

# Legal Aid *matters*

## *our mission*

The Legal Aid Society of Northeastern New York provides effective, free civil legal services and education to and advocacy for people with low income or other barriers to accessing the legal system. We secure basic needs, protect and preserve legal rights, provide equal access to justice and seek fairness and dignity for our clients.

Serving the low-income and needy residents of Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, St. Lawrence, Schoharie, Warren and Washington Counties, and the St. Regis Reservation.

## *executive director*

Lillian M. Moy

## *inside:*

Pro Bono Countdown  
 by Dan Hurteau .....3

Horses to Public Service  
 a look at Nick Pignone.....6

JFA Leaders  
 photos from Dale Miller ... 4-5



## **Battle for Independence — Won!**

**W**hen Chris Layo of Norfolk, New York embarked on a personal journey battling for disability rights, he didn't realize the precedent he would set for those coming after him.

*Cynthia A. Eyler, LASNNY's Canton Staff Attorney, with Chris Layo.*

Chris is an intelligent college student who lives with Duchene's Muscular Dystrophy and requires care 24 hours per day. He had been relatively independent though his empowered Consumer Directed Personal Assistance Program (CDPAP). He was able to hire his own aides, who provided him such services as personal care, nursing care and transportation. He was able

to shop for his own groceries, socialize and meet his entertainment needs, using the customized van that he owns, driven by an aide.

In early 2008, Chris was informed by the St. Lawrence County Department of Social Services that he could no longer be transported by the aides he hired through CDPAP. Chris says,

*continues on page 7*

# Celebrating Pro Bono

Dear Friends:

I'm delighted to report that the Legal Aid Society of Northeastern New York celebrated pro bono during National Celebrate Pro Bono Week the last week of October throughout northeastern New York. The kick-off celebration at the Court of Appeals on Friday, October 23 featured remarks from the Honorable Jonathan Lippman, Stephen Younger, President-Elect of the New York State Bar Association, David Miranda, President of the Albany County Bar Association, Dan Hurteau of Nixon Peabody, an ardent PAI volunteer, and Dorothea Medina, a client of The Legal Project. Each and every speaker was superb.

It was heartening to hear Judge Lippman and others call for recognition of the \$15 million needed to "bail out" the IOLA Fund for 2010. Only with an infusion of funds can the IOLA Fund maintain support for legal services programs in the Capital District and throughout New

York State. And Dan Hurteau's Top 11 reasons to do pro bono can be found later in this newsletter.

The week that followed was terrific. The Legal Aid Society and the Albany County Bar Association staffed clinics open to the public offering free consultations with bankruptcy attorneys (Guy Criscione, Christian Dribush, Martin Mooney and Scott Dillon). The Albany County Bar Association volunteers (James Barnes, Paul Czech and Laura Hoffman) provided free advice on wills and estate planning. In Canton, the St. Lawrence County Bar Association worked with Legal Aid to offer free Ask-A-Lawyer Clinics at the local courthouse. Jondavid DeLong and Jerry Leek volunteered.

We finished the week with a wonderful celebration hosted by the Schenectady County judiciary and the Schenectady County Bar Association, honoring Legal Aid Society Board member Ellie DeCoursey and former Legal Aid Society Board President, Peter Coffey, for their stalwart pro bono efforts.

Thanks to the New York State Bar Association, the Honorable George Ceresia, the Honorable Vito Caruso, Regina Treffiletti, Erika Hanks and Joanne Haelen for making our programs possible. This week highlighted the importance of pro bono services to our clients and communities. If you haven't done a pro bono case in the last year, please call me at 518-689-6304 or shoot me an email at [lmoy@lasnny.org](mailto:lmoy@lasnny.org) to let me know what type of case you would like us to send you.

In 2010 the Society's IOLA grant will drop by almost \$500,000. For Legal Aid it's a double whammy as we also lost a significant federal grant that supported our rural Domestic Violence Legal Assistance Project. We

FROM THE *executive director*



will no longer be able to provide the full range of civil legal remedies to victims of domestic violence in our most rural counties. We are reminded, yet again, how fragile government funding can be.

Although we have been fortunate to receive some stimulus funding, we rely on you to build our annual Justice For All Campaign so that the provision of civil legal services will not vary according to government funding or a downturn in the economy. I know that this is a challenging year for everyone and ask that you join the leaders of the legal community to make giving to the Legal Aid Society your top priority.

Best wishes to you and yours for the year to come.

