

Military Divorce Mediation: A Model Program

by Mary G. Commander

The DSC (Dispute Settlement Center) Community Mediation Center is the only nonprofit mediation center in Hampton Roads. It was established in 1990 to provide low and no-cost mediation services to the public using private and court referrals through a network of volunteers. It includes retired judges, attorneys, therapists and social workers—many of whom have substantial military and military divorce experience. The corps of volunteer mediators also includes active duty and retired military.

Hampton Roads is the home of a number of large military installations from all branches.¹ The Navy figures prominently in the cities of Norfolk, Virginia Beach, Chesapeake and Portsmouth. There are 82,432 active duty Navy personnel in this area and 115,405 family members. Of the more than 80,000 active duty personnel, nearly half, (40,788) are married and have families.

In 1999–2000, the DSC served more than 50 military families. Most came from the Navy. In 2001–2002, the number served nearly doubled. Many military personnel retire in this area, so there is a demand for mediators with knowledge of the military. The center's sliding fee scale has benefited military families on a tight budget.

The Military Mediation Program

The DSC has been involved with helping Navy families throughout its 10-year history. The center is listed in the Navy's *Command Resource Guide* and it has worked in collaboration with Navy Family Services; trained Navy support staff in conflict resolution and provided mediation services.

The DSC also provides training for prospective mediators who desire to become certified by the Virginia Supreme Court. (All DSC mediators are certified.) Instruction is provided in the areas of military medical, commissary, insurance and retirements benefits, as well as direct payment and allotment. The training is done by experienced domestic relations attorneys.

When a case is received, the DSC assigns two mediators. An attempt is made to assign one male and one female mediator to the case to make both parties feel that they are in a neutral and equal environment.

The DSC mediators assist the parties in attempting to reach their own agreement. While the mediators may suggest options or point out issues that may need to be discussed, they do not direct the outcome. The mediators recognize the unique issues that are

The VSB and the LAMP Initiative

The Virginia State Bar is cooperating with the ABA to recruit pro bono attorneys under "Operation Enduring Lamp." The stand-by program is designed to help military legal assistance offices handle the extraordinary needs of large numbers of national guard and reserve troops if there are outsized de-mobilizations or deployments that tax the capacity of base legal offices.

Virginia-licensed attorneys can learn more about the program or locate a volunteer form on the Internet at www.vsb.org/probono, or www.vsb.org/disaster.html. Information about related CLE materials and other issues is available from the bar's pro bono office in Richmond at (804) 774-0522.

The ABA's Web site also has information on the LAMP initiative. One set of articles describes common legal needs at deployment, www.abanet.org/genpractice/legalface while, "A Judge's Guide to the Soldiers and Sailors Civil Relief Act" and other training items can be downloaded from www.abanet.org/legalservices.org/helpreservists.

Attorneys who find that their present commitments interfere with a near-term contribution to the OP LAMP effort, may want to consider, long-range, other options. Several that come to mind are the VSB Speakers Bureau (www.vsb.org/publications/speakersbureau; (804) 775-0786) or the "Ombudsman's Program" of the Virginia Committee for Employer Support of the Guard and Reserve (galdhize@wawlaw.com.) Another public service option might include replicating in your own community—or joining—the remarkable sliding-fee mediation services and affordable "independent" document review panel described in Mary Commander's article. The Hampton Roads initiative, undertaken with the Navy's encouragement, focuses on domestic relations and consumer matters of the type more commonly encountered by average citizens as well as low income and modest-means military personnel and their dependents. Local attorneys have been lauded for these efforts.

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present in a military divorce, so that a complete agreement can be reached.

Issues in military divorces often include the following:

- Not all military pay and benefits are taxable. There cannot be reliance placed on a W-2 in calculating the child support due under the guidelines.
- The service member's income will be reduced after the divorce, so this needs to be taken into consideration.
- There can be a division of the marital portion of the military retirement.
- There can be Survivor's Benefit Plan insurance coverage on the retirement which can be overlooked, and
- There are issues related to VA Mortgages and restoration of VA eligibility.

