

Two Northern VA Legal Aid Corporations Merge

An increase in demand for legal services for the poor and a decline in resources for paying for them have led two legal aid programs in Northern Virginia to merge.

Potomac Legal Aid Society became part of Legal Services of Northern Virginia (LSNV) on January 1. The merged program kept the LSNV name, the staff of both agencies, and all of its client outreach offices, where services are provided. Potomac closed its headquarters office in Falls Church.

James A. Ferguson, executive director of LSNV before the merger, continues in that position. Susan Stoney, formerly executive director of Potomac, is now deputy executive director of the merged LSNV.

Ferguson said the merger will result in a more efficient use of resources.

Both before and after the merger, LSNV received funding from the state and local governments—support that is precarious now as the governments grapple with budget deficits.

Potomac's primary funding source was the federal Legal Services Corporation. The merged program continues to receive the federal money, with the many restrictions that funding places on types of cases it can be used for.

In addition to government support, legal aid corporations statewide are faced with a decline in revenue from the Interest on Lawyers Trust Accounts program.

Ferguson said LSNV would not be able to maintain its level of service without ongoing support from private foundations and contributions from law firms and individual attorneys.

In the fiscal year ended June 30, 2009, LSNV handled 6,100 cases—about 2,000 more than the average for the past eight years.

The services are provided at nine offices, located in Falls Church, Arlington, Fairfax, Manassas, Leesburg, Alexandria, and Fredericksburg. LSNV also has an office at the Fairfax Courthouse.

In addition to the usual legal aid caseload of civil domestic, housing, and public benefits matters, LSNV recently has seen a huge increase in demand for bankruptcy and mortgage foreclosure assistance, Ferguson said. The agency collaborates with government agencies and private industry to address the demand.

But he estimates that probably no more than 20 percent of the need for all legal aid categories is met.

“This is the challenge of this economy: There are so many poor people out there, and there are so many fewer resources to help them. We're doing what we can with what we've got,” Ferguson.

For more information on LSNV's programs, see www.lsnv.org.

Arlington Elder Law Program Can Inspire Other Bars

by Erica F. Wood

SIX TIMES A YEAR at 12:30 PM attorneys sit at a table on the seventh floor of the Arlington County human services building. They unwrap their sandwiches and trade news. Among them are elder law attorneys, trusts and estate practitioners, legal services staff, geriatric care managers, the director of the Area Agency on Aging and perhaps staff from Adult Protective Services. The atmosphere is casual, laced with humor. But the topics are serious — guardianship, Medicaid, long-term care, powers of attorney, and advanced directives.

This is the Arlington County Bar Association Committee on Law and Aging, and it has been holding these meetings for more than twenty-five years.

The committee, organized in the early 1980s, is a brain child of the directors of the area agency on aging and the local legal services program. They asked, why not create a bar association forum so that public and private attorneys interested in elder law (although there was no such term then) could come together to exchange information on practice, learn the latest, and interact with specialists in aging? The group began to meet, and some members have remained constant attendees over the years. The meeting usually includes a speaker, opportunity for questions, and time for discussing knotty practice problems. Sometimes only five members show up, or the room might be packed with more than twenty, as occurred a few years back when the topic was guardianship and mental commitment. The committee is currently cochaired by Edward E. Zetlin and Elizabeth L. “Betsey” Wildhack.

At the meetings, committee members learn about new regulations or trade tips on document drafting. Over the years, topics have included Medicare supplemental insurance, reverse mortgages, the U.S. Department of Veterans

Affairs fiduciary program, pooled trusts, annuities, and Medicaid appeals.

Speakers have described prosecution of elder abuse cases, changing rules on transfers of assets, new regulations on emergency medical services, do-not-resuscitate orders, the Virginia Department for the Aging’s long-term care ombudsman program, and changes in guardianship law. Committee members leave meetings with useful guidance, new contacts, and potential solutions for challenging practice and ethical quandaries.

The committee has moved beyond the exchange of information to action on behalf of the community.

It began cosponsoring Elder Law Day — a May 1 program traditionally held in a senior residential building or a library. The gathering features a notable speaker — such as a legislator, judge, county Board of Supervisors member, or national expert — followed by workshops for seniors.

In 1988, the committee recognized that there were individuals — many elderly and some incapacitated — in the county for whom the court had difficulty securing a guardian. Committee members agreed to serve pro bono as guardians. The committee, with the county Commission on Aging, developed a guardianship program in which trained volunteers perform guardianship services under the direction of a coordinator, and committee members offer advice and training. The Arlington Volunteer Guardianship Program has been operating for twenty years. Committee members train new volunteers on Saturdays; Some members also volunteer as guardians, and some serve on a guardianship screening committee that reviews Adult Protective Services cases for which guardianship might be needed.

