’s landlord to remedy housing code violations in the client’s apartment, including mold eradication and repairs to the client's stove.

THE HUMAN RIGHTS CAMPAIGN
Gregg Remington represented a senior tenant who endured ongoing rodent infestation in his apartment until the management company finally remedied this D.C. Housing Code violation. The client secured a favorable settlement in which his landlord reimbursed him for six months of rent.

NIXON PEABODY LLP
Katherine Bastian and Eric Jeffrey offered to represent two low-income seniors to recover damages caused by their landlords’ violations of the D.C. Housing Code.

POLSINELLI SHUGARTH LLP
Lauren P. Desantis-Then attempted to enforce a judgment for damages against an insolvent home improvement contractor who failed to fulfill his contractual duties toward a low-income senior.

SEYFARTH SHAW LLP
Eric J. Janson represented a low-income tenant in her effort to enforce a court-ordered judgment against her landlord for failing to make essential repairs to her apartment.

REED SMITH LLP
Douglas Everette represented a blind, elderly man in court whose son had fraudulently induced him into deeding his home over to his unscrupulous son. The judge ordered the son to pay his father close to $200,000.

(Cases Closed, continued on page 25)
STEPTOE & JOHNSON LLP
Lauren Azebu, Melanie Nussdorf, and Beth Davidson (former associate) successfully represented a low-income senior concerning D.C. and federal tax debts.

Matthew Bathon and Steve Adkins successfully defended a disenfranchised tenant against an eviction action for an alleged nonpayment of rent.

John Cobb persuaded the Social Security Administration to cease garnishing a low-income senior’s meager monthly benefits to repay a tax liability.

Greg Kidder and Lauren Azebu convinced the Internal Revenue Service (IRS) to deem a low-income senior’s alleged tax liability to be uncollectable.

SUTHERLAND, ASBILL & BRENNAN LLP
David Arrojo and LCE Supervising Attorney Jennifer Berger successfully defended a low-income senior against eviction, which culminated with a substantial monetary award to the elderly tenant as well as outplacement assistance.

UNITED STATES DEPARTMENT OF JUSTICE
Robin Overby and Rebecca Ryan represented a senior who was forced to abandon his apartment due to egregious D.C. Housing Code violations, including severe mold infestation, that adversely affected the senior tenant’s health. The pro bono attorneys secured a favorable settlement for their displaced client.

VENABLE LLP
Hillary S. Profita convinced a low-income tenant’s landlord to remediate the mold infestation in her client’s apartment.

WHITEFORD TAYLOR & PRESTON LLP
Justin P. Fasano enabled a low-income senior to discharge her substantial student loan debt that she incurred in the 1970’s.

WILLIAMS & CONNOLLY LLP
Thomas G. Hentoff represented an older tenant in an affirmative case in D.C. Housing Conditions Court to compel the client’s landlord to make necessary repairs to the client’s bathroom and to eradicate the lead paint in the unit. The housing provider agreed to remedy all D.C. Housing Code violations to the client’s satisfaction.

WINSTON & STRAWN LLP
Gordon Coffee and Stephanie Hartmann evaluated a client’s claim against a home improvement contractor.

Charles Li represented a client in D.C. Superior Court’s Small Claims Division in an action for damages against a roofing contractor. The day before trial, the home improvement contractor remitted the entire amount owed to the aggrieved senior.
obtain elderly status designations.

The parties negotiated a very favorable settlement. The housing provider agreed to increase the 19 seniors’ rent in accordance with the CPI, as required by D.C. law. The parties also agreed that the remaining roughly 70 tenants, who were under 62-years-old, would be subject to yearly rent increases of only one percent above the permissible rent increases for D.C. generally (CPI plus two percent) for the next three years. The agreement further required the landlord to make essential repairs to bring the building into compliance with the D.C. Housing Code.

The total value of the averted rent increases equaled $1,184,220. Thank you Erik Benny and Greg Neppl of Foley & Lardner for your outstanding pro bono work. The tenants and LCE greatly appreciated your hard work and dedication to this compelling matter.

****

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