If a potential agreement is reached, the DSC has a list of attorneys who will review the agreement at a reduced fee.

The DSC averages 150 military divorce/separation/custody mediations per year. Approximately 85 to 90% of all mediated cases result in an agreement on all or a portion of the areas of dispute.

Advantages of Mediation

The cost savings and reduction of tension between the parties are the most obvious benefits of mediation. Mediation of military divorces by the DSC also has the advantage of having mediators who are well-versed in the issues and benefits.

Expressions of Appreciation

DSC held an Award Ceremony & Volunteer Recognition Event August 15, 2002, to honor attorneys and other community members participating in its programs. Executive Director Bob Glover and Board Chair Bob Brinker presided over the early evening affair that featured remarks by the Honorable Thelma Drake, delegate for the 87th House District in Norfolk.

For information about the military features of the core program or the format of this and other recognition ceremonies, sponsored by sister community mediation groups (www.courts.state.va.us/cmcl/cmcl.htm), contact Center Director Bob Glover at (757) 480-2777.

Mary G. Commander is an attorney in private practice in Norfolk. She focuses on family law and mediation, and she is a graduate of Old Dominion University and the T.C. Williams School of Law at the University of Richmond.

¹ Including, United States Air Force Base Langley, Hampton; NAS Norfolk; NAS Oceana, Virginia Beach; NOB Norfolk; Fort Eustis, Newport News; Fort Monroe, Hampton; Fort Story, Virginia Beach; Naval Amphibious Base, Little Creek, Virginia Beach; Norfolk Naval Shipyard, Portsmouth; Naval Hospital, Portsmouth Naval Base, Dam Neck, Virginia Beach; Coast Guard installations; National Guard units

Three Northern Virginia Attorneys Recognized for Pro Bono Efforts

At the annual pro bono reception co-sponsored by the Bar Foundations of Alexandria, Arlington and Fairfax and Legal Services of Northern Virginia, three attorneys were recognized for their pro bono efforts. The pro bono awards were presented on June 20 at the George Mason University Law School.

One recipient was M. James Mehlinger, of Arlington. Each week, for more than 10 years, Mehlinger gave up a day at his office practice to see clients at Legal Services of Northern Virginia. He has helped clients with consumer, housing, employment, estate and tax issues.

Sara E. Brock, of Fairfax, received an award for her contribution to LSNV. Brock, who is a staff attorney at the office of the general counsel for the U.S. Nuclear Regulatory Commission, volunteered every other Friday to help LSNV's outreach efforts regarding landlord/tenant and housing matters.

William H. Pratt, a native of Rochester, New York, was the pro bono award recipient for the Alexandria jurisdiction. After a 28-year career with Mobile Corporation as senior tax counsel, Pratt volunteered with LSNV, assisting numerous elderly and disabled clients. Having never litigated a case in court prior to volunteering at LSNV, he has won every case except one.

Beginning in 2003, the awards will be called "The Harry L. Carrico Pro Bono Awards" in honor of the Chief Justice's long-standing commitment to Virginia attorneys' pro bono activities.

Visit the Pro Bono page on the VSB
Web site for **free and low-cost**
pro bono trainings and
opportunities listed at
www.vsb.org/probono/.



CALL FOR NOMINATIONS

2003 LEWIS F. POWELL, JR., PRO BONO AWARD

The Lewis F. Powell, Jr., Pro Bono Award was established by the Special Committee on Access to Legal Services of the Virginia State Bar to honor those attorneys and attorney groups that have made outstanding pro bono contributions. The Access Committee annually reviews all nominations and decides upon the recipient. **The deadline for receipt of nominations is January 10, 2003.** The award, a framed, limited edition print of the painting "Patrick Henry Arguing the Parson's Cause," will be presented at a ceremony during the Thirteenth Annual Pro Bono Conference.