In the mid-1990s, the committee saw that some nursing home contracts included illegal, unenforceable, unfair, or ambiguous provisions. Members obtained and analyzed the contracts of area facilities, wrote a detailed report, published a consumer brochure, and won a Virginia State Bar award for the project. On the wave of this success, the committee, with Legal Services of Northern Virginia, received a mini-grant to develop a 2001 *Consumer’s Guide to Assisted Living in Virginia* on legal rights and what consumers need to know before they sign the contract.

Other committee projects include continuing legal education programs on elder law and producing letters that take positions on legislative issues or proposed regulations.

If a group like this works in Arlington, why not in other areas of the state?

Local bar association committees on aging bridge the public and the private bar, as well as legal and aging networks. They offer a focal point for elder law attorneys — or any attorneys who find themselves fielding clients’ questions about aging issues. Local bar committees on aging have long been promoted by the American Bar Association Commission on Law and Aging. Currently, the Virginia Department for the Aging Project 2025 on elder rights (see <http://www.project2025virginia.org/>) assists local bars throughout Virginia to form these committees.

With the state’s population graying, the committee on law and aging is an idea whose time has come. Get out your sandwiches and begin!

Legal Education Prepares Students to Weather Tough Times

by Tara L. Casey

“I JUST DON’T THINK I CAN BE A LAWYER,” she said.

This law student is approaching graduation with the feeling that her job prospects are dwindling. Her job hunt had hit an interminable traffic jam as she senses that more candidates than opportunities are clogging the marketplace. Adding to her anxiety, she does not know how she will pay back her student loans—a figure nearing six digits. After working so hard to get into law school, do well in her classes, and build a résumé that would land her the job of her dreams, she is considering abandoning a legal career altogether to survive the current economic storm.

Hold on: two words that communicate patience and persistence. Although the job market appears bleak and news of cutbacks and layoffs dominate the headlines, a law student need not fear life after graduation.

True, the landscape is quite different than it was five years ago, when the seeds of becoming a lawyer were sown in a student’s brain. Then, law school was viewed as a bridge to a rewarding career that provided a comfortable salary and a fair amount of job security. Now, according to a recent survey by LexisNexis, 21 percent of law students regret attending law school because of the changing legal marketplace. Furthermore, 35 percent of students do not feel adequately prepared to succeed in the new marketplace. Debra Cassens Weiss, “As Law Firms Respond to Crisis, 21% of Law Students Regret Choice,” *ABA Journal* online, Dec. 9, 2009, available at http://www.abajournal.com/news/article/as_law_firms_respond_to_crisis_21_of_law_students_regret_choice/

Indeed, a majority of attorneys believe that the recent economic downturn fundamentally changed the “busi-

ness of law.” (Peter Vieth, “A Time of Transition,” *Virginia Lawyers Weekly*, Dec. 7, 2009, at 1) In response to these dour times, many see the legal profession in a state of transition. Transition to what remains uncertain. However, as the legal community adapts to the times, a law student must likewise adapt, recognizing that the old way of finding that first job may need to be tweaked to be successful.

Traditionally, a law student believed that good grades and a high class rank from an esteemed law school would guarantee entry into any legal environment. These factors may still influence recruitment in some areas, but many prospective employers are looking for candidates with the added credential of practical skills experience. In the legal profession, where time is money, employers are searching for candidates who already bring a skill set to the workplace. Furthermore, as graduates compete with licensed attorneys for positions, it behooves the law student to acquire skills necessary to level the playing field.

Fortunately, as Renae Reed Patrick showcased in the December 2009 issue of *Virginia Lawyer*, Virginia law schools are rich in clinical and pro bono offerings that span subject matters as well as practice areas. Law students who take advantage of these programs gain an edge in the job market, because employers increasingly value the importance of practical experience in new hires.

Because the economy has affected law students and lawyers alike, there is much fertile ground for networking opportunities. Many attorneys are empathetic to the difficulties law students face in the current job market. As a result, these attorneys—especially alumni—are open to speaking with law students about practice area and personal career

path. Introductions to these attorneys may be made by law professors or career services personnel. Although these meetings may not be in reference to a particular position, they provide a law student with an invaluable opportunity to learn more about a specific field as well as cultivate contacts within a legal community.