## Client Programs:

- Children's Law Project
- Community Legal Education and Training
- Disability Advocacy Project
- Domestic Violence Legal Assistance Project
- ECHO Project
- Foreclosure Prevention Project
- HIV/AIDS Legal Consortium
- Homelessness Intervention Project
- Homeless Prevention and Rehousing Project
- Legal Aid Society Homelessness Project
- Nutrition Outreach & Education
- Protection & Advocacy for the Developmentally Disabled
- Protection & Advocacy for the Mentally Ill
- Saratoga Springs Homelessness Prevention Program
- Senior Legal Services Program
- Upstate New York Immigration Law Project

## Volunteer & Donor Programs:

- Java and Justice
- Justice for All Campaign, Annual Appeal
- Law Day Celebration
- Legal Aid Endowment Fund
- Private Attorney Involvement Program (PAI)

## Legal Aid *matters*

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# Top 11 Reasons To Do Pro Bono

11. **Professional and Ethical Obligation** — as licensed professionals we all have an obligation to serve those in our communities that are underserved and underprivileged.
10. **Improves Job Satisfaction** — all involved in the practice of law, staff, paralegals and lawyers alike, want to feel that they are part of something more than just doing a job. Pro Bono provides the opportunity to give back, do more and get involved outside our small windows on the world.
9. **Improves Recruitment** — motivated young lawyers and laterals are looking for laws firms and places of employment that “do the right things” both in the office and community.
8. **Improves Retention** — see job satisfaction — people like to work in an environment where they feel the organization is not only doing great work but doing great things in the community. Happy people stay.
7. **Great Training** — for all, pro bono offers opportunities and experiences clients simply do not want to pay for. From gaining confidence in client relations all the way to trying a case, the training is invaluable.
6. **CLE** — many referral sources, for example The Legal Aid Society of Northeast, New York, are qualified CLE providers and a percentage of your pro bono work is given CLE credit.
5. **Resume Builder** — a great way to learn and get hands on client and even trial experience with new areas of the law, that can fill holes in the resume and expand new areas of practice.
4. **Great Publicity** — so much bad press is directed at the legal profession, that it is refreshing to see attorneys out in the community helping others and getting recognized for the positives.
3. **Visibility** — whether you want recognition or not — our peers, neighbors and friends do see the

PROFILE: *PAI volunteers*



contributed by  
Dan Hurteau,  
Nixon Peabody  
LLP

1. **It Just Feels Good** — nothing is better than the feeling of doing something that you know and see helps people in a very real and positive manner.
2. **Good for Business** — more and more clients and prospective clients are asking and making hire decisions based on commitment of attorneys to pro bono and community investment. Several important local and national rankings of law firms include as a component the firm commitment (based on hours per attorney) to pro bono.

good that we do through pro bono.

## Thanks to the following attorneys who have accepted cases

From August 1 through December 31, 2009:

### Albany County

Albany Law School (20)  
Jerrold Bartman (2)  
Lawrence Becker (2)  
Sharon Beilinson  
Frank Brennan  
Guy Criscione, Jr. (3)  
Michael DiFabio  
Scott Dillon (3)  
Crystal Doolity  
Christian Dribush (2)  
Daniel Hurteau (2)  
Kristen King (2)  
David Marinucci (2)  
Martin Mooney  
Michael J. O'Connor (5)  
Frank M. Pell  
Thomas A. Welsh (3)

### Clinton

John E. Clute, Jr.  
Allan B. Cruikshank  
Heidi Dennis  
Cheryl Maxwell (9)  
Kevin L. Peryer  
Mark A. Schneider  
**Greene**  
Marilyn Carreras  
Thomas Fori  
Edward Kaplan  
Joan P. Tailleux  
John W. Winans (2)

### Montgomery

Bethany Schumann-McGhee (5)

### Rensselaer

Marc Ehrlich

### Saint Lawrence

Neil Bhatt  
Alice Carrothers  
Jondavid DeLong  
Richard Gardner (30) – Pro Se Divorce Clinic)  
Natasha Hill (2)  
Jerry Leek (2)  
Charles Nash

### Saratoga

Linda Berkowitz  
James Cox (2)  
David DeVall  
Robert L. Katzman  
Alan R. LeCours  
Martin W. Pozefsky  
James P. Trainor

### Schenectady

David Burke o/b/o Schenectady County Bar Association (17)  
Teneka Frost  
Peter B. McHugh

### Warren

Michael J. Toomey (2)

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**Volunteer To Do The Public Good!  
Volunteer For Pro Bono!**