CRITERIA

The recipient of the award must meet one or more of the following criteria:

- ◆ Demonstrated dedication to the development and delivery of pro bono legal services in the Commonwealth of Virginia;
- ◆ Contributed significantly toward the development of innovative approaches to the delivery of volunteer legal services;
- ◆ Participated in an activity that resulted in satisfying previously unmet needs for legal services or in extending services to underserved segments of the population;
- ◆ Successfully handled pro bono cases that favorably affected the provision of other services to the poor in Virginia;
- ◆ Successfully supported legislation that contributed substantially to providing legal services to the poor; or
- ◆ Devoted significant time to furthering the delivery of legal services to the poor in Virginia by handling pro bono matters or providing training or recruiting volunteer attorneys for pro bono programs.

The nominee must be a member of the Virginia State Bar or an organization or group comprised of such persons. Persons whose livelihood is derived from delivering legal services to the poor are not eligible. Please submit your nomination, describing how the nominee meets the above criteria, in writing to the Virginia State Bar Access to Legal Services Committee, c/o Maureen Petrini, 707 East Main Street, Suite 1500, Richmond, Virginia 23219 by **January 10, 2003.** (There is no official entry form to complete.) Please be sure to include your name, the name and address of the nominee and phone numbers with your nomination. For more information, please contact **Maureen Petrini, Access to Legal Services Director, (804) 775-0522.**

PAST RECIPIENTS

The Honorable Lewis F. Powell, Jr. (1991—Richmond) The late Associate Justice of the U.S. Supreme Court, prior to serving on the bench, helped create a national network of legal service programs as president of the ABA.

Oliver W. Hill (1992—Richmond) Pioneered challenges to segregation. Known as the "Dean of Civil Rights," he was a lead lawyer in the landmark case of *Brown v. Board of Education*.

Ellen S. Weinman (1993—Salem) Donated more than a dozen years to representing women and children survivors of domestic violence.

Marion Toomey Baker (1994—Lynchburg) Volunteered as the primary family law attorney at Virginia Legal Aid Society for over a decade.

The Honorable James Keith (1995—Fairfax) Served as an in-house pro bono attorney with Legal Services of Northern Virginia for a dozen years after retiring from the Circuit Court bench.

John C. Kenny (1996—Richmond) The late Central Virginia Legal Aid board member helped generate thousands of dollars in charitable contributions and donations of professional services from volunteer lawyers.

Donald F. Mela (1997—Alexandria) Spent close to a decade assisting the pro bono efforts of the Alexandria Bar Association and Legal Services of Northern Virginia.

John M. Levy (1998—Williamsburg) For 30 years, engaged in law reform work, recruited pro bono attorneys and personally delivered legal services to groups representing the poor.

The Law Firm of Hunton & Williams (1998—Richmond-based) (1) met the ABA's *Challenge* to major firms to devote 3% of billable hours to pro bono representation of the needy and, (2) implemented a menu of service options.

The Harrisonburg-Rockingham Bar Association (1998) Sustained, for over 15 years, an effective pro bono program with Blue Ridge Legal Services that includes a presumption of universal participation.

Freddie Mac (1999—McLean) The Legal Division contributed direct pro bono legal services and other support to clients of Legal Services of Northern Virginia (LSNV) over an eight year period.

Steven D. Rosenfield (2000—Charlottesville) For two decades zealously advocated on behalf of prisoners and the poor through pro bono cases and Vista volunteer work, and as a nominally-compensated court-appointed lawyer for indigent criminal defendants.

The Virginia Beach Bar Association CLASS Project (2001) For seven years, VBBA volunteers aided survivors of domestic violence through a protective order program ("Concerned Lawyers Advocating Spousal Safety"). The Hon. Ronald H. Marks, project co-founder and then-Chief Judge of the local J&DR District Court, received special recognition for his extraordinary efforts in fostering the model program.