Additionally, most voluntary bar associations offer student rates for membership. By becoming involved with a bar association during law school, a law student establishes connections within a legal community earlier than his or her peers. Law students who invest time in meeting lawyers outside of the job-search context may find themselves with more opportunities in the long run.

The economy may have altered the marketplace for law students approaching graduation, but legal education itself may be what empowers a student to persevere. During their three years, students are schooled in the art of logical reasoning, regardless of the course or subject matter. Law professors teach students to identify an issue and reason toward a conclusion. As a result, the legal profession is, at its essence, a problem-solving profession.

Currently, law students are facing a daunting problem—a competitive job market in the midst of an economic recession. But because of the training they receive both inside and outside of the classroom, law students are uniquely poised to weather this storm. They just need to hold on.

Young Lawyers: In Bad Times, Expand Your Skills

by Elizabeth J. Atkinson

ARE THERE TOO MANY LAWYERS IN AMERICA?

With the news of deferred associates, laid-off lawyers, and the high per capita ratio of lawyers in the United States, it certainly seems as if we have too many lawyers.

But from the perspective of judges who see increasing numbers of pro se litigants and from my perspective as a board member of the Community Tax Law Project—a nonprofit that provides legal assistance with tax disputes—there are not enough lawyers.

Perhaps the legal profession has lost its focus as a profession that helps people solve problems.

Recent changes in the legal profession have been widely publicized. The boom years saw explosive growth of the financial sector, and stories of lawyers making \$160,000 straight out of law school were widespread. The so-called Cravath model for recruiting, training, and retaining lawyers created competition among the largest law firms for the top graduates of the top law schools and led to ever-increasing starting salaries.¹

However, corporate clients of the large law firms started to question why they should pay for the training of new law graduates doing such tasks as document production and legal research. Advances in technology have led many law firms to send these legal tasks offshore to places such as India, where the talents of the best graduates can be procured at far less cost per hour. Many new American law graduates now struggle for a foothold in the legal profession, and those in law school right now, seeing recent graduates with deferred offers, are nervous about their futures.

Lawyers who can provide practical solutions to their clients' problems will always be in demand. Those lawyers who can figure out how to deliver services at a reasonable cost will prosper.

The legal marketplace is changing rapidly, and the pace of change has been accelerated by the economic downturn. Law students and new practitioners should develop skills that will be in demand in the new landscape.

One of the most insightful writers on the legal profession today is Richard Susskind, author of *The End of Lawyers?*². In this book, Susskind, who is both a lawyer and a technology expert, uses the analogy of clothing production: you can buy a suit that is mass-produced, partly mass-produced with some tailoring, or completely custom-made. He sees the legal profession adapting to this model. Some legal services can be provided on a large scale through automation. Others will be partly customized—form documents, for example, are adapted for the need at hand. And some services will be fully customized. As the model changes, so will the pricing. Most legal services are now priced by the billable hour. As legal services are commoditized, fixed fees and other predictable pricing models will gain traction.

While we may debate how quickly these changes will come and what form they will take, there is no question that lawyers who can adapt will be able to leverage today's profound changes to their advantage. Clients are increasingly able to demand changes from law firms and entrepreneurial lawyers at smaller firms can attract work that at one time would have been sent only to the largest firms.

Law schools must adapt to these changes also. The traditional legal curriculum has focused on providing students with a broad base of theoretical knowledge of the legal system with core courses on major areas of the law: property, torts, civil procedure, and constitutional law. There is some teaching of basic practical skills, such as legal writing and moot court. However, law students

still graduate ill-equipped to practice law. They must undergo a great deal of on-the-job training before they are ready to deal with clients and the business of practice.³

Recently, law schools have added clinical courses and third-year practice opportunities so that graduates emerge with more practical skills, such as client interviewing and counseling. All of the law schools in Virginia offer clinical program opportunities. Some schools offer joint degree programs that couple a law degree with business education, such as master's degree in business administration. Law schools also offer master of laws programs that provide specialized training in areas such as tax and employee benefits. Certainly law firms are interested in hiring graduates who can hit the ground running. That is why judicial clerkships are valuable to new lawyers and to law firms alike. Similarly, law firms that have deferred associate offers have encouraged those associates to obtain experience by volunteering for non-profits and providing pro bono legal services.