Preparing for the Event

# JUSTICE FOR ALL

## Leaders

Gather at Dale Miller October 1, 2009

Tim Morrison, LASNNY Board President



E. Stewart Jones Jr addresses the crowd.



Tim Morrison, Pat Rodriguez, Ellie DeCoursey



Margaret Vella, Lillian Moy, Margaret Reed



Greg Rinckey, Matt Tully, Lillian Moy, Chad Balzer

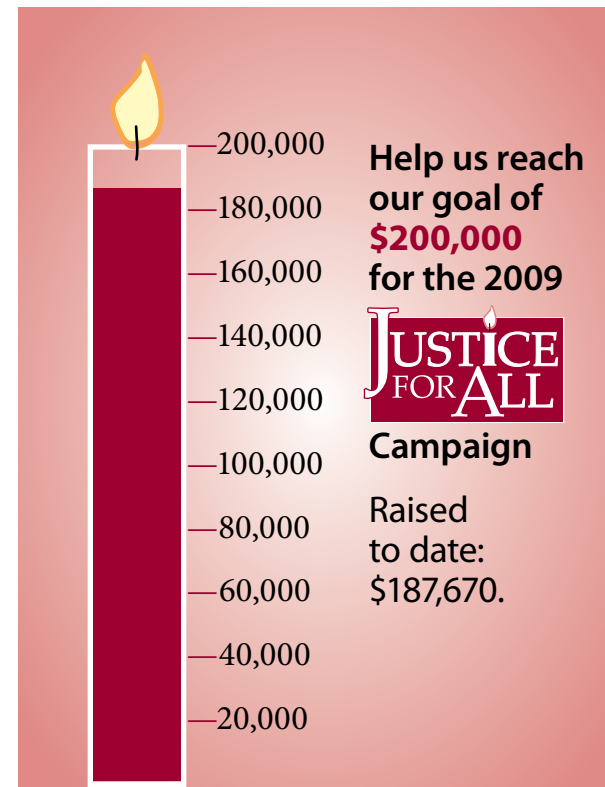
Mel MacKenzie, Philip Gitlen



Chad Balzer, Marc Antonucci, Erica Hines, Peter Lauricella, Caroline Ahn



Lillian Moy, Michael Whiteman, Skip Meislahn



James Peluso, Don Boyajian, Ron Orlando, Lillian Moy, Vic Mazotti



Kevin Hickey, Ricja Rice, Peter Coffey



Dan Hurteau, Garrett DeGraff, Theresa Marangas



Ellen Breslin, Deanne Grimaldi



Neil Rivchin, Richard Weiskopf, Peter Danziger, Kevin Hickey

# Nicholas Pignone

PROFILE: *board member*



## Horses, Carpentry...and Public Service

While some people have career aspirations that lead directly to a certain profession, Nicholas Pignone took a more circuitous route. In his late teens, Nicholas became a farrier (a specialist in equine hoof care) for several years in the Berkshires. He says he “went to law school later in life,” attending law school at Queens College

decided to “put down roots” in St. Lawrence County, where they now live with their two children. Upon arrival, he again worked as a Public Defender.

After working in St. Lawrence County for ten months, Vern Ingram suggested that he had space in his office for Nicholas to establish his own practice. Thirteen months later, Vern indicated that he would be interested in “partnering at that point, which was October of 2008,” says Nicholas. Their practice, Ingram & Pignone Law Firm, is located in Potsdam.

While specializing in “mostly family law and criminal law,” Nicholas has maintained an interest in the “rewarding work” of immigration rights harkening back to his time as an intern for the CUNY School of Law’s Immigrant and Refugee Rights Clinic. In St. Lawrence County, he says,

sometimes domestic violence issues and immigration issues collide when a “mail order bride” seeks help from the legal system.

Nicholas was approached by Dick Gardner about becoming a member of the LASNNY Board of Directors in the fall of 2008, around the same time he became a partner at his current firm. Similar to his interest in assisting immigrants, Nicholas finds the association with LASNNY in keeping with his desire to be involved in public service.

## GUARDIANS OF JUSTICE

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Amelia M. Klein, Esq.	

of the City University of New York (CUNY). After graduation in 2004, he says he “didn’t take the Bar right away.” Instead, Nicholas says he “did some carpentry work, building set designs,” while employed by Ralph Lauren. After taking the exam in early 2005, he went to work in the Public Defender’s office in Bethel, Alaska. After receiving word that he had passed the exam, he and his wife

**Donate NOW to the 2009 Justice for All Campaign online at [www.lasnnny.org](http://www.lasnnny.org) or use the enclosed envelope**

### Funding:

The Legal Aid Society of Northeastern New York is funded by grants from the Legal Services Corporation, the U.S. Department of Justice, the Interest on Lawyer Account Fund of the State of New York, U.S. Department of Housing & Urban Development, New York State Legislature, NYS Office of Temporary & Disability Assistance, NYS Division of Criminal Justice Services, NYS Department of Health, NYS Commission on Quality of Care and Advocacy for Persons with Disabilities, Albany County Department for Aging, Fulton County Office for Aging, St. Lawrence County Office for the Aging, Washington County Office for the Aging, St. Regis Mohawk Tribe Office for the Aging, City of Saratoga Springs, City of Albany, Bank of America as trustee for the Frederick McDonald Trust, New York State Bar Foundation, United Way of the Greater Capital Region, Legal Aid Society of Rochester, Albany Law School, Nutrition Consortium of the State of New York, The Community Foundation for the Capital Region’s Sara Huntington Catlin Memorial Fund, Assemblyman Robert Reilly Salary Fund, Equal Justice Works, NYS Unified Court System, Office of Court Administration, NYS Division of Housing and Community Renewal, NYS Division of Banking, Barry Alan Gold Memorial Advised Fund, The Equinox, Law Firms and private contributors through the Justice for All Campaign.