The Community Tax Law Project (2001—Richmond-based) Through panels sponsored by The Community Tax Law Project, more than 100 volunteer lawyers and accountants have assisted low income clients with complex tax cases at the local, state and federal level since 1992. CTLP founder Nina E. Olson received special recognition for her unique contributions to the program's ongoing viability.

Donald T. Floyd (2002—Richmond) Co-counseled on foreclosures and accepted difficult "miscellaneous" cases and telephone hotline work about 20 hours a week over eight years at Central Virginia Legal Aid. His volunteer commitment followed a post-insurance career graduation from law school and subsequent decision to forego private practice.



CALL FOR NOMINATIONS



Oliver White Hill Law Student Pro Bono Award

The Oliver White Hill Law Student Pro Bono Award was inaugurated by the Virginia State Bar in February 2002. Established to honor extraordinary law student achievement in the areas of pro bono publico and under-compensated public service work in Virginia, the Hill Law Student Award is administered by the bar's Special Committee on Access to Legal Services.

Presentation of the award is reserved for extraordinary achievements of outstanding students. The Access Committee will annually review nominations to determine if there should be a designee. The committee presented the initial law student award at the 2002 Pro Bono Conference during the Lewis F. Powell, Jr., Pro Bono Award Ceremony.

The deadline for receipt of nominations by the bar is 5:00 p.m., Monday, February 3, 2003. The Access Committee invites submissions from law school deans, law school professors and others, including non-bar members and organizations, who are sufficiently familiar with candidates whose work meets or exceeds the following criteria:

- Core eligibility is evidenced by a minimum of 100 hours of uncompensated, voluntary pro bono work* completed over the course of a law student's career. Pro bono work is considered voluntary, even though it meets a law school's community service requirements, so long as the student receives no academic or clinical credit for such work. The nominator may submit a reasonable estimate of pro bono hours, rather than an exact record, to meet the minimum standard of 100 hours.
- A student's participation in under-compensated public service work is a supplemental factor that will be considered in selecting a recipient. (Nominators should clearly indicate when public service work is undercompensated, and, if possible, provide details of the extent of the student's financial sacrifice.)
- Participation in other activities while in law school that demonstrates a student's commitment to public and/or community service may also be taken into consideration, including, for example, organizing a public service career panel, helping to raise funds to support public service summer jobs or participating in non-law-related community service programs.
- All students meeting core criteria whose final academic year of law school in Virginia begins in the calendar year before the award is given will be eligible as nominees. Part time law students would be eligible for consideration during their final academic year of law school. (This means, for example, that a student who graduates in December, 2002 would be eligible for inclusion in nominations submitted a month or two later for the Winter 2003 deadline.)

*For guidance in identifying categories of pro bono publico service, nominators are encouraged to review the Virginia Rules of Professional Conduct, especially Public Service Rules 6.1 and 6.2 and their commentary. Also useful is Bar Council's 1999 Resolution to Enhance Pro Bono Publico in Virginia which complements the rules. Both can be found at www.vsb.org/probono. Together they demonstrate the breadth of service types for which the bar is eager to acknowledge extraordinary contributions. For example, consideration may be given to appropriately supervised student research and other qualifying law-related work on behalf of indigent criminal defendants, public charities, faith congregation-sponsored projects serving the poor, public interest groups, community mediation centers, and nonprofit legal services providers, including licensed legal aid societies.

There is no nomination form to complete. Please forward narratives and references, identifying the candidate and the candidate's law school, and explain how nominee meets award criteria. Entries are due by **Monday, February 3, 2003**, to Maureen Petrini, Director of VSB Access to Legal Services. Electronic submissions may be e-mailed to petrini@vsb.org or faxed to Mrs. Petrini at (804) 775-0582. Mailed submissions must be received by the deadline at the bar's main address, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800. Please inquire by telephone, (804) 775-0522, if you have not received acknowledgment of receipt of a nomination within five days.