The practical side of the law school curriculum has traditionally focused on litigation skills, but increasingly law firms value quantitative skills such as accounting. Also, regulatory law and corporate governance law require specialized knowledge. Right now the practice areas that are hot are bankruptcy and consumer law, where understanding of financial data and complex financial instruments is essential. Many lawyers serve as board members of nonprofit organizations, and their expertise is valued because of the increasing complexity of governance issues and the regulation of nonprofits by the Internal Revenue Service and the states.⁴

Many new lawyers have found that working in government service or for a nonprofit is more fulfilling than the starting work at a law firm, which has

often been drudge work. Many cases that have reached the U.S. Supreme Court started with a public interest lawyer or a private lawyer working pro bono. A notable example is Virginia's own Oliver W. Hill Sr. who was part of the team on the cases known as *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). Opportunities in government service have been increasing as older government lawyers retire and as regulation creates more legal jobs in the public sector.

Are these changes in the legal profession likely to increase or decrease access to justice? Judges see more pro se litigants because many people either cannot afford an attorney or the financial stakes in the matter do not justify the cost of a lawyer. If we are experiencing an "industrial revolution" in legal services, then technology and scalability of costs will increase broad access to justice, especially for individual consumers.

There will still be a qualitative difference in legal services and the threat that parties with more resources will be able to buy a result. But would that scenario be any worse than the system we have now?

Endnotes:

- 1 See William D. Henderson, "Are We Selling Results or Résumés?: The Underexplored Linkage between Human Resource Strategies and Firm-Specific Capital," Indiana Legal Studies Research Paper No. 105.
- 2 Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services*, Oxford University Press, 2008.
- 3 See, for example, Charles E. Rounds, "The Need for Back-to-Basics Law Schools" at http://taxprof.typepad.com/taxprof_blog/2010/01/-the-need-for-.html.
- 4 See Guidestar, "The IRS View of Non-Profit Governance," <http://www2.guidestar.org/rxa/news/articles/2009/the-irs-view-of-non-profit-governance.aspx>.

On-the-Job Training Opportunities for Lawyers

Thanks to the generosity of Virginia lawyers, the following legal experience opportunities are available to lawyers or law students through foundation-supported internships, externships, and clerkships:

Public Service Internships for Virginia Law Students

Virginia Law Foundation

Open to first- and second-year law students from Virginia law schools, this program provides stipends to selected students who perform public service legal work over the summer through an approved organization. The internships enable organizations to hire students as paid interns to serve indigent clients and facilitate the administration of justice. In 2010, the VLF will give \$5,000 to support internships at each of the eight schools. Applications are made through the individual schools' career services offices. Information: <http://www.virginialawfoundation.org/support.htm>

Externships and Judicial Clerkships

Just the Beginning Foundation

The Just the Beginning Foundation sponsors several pipeline projects to draw youth into the law as a profession. Among them are:

Externship Program

A program for law students, the JTBF Externship exposes law students to legal opportunities, helps them build résumés, and assists them through the job market to the job that best suits them. The JTBF matches law students with federal and state judges across the United States. The program encourages judges to provide law students with assignments that will enhance their legal research, writing, and analytical skills. Students work with their judge for a minimum of ten hours per week for one semester for school year externships and a minimum of thirty-five hours per week for eight weeks for summer externships. The application deadlines are February 6, 2010, for fall and summer externships and October 15, 2010, for spring 2011.

Share the Wealth Clerkship Program

The JTBF Share the Wealth Judicial Law Clerk Program is a referral program run by eight federal district court judges. It is an opportunity for law students to be considered for eight federal district court clerkships in one interview. The participating judges screen qualified law student applicants, select twelve finalists, and invite the finalists for panel interviews. Those twelve students are then considered for open clerkship positions with the judges.

At the end of this process, students who are not extended offers by the eight-judge panel may have their applications shared with other judges who have requested to receive information about the applicants. Many judges contact the JTBF to seek assistance in identifying competitive candidates from diverse backgrounds for consideration.

Judge Gerald Bruce Lee of the Eastern District of Virginia created the program because he and his colleagues want to encourage more minorities to compete for federal judicial clerkships. These judges accept applications from, consider, and hire law clerk applicants of all backgrounds, and the Share the Wealth application process is in addition to, not in lieu of, traditional application channels. The deadline for 2010 will be in early September.

Information on JTBF programs:

<http://www.jtbf.org/index.php?submenu=ExternshipProgram&src=gendocs&ref=LawSchoolPrograms&category=Programs>

Virginia attorneys are encouraged to visit the foundations' websites for information on donating to support these opportunities.

Virginia Law Foundation: <http://www.virginialawfoundation.org/support.htm>

Just the Beginning Foundation:

<http://www.jtbf.org/index.php?submenu=Contribute&src=gendocs&ref=contribute&category=Main>