## Battle for Independence — Won

continued from page 1

“At first it was like my whole life was over.” Living in a rural area, he had few options for transportation outside of his Medicaid provided transportation to medical appointments and the transportation provided by VESID to get him to and from his college classes at the State University of New York at Potsdam. Suddenly, his aides “...weren’t allowed [to drive him anywhere] even though it was written in their contracts,” he explains. Chris got some good advice from a college professor who said, “Don’t take no for an answer.” This professor “showed me how to fight your way through [self-advocacy],” Chris recalls.

Through some online research, Chris contacted Sim Goldman, Senior Attorney, Disability Advocates, Inc. in Albany, who recounts, “He had an issue that had been bubbling

up for some time...it cried out for relief.” This is a man who “despite his Muscular Dystrophy is trying to live a full life.” Further, Sim felt that there is “nothing in Federal law that prohibits [aides] from driving.”

With this support, a legal team began to form. The Legal Aid Society of Northeastern New York (LASNNY) and Disability Advocates, Inc. are both part of the state Protection and Advocacy (“P&A”) network, which receives federal funding to represent those with developmental disabilities. The P&A attorneys from both programs already knew each other, since they collaborate regularly at state-wide conferences and on bi-monthly conference calls. So when Chris needed local counsel, it was natural for Sim to reach out to the P&A attorney in LASNNY’s Canton office, Cynthia A. Eyer. In addition, Chris was referred to LASNNY’s Canton office by his local counselor, who also was familiar with LASNNY’s Canton office. Cynthia says that there was no clear answer in law or regulation for the question Chris posed; only local policies forbade personal care aides to drive their employers, while on duty caring for them. The issue was ripe for interpretation at a New York State Fair Hearing. Cynthia maintained at the Fair Hearing that removing Chris’s non-medical transportation violated the purpose of the CDPAP outlined in Social Services Law, the integration mandate of Title II of the Americans with Disabilities Act of 1990, and violated section 504 of the Rehabilitation Act. The administrative law judge did not rule in Chris’s favor. Therefore, Cynthia filed an appeal in St. Lawrence County Supreme Court about a week before Christmas, 2008.

A few days later, the New York State Department of Health issued a General Information Systems message allowing Medicaid funding for Personal Care Assistants to transport their employers while

they are providing care. Chris got a call from Sim Goldman on Christmas Eve. Chris says, the message was, “if you need to get any Christmas presents, go and do it.”

In October 2009, Chris, Cynthia, and Sim were honored for their success on this issue, along with attorneys from the New York State Department of Mental Hygiene and the New York State Department of Health, by the Consumer Directed Personal Assistance Association of New York State, at their Annual Conference in

**“Don’t take no for an answer... fight your way through self-advocacy”**

Saratoga Springs. Chris was able to attend, with several of his personal care aides, who drove him nearly four hours each way to be there.

A year after Chris’s case, he reflects that the struggle was “eye opening” and made him, “realize that the rights I had could be taken away at any moment.” But, he also says that, “in a way, it makes me a stronger person...I want to try to make things better [for other people in his situation]. My uncle had the same condition. He only lived to 18 and he never had the chances I did. I wouldn’t want to be in the situation that he was in.” Now, Chris wants to fight for others. As a junior studying communications and creative writing, Chris aspires to become a public speaker after he graduates, so that he can tell his story and inspire others.



On January 7th, Amberlee Hammond, a Legal Aid client and domestic violence survivor, testifies before the NYS Senate Hearings on IOLA funding for Legal Services. Director Lillian Moy is seated to her left.

### Trainings:

#### Representing LGBT Victims of Domestic Violence

Part I: January 21, 2010  
Domestic Violence in the LGBT Community; Family Court Issues

Part II: February 18, 2010  
Name Changes, Dissolution of LGBT Relationships, Public Benefits and Entitlements

3 CLE Credits each part  
Appropriate for new and experienced attorneys

#### Representing Victims of Domestic Violence in Custody Proceedings

Wednesday, March 17, 2010 through Friday, March 19, 2010  
Albany Law School

Earn 12 free CLE credits; training limited to 20 participants

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**JUSTICE**  
**FOR ALL**

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*The Annual Campaign for the  
Legal Aid Society of Northeastern New York*

Representatives of leadership firms at the campaign kickoff on  
October 1, 2009 at Dale Miller Restaurant in Albany.

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